

<b>Report To:</b>	<b>STANDARDS AND PERSONNEL APPEALS COMMITTEE</b>	<b>Date:</b>	<b>11 DECEMBER 2017</b>
<b>Heading:</b>	<b>UPDATE ON THE REVIEW OF THE MEMBERS' CODE OF CONDUCT COMPLAINTS PROCESS AND SOCIAL MEDIA POLICY</b>		
<b>Portfolio Holder:</b>	<b>NOT APPLICABLE</b>		
<b>Ward/s:</b>	<b>NOT APPLICABLE</b>		
<b>Key Decision:</b>	<b>NO</b>		
<b>Subject to Call-In:</b>	<b>NO</b>		

### **Purpose Of Report**

The report is to update the Committee on the review of the Members' Code of Conduct Complaints Process and Members' Social Media Policy.

### **Recommendation(s)**

**Committee is asked to:**

- 1. Note the work undertaken to date by the Members' Working Group;**
- 2. Consider and comment on the suggested changes to the Members' Code of Conduct Complaints Process and Members' Social Media Policy;**
- 3. Instruct the Monitoring Officer to draft changes to the policies in line with the suggested amendments to bring back to the next Committee for approval.**

### **Reasons for Recommendation(s)**

The review of the Members' Code of Conduct Complaints Process and Members' Social Media Policy is a work plan item for the Committee during 2017/2018.

The Peer Challenge suggested making changes to the complaints process to address the volume of trivial or low level complaints being made relating to Member conduct which is a drain on Council resources to consider and process.

Members also suggested a review of the Members' Social Media Policy in light of a significant number of complaints being made about Members' use of social media.

The Committee is asked for its views in relation to the suggestions of the Member Working Group to enable the Monitoring Officer to draft appropriate changes to the policies to bring back to the next Committee for approval.

## **Alternative Options Considered (With Reasons Why Not Adopted)**

The Committee may wish to suggest alternatives or additional changes to the policies and may provide a steer for the working group to carry out further work.

### **Detailed Information**

#### **Background**

Members will recall at the Committee meeting on 3 July, as part of the discussions around the Work Plan for the 2017/18 municipal year, it was agreed to set up a small working group to consider changes to the Members' Code of Conduct and Members' Social Media Policy

The following is an extract from the Minutes of the meeting to remind Members of the discussions and the issues the Committee asked the Group to look into:

*"In particular, Members agreed that the three additional reviews be included. They supported strongly a review into the **Members' Code of Conduct Complaints Process**. They noted that the LGA Peer Challenge had recommended that this take place. They also recalled that the Committee had independently identified problems with the complaints process. Members had made it clear that they were keen to find ways of speeding up the process in order to reduce costs and to ensure that it was not being used for vexatious or trivial reasons.*

*With this in mind, the Committee asked for **information on the costs of carrying out investigations** to complaints, including the cost of officer time involved in investigations that could have been used for other purposes. The Monitoring Officer agreed to provide this.*

*The Committee considered how to carry out the review. There was a consensus that a small Task and Finish Group should be established. This would be comparable to the type of body set up to conduct scrutiny reviews. It was agreed that it consist of the Chair of the Committee along with a Committee Member, drawn from each of the political groups (4 Members in total).*

*Members discussed the scope of the review and in particular, some of the specific issues that would have to be addressed; **such as whether sanctions could be imposed at District and Parish Council levels, at what stage apologies should be permitted in order to informally resolve complaints, whether the political groups could play more of a role in helping to prevent and resolve complaints and whether a presumption of guilt on those who refuse to co-operate with complaint investigations would be permissible?***

*What became clear from the discussion was that the apparent **misuse of social media** to make unacceptable personal comments had contributed to many of the recent complaints. Although there are clear rules on the use of social media these may not have always been followed and this may have been especially true of those serving on lower level councils. Members agreed, therefore, that in the context of this to review policies on the use of social media, how they are implemented and the impact on the behaviour by some Members and that this should also be looked at by the Task and Finish Group."*

The Group (made up of Councillor Lauren Mitchell (Chairman), and Councillors Lachlan Morrison, Phil Rostance and Helen-Ann Smith) has met on two occasions.

The Working Group has considered:

- Current Members' Code of Conduct
- Current Complaints Handling Process
- Current Social Media Policy for Members
- Outline information regarding complaints made during 2017 including indicative costs information (see below)
- Latest complaints schedule (the most up to date schedule appears at an item on this agenda)
- Examples of complaints made regarding the use of social media
- Examples of policies from other Councils

Issues for the Working Group to consider were identified as follows:

- Revise the complaints process – reduce low level complaints
- Whether the political groups could play more of a role in helping to prevent and resolve complaints
- Whether sanctions could be imposed at a local District and Parish Council levels (not yet considered by the Group)
- At what stage apologies should be permitted in order to informally resolve complaints (not yet considered by the Group)
- Whether a presumption of guilt on those who refuse to co-operate with complaint investigations would be permissible? (not yet considered by the Group)

### **District Councillor Complaints During 2017**

- 6 complaints in total to date
- 1 complaint dealt with by taking other action
- 1 complaint – no action
- 4 outstanding
- 2 relate to social media
- 4 complaints are from District or Parish Councillors

### **Parish Councillor Complaints During 2017**

- 11 complaints in total to date
- 2 complaints relate to things said during or at the conclusion of a Council meeting
- 7 complaints relate to social media posts and the perception of comments made
- 1 complaint – dealt with by taking “other action”

- 9 complaints – dealt with by taking “no action”
- 1 complaint is awaiting assessment

The Chief Executive and the Monitoring Officer attended a meeting at the Parish during July to discuss the unacceptable level of complaints at the Parish. We recommended/agreed to assist as follows:

- Governance Audit – ADC to assist Parish Clerk with this; may need further external support
- Social Media policy review – can be carried out in conjunction with ADC’s own review
- Social Media Top Ten Tips – circulated at the meeting
- Complaints process review – to be carried out in conjunction with ADC’s own review
- Review of Training
- Code of Conduct Training
- Social media training - recommend all Members do at point elected and every 2 years to be refreshed

### **Estimated Costs for Dealing with Complaints**

An estimate of the resources taken to deal with a complaint even if very straight forward and is resolved by taking no further action or other action involves:

- 4 - 6 letters
- Consideration of complaint
- Consultation with Independent Person
- Preparing a decision notice and final decision
- Approximately 2-3 hours per complaint equivalent of £200-£300 of officer time cost
- If interviews are undertaken as part of the initial assessment the costs would increase by a further £100 approximately

For the 17 complaints lodged so far during 2017, a very rough estimate of £7,000 of officer time has been spent on carrying out the basic complaints process of which around £4,400 related to Selston Parish Council. As previously report to Committee ADC cannot recharge the Parish in relation to complaints about Parish Councillors. A handful of complaints have warranted more investigation and so the cost in officer time is probably higher but actual time spent on these complaints being internally investigated has not been recorded (the Legal Section has a new Case Management System which it is implementing which will allow actual time recording to be carried out on complaints work in the future, giving a more accurate picture).

The Working Group was given examples of anonymised complaints relating to social media received by the Council and in all cases they agreed that the complaints were trivial, low level and did not warrant investigation

**There was a clear view at the Working Group that the majority of the complaints made during 2017 have been “tit for tat”/ “trivial”/ “politically motivated” and that the use of**

**social media is a significant issue. The Working Group was concerned at the damage to reputation and public perception caused by these complaints and felt the level of resource required from the District Council to deal with this volume of complaints cannot continue.**

To address some of these issues, having considered examples of arrangements at other local authorities the Working Group is recommending the Complaints Process is amended to:

- Require complaints made by a Councillor against a fellow Councillor to be referred to the Group Leaders of the relevant political groups before the Monitoring Officer and Independent Person assess whether to investigate the complaint.
- The expectation will be that the Group Leaders will seek to work together to resolve the complaint informally and to use their group's disciplinary procedures if appropriate to resolve the complaint rather than the Complaints Process.
- If the matter cannot be resolved by the Group Leaders then the complaint will be referred to a Panel of the Standards Committee (probably 3 members) with the Independent Person present, at which the Group Leaders are expected to speak to explain the position. The Panel will then decide whether the complaint merits investigation or should be dealt with by taking other action (such as an apology or training) or that no action is warranted.
- If any of the Members involved in the complaint are non-aligned, it is suggested that the Standards Panel is still convened and that the non-aligned members attend in place of the Group Leader.

## **Social Media**

The Working Group considered a number of social media policies from other authorities. The Group feel that the policy can be reworked to make it clearer the member is responsible for the content of all posts on their social media accounts and that they are responsible for deleting inappropriate content even if it has been written and sent to by other people.

The Group also thought it would be worthwhile trying to produce an "Idiots Guide" to the use of social media and to provide advice about how to use privacy settings.

## **Next Steps**

The Committee is asked to comment on the suggestions made by the Working Group to date, this will enable the Monitoring Officer to begin drafting appropriate wording to reflect these changes. The Working Group will carry out further work looking at local sanctions, apologies and presumptions based on non-cooperation with the process before the next Committee meeting.

## **Implications**

### **Corporate Plan:**

- We will promote positive and respectful behaviour, treating people fairly and respectfully.
- The Council will strive to ensure effective community leadership, through good governance, transparency, accountability and appropriate behaviours.

### **Legal:**

The complaints process must be open, transparent and fair.

**Finance:**

Budget Area	Implication
General Fund – Revenue Budget	The Authority incurs costs in investigating complaints of alleged Member misconduct, and these charges are borne by the General Fund. The Council investigates complaints in house as far as possible to reduce costs; where complaints need to be investigated externally these costs are expected to be contained within existing budgets.
General Fund – Capital Programme	N/A
Housing Revenue Account – Revenue Budget	N/A
Housing Revenue Account – Capital Programme	N/A

**Risk:**

Risk	Mitigation
<p>The Council has recognised the following Corporate Risk:</p> <p><i>Members’ Ethical Framework – Failure to demonstrate high standards of behaviour (CR003)</i></p> <ul style="list-style-type: none"> <li>• Significant resource to deal with implications of Code of Conduct Complaints.</li> <li>• Potential for negative perception of the Council which impacts upon the Council’s reputation</li> <li>• Potentially adverse impact upon the workings of the Council</li> </ul> <p>New legislation does not provide “strong” sanctions for breaches to the Code which may make regulation of poor ethical behaviour difficult and leave complainants dissatisfied with outcomes</p>	<ul style="list-style-type: none"> <li>• Standards and Personnel Appeals Committee approves an annual work programme which includes an annual review.</li> <li>• A review of the Members’ Code of Conduct Complaints Process will be carried out during 2017/2018 in accordance with the recommendations of the LGA Peer Challenge 2017.</li> <li>• Present Quarterly Complaint Monitoring reports to Standards and Personnel (Appeals) Committee. (This report)</li> <li>• The Standards and Personnel Appeals Committee has agreed in its 17/18 work plan to review the Complaints Process, the Code and guidance relating to social media use. The Committee has established a working group of members from the Committee to work with the Monitoring Officer to review best practice and make recommendations to the Committee.</li> </ul>

**Human Resources:**

There are no human resource issues relating to the recommendation contained in this report.

**Equalities** *(to be completed by the author):*

Reasonable adjustments would be considered and taken into account in relation to any specific complaint.

**Other Implications:**

None

**Report Author and Contact Officer**

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