

**Manchester City Council
Report for Resolution**

Report to: Standards Committee – 13 June 2019

Subject: Review of the operation and efficacy of the Arrangements for dealing with complaints about Councillors and amendment to the Arrangements

Report of: City Solicitor

Summary

This report outlines the operation and efficacy of the Arrangements for dealing with complaints about Councillors ('the Arrangements') as well as seeking the Committee's approval of an amendment to the Arrangements.

Recommendations

That the Standards Committee:

1. Note the position with the operation and efficacy of the Arrangements.
 2. Approve the proposed amendment to paragraph 8.1 of the Arrangements.
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Wards Affected: All

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Background documents (available for public inspection): None

1.0 Operation and efficacy of the Arrangements

- 1.1 As the Committee will be aware, the Council is required to have in place Arrangements for dealing with complaints about Councillors made under the Council's Code of Conduct for Members.
- 1.2 The Council's Arrangements were last reviewed in 2017 and a copy of the current Arrangements are attached as an Appendix to this report.
- 1.3 Members are advised there are three specific stages in the Arrangements namely:
 - Stage 1 – Procedure for Initial Assessment of Complaint
 - Stage 2 - Informal Resolution
 - Stage 3 - Formal Investigation
- 1.4 This report outlines how the Arrangements have operated in relation to new complaints received during the period 1 April 2018 – 31 March 2019 which fully completed stage one as well as complaints which were on-going as of 1 April 2018 and completed either the stage two or three phase during the same period.
- 1.5 Paragraph 2.15 of the Arrangements set out the following timeframes in relation to the stage one initial assessment:
 - The Council's Monitoring Officer ('MO') will acknowledge receipt of a complaint within 10 working days of all required information being provided by the complainant.
 - The Member/s who is the subject of a complaint may, within 10 working days of being provided with a copy of the complaint, make written representations to the MO.
 - A decision regarding whether the complaint merits formal investigation or another course of action will normally be taken within 20 working days of either receipt of representations from the member/s who is the subject of the complaint or where no representations are submitted within 20 working days of the expiry of the 10 working days in which that member could have made representations to the MO.
- 1.6 Under paragraph 3.3 of the Arrangements the MO is required to consult with one of the Council's Independent Persons before reaching a decision (initial assessment) as to whether complaint merits investigation, or another course of action.

2.0 Background

- 2.1 During the period 1 April 2018 – 31 March 2019 twelve new complaints were dealt with under the stage one initial assessment phase.
- 2.2 Of those twelve complaints:

- Three of the complainants were asked to provide further/full information about their complaint but did not respond and therefore a decision was taken to close the file in each case.
- One complaint was withdrawn by the complainant.
- One complainant advised that their original e-mail had been sent for information only.
- One complaint was not taken any further because on being contacted the 'complainant' advised the Council that they had not submitted a complaint and someone had used their identity to make it.

- 2.3 Members are therefore advised that the initial screening of complaints which do not meet the relevant criteria for formal initial assessment by the MO is working well.
- 2.4 The MO issued a decision notice in relation to the six other complaints. In all six cases the decision was to reject the complaints. Four of these were on the basis that it would be wholly disproportionate and not in the public interest to expend further resources on carrying out an investigation, one on the basis that it would not be in the public interest to expend further resources on carrying out an investigation and one because the member who was the subject of the complaint was held not to be acting in their official capacity.
- 2.5 Members of the Committee are further advised that of the six complaints where a decision notice was issued two were dealt with within the 20 working day timescale set out in paragraph 2.15 of the Arrangements. However, for a variety of reasons the other four took longer than this timescale and as a result the process for handling complaints under the stage 1 phase is being reviewed by the MO to address this including for example ensuring that additional diarising and monitoring is undertaken.
- 2.6 The Committee is informed that during the period 1 April 2018 – 31 March 2019 there were no on-going complaints which completed the stage two phase of the Arrangements.
- 2.7 There was one on-going complaint which completed the stage three phase of the Arrangements during the period 1 April 2018 – 31 March 2019. The investigating officer's finding was there had been no breach of the Council's Code of Conduct for Members.
- 2.8 Members of the Committee are advised that the MO has issued guidance on the investigation of complaints to all investigating officers in accordance with paragraph 5.2 of the Arrangements. Under paragraph 5.3 of the Arrangements an investigating officer should aim to complete their investigation within 3 months of their appointment.
- 2.9 The Committee is informed that the investigation into the complaint referred to in paragraph 2.6 took longer than 3 months due to its complexity. As part of a lessons learned exercise following the conclusion of the complaint the MO is considering whether any steps can be taken generally to assist in response times to complaints which merit formal investigation.

- 2.10 The MO's guidance to investigating officers also states that "in accordance with the requirements of section 28(7) (a) of the Localism Act 2011, the Investigating Officer will seek and take into account the views of the Independent Person on the Draft Report". The investigating officer appointed in respect of the investigation referred to in paragraph 2.6 was an experienced individual from an external organisation and they commented that they had not come across this requirement in any other council's procedure. In light of the comment the MO is considering whether following this comment the guidance to investigating officers needs to be amended.
- 2.11 In accordance with the Arrangements the MO does at various stages of handling complaints received consult with one of the Council's two independent persons and has found such consultation both effective and beneficial.

3.0 Amendment to Arrangements

- 3.1 Members received a report at the Committee's March 2019 meeting regarding the Review into Local Government Ethical Standards by the Committee for Standards in Public Life ('CSPL'). One of the best practice recommendations made by the CSPL in its Review was:

Where a local authority makes a decision on an allegation of misconduct following a formal investigation, a decision notice should be published as soon as possible on its website, including a brief statement of facts, the provisions of the code engaged by the allegations, the view of the Independent Person, the reasoning of the decision-maker, and any sanction applied

- 3.2 In order to comply with the CSPL recommendation it is proposed that paragraph 8.1 of the Arrangements be amended to state that any view of the Council's Independent Person must be recorded on future decision notices issued following a formal investigation. The proposed wording of the amendment is indicated in bold in the attached Appendix.

4.0 Recommendations

That the Standards Committee:-

1. Note the position with the operation and efficacy of the Arrangements.
2. Approve the proposed amendment to paragraph 8.1 of the Arrangements.