

Title of meeting:	Governance & Audit & Standards Committee
Date of meeting:	13 March 2015
Subject:	Review of Members' Code of Conduct and Committee Arrangements for Assessment, Investigation and Determination of Complaints
Report by:	City Solicitor
Wards affected:	N/A
Key decision:	No
Full Council decision:	Yes

1 Purpose of report

- 1.1 To update Members of the Committee on the Members' Code of Conduct and Committee Arrangements for Assessment, Investigation and Determination of Complaints following the resolution passed at the Committee on 30 January 2015
- 1.2 To agree proposed revisions to the Members' Code of Conduct and make recommendations to Council for approval.

2 Recommendations

RECOMMENDED that Members of the Committee

- 2.1 **Agree the proposed revisions to the Members' Code of Conduct and the Arrangements for Assessment, Investigation and Determination of Complaints that are annexed to this report as Appendices A to C**
- 2.2 **Consider whether any further action is required by them.**
- 2.3 **Recommend to Council that the revisions (if any) be approved.**

3 Background

- 3.1 The current Code of Conduct which was adopted in July 2012 was last updated by Members at the Council meeting of 15 July 2014.
- 3.2 At the Committee meeting of 30 January 2015 it was resolved that the City Solicitor produce a report concerning the options for amending and bringing up to date the following:
 - 3.2.1 Members' Code of Conduct (including submission of complaints).
 - 3.2.2 Arrangements for Assessment, Investigation and Determination of Complaints.

- 3.3 The proposed revisions to the Members' Code of Conduct and the Arrangements for Assessment, Investigation and Determination of Complaints are annexed to this report as Appendices A to C.
- 3.4 In the event that the Committee makes any change to these arrangements that decision will be required to be approved by Council.

Proposed Changes to the Code of Conduct

- 3.5 The proposed changes to the Code, although they may appear substantial, are mainly presentational. However, a new section has been introduced headed "Personal Interests".
- 3.6 The previous obligation to declare personal and prejudicial interest came to an end following the introduction of the Localism Act 2011 which also disbanded the former standards regime and revoked the model code of conduct. Since that time Members have only been obliged to declare "discloseable pecuniary interests". These are set out at paragraph 3 in the report and they are quite limited in nature. However if a Member were to fail to disclose such an interest and were to participate in the business of the Council, a criminal offence would be committed which can lead to a fine of up to £5,000 and disqualification from holding office as a councillor for up to five years.
- 3.7 It was always intended that the new code of conduct should have a provision to require further interests to be disclosed. Whilst these were not within the provisions of disclosable pecuniary interest, they could be considered to be of such significance as to affect your own wellbeing or financial position that they should be disclosed when you are taking part in the business of the Council. This proposed class of interest is set out in Paragraph 4 of the report and Paragraph 5 sets out the disclosure requirements. The principle difference with disclosable pecuniary interests is that whilst they need to be disclosed you may still participate in the business of the Council.

4 Proposed changes to the Assessment Investigation and Determination of complaints

- 4.1 The procedure which the Council adopted for complaints consideration substantially mirrored the approach taken under the old standards regime. This was considered to be tried and tested and had widespread support amongst Members. However, experience since the introduction of adoption of these procedures has suggested that some enhancements could be made.

4.2 Introduction of a filtering mechanism for complaints.

The vast majority of complaints which are made are not progressed beyond the initial Sub-Committee stage. This is usually because they are either not considered to amount to a breach of the code nor is it felt that the concern which has been raised could be dealt with in another way other than through the formal investigation and hearings procedure. In respect of the latter, this often means that the City Solicitor is asked to discuss the matter with the Member who is the subject of the Complaint and ask that they take some remedial action, perhaps writing a letter of apology.

At present there is no "filtering" process to deal with such complaints. Filtering processes have been adopted by other Councils as they have been considered to be a way of more expeditiously dealing with complaints. This can mean that complaints that have no merit can be concluded quickly and without the need to arrange for a formal sub-committee meeting. This is considered to be beneficial to all parties in that the complainant receives earlier notice of the outcome and the Member does not have the ongoing worry of an unresolved complaint.

It could also be used as a means to resolve complaints where other action is a more appropriate remedy.

If Members were to adopt this proposal it is suggested that the filtering could be carried out by the Chair of the Committee in consultation with the independent person and also the City Solicitor. It is hoped that in this way only the more serious matters which are of some merit would proceed to the Assessment Sub-Committee for consideration.

4.3 Time period for Assessment to make an initial assessment of the Complaint

At present 10 days is allowed from the receipt of the complaint to the initial Sub-Committee hearing. Practice has shown that due to Members' availability the time allowed is too short and it is proposed that this is increased to 15 days, although when possible Sub-Committee meetings will take place within a shorter time scale.

5 Reasons for recommendations

- 5.1 It is recommended that the Committee approve the revised Members' Code of Conduct and Arrangements for Assessment, Investigation and Determination of Complaints to bring clarity to the Code and enable the complaints procedure to be more efficient and less protracted.

6 Equality Impact Assessment (EIA)

- 6.1 It should be noted that the equalities submission form on the Councillors' Code of Conduct Complaint form has been removed. It is no longer required to submit this information and therefore this section of the form is no longer fit for purpose.

7 Legal implications

- 7.1 The City Solicitor's comments are included in this report.

8 Finance comments:

- 8.1 There are no financial implications arising from the recommendations set out in this report.

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City Solicitor

Appendices: Appendix A - Members' Code of Conduct
Appendix B - Councillors' Code of Conduct Complaint form (as amended)
Appendix C - Arrangements for Assessment, Investigation and Determination of Complaints

Background list of documents: Section 100D of the Local Government Act 1972

The following documents disclose facts or matters, which have been relied upon to a material extent by the author in preparing this report:

Title of document	Location