

# Audit and Governance Committee



Report of Monitoring Officer

Author: Kathy Fiander

Telephone: 01491 823649

Textphone: 18001 01491 823649

E-mail: [kathy.fiander@southandvale.gov.uk](mailto:kathy.fiander@southandvale.gov.uk)

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## Procedures for dealing with code of conduct complaints

### Recommendations

The committee is recommended to:

1. appoint sub-committees (to be known as complaints panels) comprising three members of the committee or their appointed substitutes and authorise the complaints panels to determine code of conduct complaints referred by the monitoring officer;
2. appoint each member or substitute of the Audit and Governance Committee to serve on any complaints panel which is convened so as to include her or him in its membership;
3. agree that wherever possible, a panel should comprise the chairman or vice-chairman of the committee plus two other members of the committee, but that this should not affect the principle that any three members of the committee or their appointed substitutes will constitute a properly appointed panel;
4. authorise the head of legal and democratic services to convene panels having regard to members' availability and eligibility to take part;
5. adopt the procedures for dealing with code of conduct complaints set out in appendix 1 to this report with effect from 12 July 2012 and in place of the council's existing arrangements for dealing with code of conduct complaints;
6. authorise the monitoring officer to make minor amendments to the procedures including minor or consequential amendments required for clarification, consistency and compliance with the council's style guide;
7. note the document entitled *Code of conduct complaints: fact sheet* that will provide information for members of the public when making code of conduct complaints.

## **Purpose of report**

1. The purpose of this report is to ask the Audit and Governance Committee to appoint panels to determine code of conduct complaints referred by the monitoring officer, to adopt procedures for dealing with code of conduct complaints and to note the fact sheet that we will publish on the council's website to help people understand the process for dealing with code of conduct complaints.

## **Strategic Objectives**

2. High standards of conduct underpin all of the council's work and the achievement of all its strategic objectives.

## **Background**

3. The Localism Act 2011 provided for the abolition of the arrangements that promoted high standards of conduct on the part of councillors and co-optees introduced under the Local Government Act 2000. Those arrangements included a national mandatory code of conduct, a statutory standards committee with parish and independent representatives (with statutory sanctions available to it) and a national body, Standards for England. All of those features are repealed by the Localism Act 2011 and new provisions became effective on 1 July 2012.
4. The Localism Act 2011 does, however, retain the duty to promote and maintain high standards of conduct by councillors and co-opted members. It also requires the council to adopt both a code of conduct and arrangements for the handling and the determination of allegations of breaches of the adopted code. Council adopted a revised code of conduct at its meeting on 16 May 2012. Thereafter we advised town and parish councils across the district that they should adopt a code of conduct by 1 July and recommended that they adopt this council's code.
5. At its May meeting Council also designated the monitoring officer as the proper officer for receipt of code of conduct complaints and the Audit and Governance Committee as the committee responsible for dealing with allegations about potential breaches of the code of conduct that the monitoring officer considers it inappropriate for officers to deal with. The committee needs to appoint complaints panels and adopt procedures for dealing with code of conduct complaints.
6. The terms of reference of the committee empower it to appoint sub-committees comprising three eligible members of the committee to determine code of conduct complaints referred by the monitoring officer. Panels will make decisions on such complaints except where the chairman (or vice-chairman) of the committee considers that a complaint merits consideration by the full committee. This report invites the committee to appoint panels and to authorise the head of legal and democratic services to convene panels having regard to members' availability and eligibility to take part. The committee will receive training on the new code of conduct arrangements in the autumn.
7. Whilst operating the framework under the former Standards for England they provided guidelines so that councils had a consistent approach to dealing with complaints. They were useful for setting a threshold that complaints should attain before progressing to

investigation. We have learnt from our experiences when dealing with complaints. We have therefore based our procedures on the former Standards for England guidance but in accordance with the Localism Act they now allow the monitoring officer to make decisions on the actions to take on complaints.

8. The procedures are comprehensive in that they set out how we will deal with a complaint from its receipt right through to any hearing that could arise if a breach of the code of conduct was identified through investigation.
9. Where the new procedures are largely different is in terms of how the council deals with complaints when we initially receive them. Under the old framework officers would have convened an assessment panel of members of the standards committee to make a decision on whether to take no action on the complaint, send it for investigation (either locally or by Standards for England) or refer it for what was termed *other action*. We would inform the subject of the complaint that we had received the complaint but we were unable to tell them the details of it and they were unable to make representation on the complaint at the assessment stage. This was a cause of anxiety to many councillors. From now on the Localism Act allows the monitoring officer to have greater flexibility to inform the councillor of the details of the complaint and liaise with the parties to reach a satisfactory outcome without convening panels. We are in the process of recruiting independent persons, whom the monitoring officer may consult when making decisions on complaints.
10. Alongside the procedure we have developed a fact sheet that will go on the website. The fact sheet answer some other questions that the public may have and contain a briefer version of the procedure.
11. We took the opportunity to share the draft procedures and fact sheet with members of the standards committees of South Oxfordshire District Council and Vale of White Horse District Council as well as the cabinet members at each council, seven town and parish councils across the two districts and the Oxfordshire Association of Local Councils. Their responses have been accommodated where possible within the documents.

## **Financial Implications**

12. The cost of implementing the new arrangements for dealing with code of conduct complaints will be met from existing budgets.

## **Legal Implications**

13. The council must have in place arrangements for dealing with code of conduct complaints as required in the Localism Act 2011 and the Localism Act 2011 (Commencement No. 6 and Transitional, Savings and Transitory Provisions) Order 2012.

## **Risks**

14. There are no immediately identifiable risks in adopting these procedures.

## **Conclusion**

15. The council must have in place new procedures for dealing with code of conduct complaints to comply with recent legislation. The Audit and Governance Committee, as the committee responsible for dealing with code of conduct complaints, is asked to appoint complaints panels and authorise the head of legal and democratic services to convene panels. It is also asked to agree the procedures attached to this report and allow the monitoring officer to make minor changes where necessary. The committee is also asked to note the fact sheet that will appear on the council's website.

## **Background Papers**

- Council report 16 May 2012;
- Localism Act 2011;
- The Localism Act 2011 (Commencement No. 6 and Transitional, Savings and Transitory Provisions) Order 2012.