

Audit & Governance Committee

9 December 2024

Councillor Code of Conduct Complaint Process

For Recommendation to Council

Cabinet Member and Portfolio:

Cllr N Ireland, Leader of the Council

Local Councillor(s):

Cllr

Executive Director:

J Mair, Director of Legal & Democratic

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Report Status: Public

Brief Summary:

At its meeting on 8 July 2024 the Audit and Governance Committee received a report proposing changes to the Councillor Code of Conduct and a new Councillor Complaint Process.

The Committee requested a Task and Finish Group to scrutinise in further detail and fully understand the Councillor Code of Conduct and proposed new Councillor Complaint Process. A Task and Finish Group of 7 members of the Audit and Governance Committee met on 9 October.

The Group received a presentation about the Councillor Code of Conduct and proposed new Councillor Complaint Process from the Head of Legal Services. The Group discussed the proposed new Councillor Complaint Process in detail and requested the following changes:

- Target timescales for action and response throughout the document have been clarified.
- Section 4 (page 3 of the Complaint Process) has been updated to clarify that a successful complaint may result in one or a number of outcomes.
- section B (page 7 of the Complaint Process) has been amended to provide for complex complaints to be referred for Assessment decision, if necessary, to an informal Review Panel instead of a formal (Assessment) Sub-Committee. The informal Review Panel would consist of the Monitoring Officer as decision maker, in consultation with an Independent Person and three Members of Audit and Governance Committee who may meet or consider the assessment in writing only.
- Section I (page 12 of the Complaint Process) has been amended to provide for the Monitoring Officer to decide the outcome or further progress of a complaint on receipt of an Investigating Officer's report, in consultation with the Chair of Audit and Governance Committee (or Vice Chair in their absence).
- Section J (page 17 of the Complaint Process) has been adjusted to provide for a town or parish council to contact the Monitoring Officer for advice, if they wish to impose a different sanction to the one recommended by Dorset Council.
- Section K (page 17 of the Complaint Process) has been deleted, as the provision for an Assessment Sub-Committee has been replaced by the informal Review Panel provisions in Section b (page 7 of the Complaint Process)

As a result of the government's intention to review the standards regime for Councillors, recommendations 1 and 2 of the July report relating to the Councillor Code of Conduct are no longer proposed, to allow for the government review to take place.

Recommendation:

That the Committee consider the recommendations from the Task and Finish Group (held on 9 October 2024) and recommend the proposed new Councillor Complaint Process for adoption by Full Council.

Reason for Recommendation:

To support councillors in maintaining high standards of conduct and to ensure a proportionate and clear approach to the assessment and hearing of complaints against councillors.

1. **Report**

- 1.1 Dorset Council adopted the Model Councillor Code of Conduct on 15 April 2021.
- 1.2 Dorset Council adopted the current Councillor Code of Conduct complaint arrangements on 15 April 2021 and has operated those arrangements for the assessment, investigation and hearing of complaints over the last three years.
- 1.3 Based upon experience to date, the LGA guidance, and the detailed scrutiny of the Task and Finish Group, this report recommends a new Councillor Complaint Process, which builds on the current arrangement and provides improved clarity and detail to ensure that all involved understand the arrangements and that councillors and complainants are treated fairly.
- 1.4 The main differences between the current and proposed new arrangements (which have been updated to take account of the Task and Finish Group requests) concern:
 - Timescales: The current arrangement contains very few timescales and as a result there have been misunderstandings and frustration about how long some tasks and activities have taken. In accordance with LGA guidance indicative timescales have been added throughout the proposed new arrangements to provide clarity and assist with timely progression of complaints.
 - Terminology: At present councillors who are complained of are referred to as Councillors and Co-Opted Members of Dorset Council and any town and parish council in Dorset. This can cause confusion where the Complainant is also a councillor. LGA guidance suggests referring to councillors and co-optees who are complained of as “Subject Members”. This change in terminology has been made throughout the proposed new arrangement.
 - Outcomes: the current arrangement does not explain the outcomes that are available to a Complainant. The Localism Act 2011 curtailed the ability of councils to impose and enforce meaningful sanctions or remedial action. Experience from the last 3 years, suggests the limitation on outcomes is not widely understood, to the disappointment of some Complainants. The proposed new arrangement includes description of possible available outcomes and importantly outcomes which cannot be achieved, for the benefit of all involved.

- Initial Check: the current arrangements provide for an initial check (list of questions) of a complaint, to ensure a complaint is covered by the Councillor Code of Conduct and the councillor complaint arrangements. Two important additional questions have been added to the check:
 - Did the conduct complained of happened when a councillor was acting in an official capacity, and
 - Does the conduct complained of relate to work with a child or harm to an adult at risk and so should be referred to the Local Authority Designated Officer (“LADO”) or Adult Safeguarding

A LADO works within Children’s Services and gives advice and guidance to employers, organisations and other individuals who have concerns about the behaviour of an adult who works with children and young people.

- Gathering information: currently the initial check and assessment stages of the councillor complaint process are based on information provided by the Complainant only. In line with LGA guidance wording has been included within the proposed new arrangement to enable the Subject Member to provide an initial response and for relevant information to be gathered during the assessment of a stage of a complaint to aide and improve assessment decision making.
- Assessment: the current arrangement provides for assessment of a complaint but does not set out assessment criteria or items for consideration. The LGA guide suggests that assessment criteria should be added for clarity, and these have been included in the proposed new arrangement.
- Informal Review Panel: currently officers (with delegated authority) decide whether and if so, how a complaint should progress at the Assessment stage. On occasion this can be challenging for officers; this could be due to officer involvement with earlier complaints involving the same Complainant or Subject Member or the complaint may be complex. The proposed new arrangement includes an option for a complaint to be referred to an informal Review Panel for consideration and decision which would provide a solution and is in line with LGA guidance.

- Informal resolution: There may be occasions where there is evidence of a potential breach, but instead of an investigation, informal resolution may be appropriate. This is included in the current arrangement, but experience and the LGA guide suggest that greater detail would be useful. The proposed new arrangement includes examples of some types of informal resolution and provides for the Complainant and Subject Member to respond to a suggestion of informal resolution before a firm decision is made. It may be arranged where a Complainant and Subject Member agree but it may be an appropriate outcome even without agreement. The new arrangement also clarifies that where informal resolution is arranged but not completed a further decision may be made, and a complaint may be referred for investigation.
- Investigation: The current arrangements stipulate that a complaint which is referred for investigation must be reported to the Audit and Governance (Hearing) Sub-Committee for decision. But changes can occur during an investigation; for example, a Subject Member could resign, leave office after an election or become too ill to be actively involved in the complaint process. From lessons learned and in line with the LGA guide wording has been added to provide for a complaint to be referred back to the Monitoring Officer if there is a change of circumstance during the investigation. There have also been instances, where the Investigation Report is detailed and recommendations are very clear, and a hearing of the Audit and Governance (Hearing) Sub-Committee would not have been necessary. The proposed new arrangement enables the Monitoring Officer to take a final decision based on the recommendations of the Investigation Report, in consultation with the Independent Person and Chair or Vice Chair of the Audit and Governance Committee. For complaints where there is evidence of serious breach(es), or there is no clear recommendation, or the Monitoring Officer does not agree with the recommendation the option of referring the complaint for decision of the Audit and Governance (Hearing) Sub-Committee is still available. This is in line with LGA guidance.
- Hearing: for clarity the proposed new arrangements contain greater detail of the arrangements in advance of, at and following a hearing. The current arrangements provide for a hearing, but do not explain the arrangements in detail. This has resulted in a volume of enquiries in advance of hearings about process, calling of witnesses, order of

speaking during a hearing, etc. The proposed new arrangements aim to clarify the process for all involved and are in line with LGA guidance.

2. Financial Implications

There are no financial implications for the purposes of this report.

3. Natural Environment, Climate & Ecology Implications

No climate implications have been identified in preparing this report.

4. Well-being and Health Implications

No well-being or health implications have been identified in preparing this report.

5. Other Implications

None.

6. Risk Assessment

6.1 HAVING CONSIDERED: the risks associated with this decision; the level of risk has been identified as:

Current Risk: Low

Residual Risk: Low

7. Equalities Impact Assessment

This report raises no equalities implications, providing an improved complaint arrangement applicable to all councillors.

8. Appendices

Appendix 1 – the current arrangements for dealing with Code of Conduct complaints against councillors. [Appendix 2 Code of Conduct complaint process 2021.pdf](#)

Appendix 2 – the proposed new Councillor Complaint Process (showing changes since the version presented to councillors in July 2024).

9. Background Papers

The LGA Guidance on Member Model Code of Conduct Complaints Handling

[Guidance on Member Model Code of Conduct Complaints Handling |
Local Government Association](#)

10. **Report Sign Off**

- 10.1 This report has been through the internal report clearance process and has been signed off by the Director for Legal and Democratic (Monitoring Officer), the Executive Director for Corporate Development (Section 151 Officer) and the appropriate Portfolio Holder(s)