

Report to Joint Standards Committee	Ref: SC/002/15
Date of meeting: 21 December 2015	County Divisions affected by the decision: All Divisions
Title of report: Investigation and Hearings Procedure	
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1. Purpose of report

- 1.1 To provide members of the committee with a note of the procedure that will be adopted by the Monitoring Officer and/or the Standards Committee when investigating and/or hearing allegations of breaches of the code of conduct against members of the Council. a similar may in future be adopted for handling complaints against members of the Fire Authority.

2. Recommendations

- 2.1 Note and endorse the new procedure in the form appended to this report.

3. Background and proposal

- 3.1 The Joint Standards Committee is responsible for considering whether members of ECC or the Essex Fire Authority are in breach of the respective Codes of Conduct for Members of those authorities.
- 3.2 Up until 2012 the Council, the Council was required to follow the national standards framework and had previously adopted a lengthy and detailed guide to hearings and investigations held under that regime. However, the national mandatory code of conduct, the Standards Board and the majority of the statutory framework were all abolished between 2012 and 2013. A lighter touch regime could then be adopted by local authorities.

3.3 A new code of conduct for members was adopted by ECC in October 2012, along with the following broad arrangements for dealing with complaints made under the new system:

- a. the Monitoring Officer be appointed as the Proper Officer to receive and manage the determination of complaints of failure by Members to comply with the Code of Conduct and to advise the Standards Committee and Sub-Committee thereon.
- b. the Monitoring Officer be authorised to investigate complaints against councillors or to arrange for such an investigation to be carried out or to seek a decision from the Standards Committee on whether to investigate.
- c. The Monitoring Officer be given delegated power to determine that no further action be taken following a finding that there has been no breach of the Code, subject to consulting the Independent Person.
- d. That Council can appoint and delegate to a Hearing Sub-Committee its powers to take decisions in respect of a member who is found on hearing to have failed to comply with the Code of Conduct

3.4 These arrangements are successfully operating at a high level, but we do not have detailed guidance about how matters will be investigated or about how hearings will be held.

3.5 Accordingly a new procedure has been prepared, which is attached as appendix 1. Members are asked to endorse this new procedure.

3.6 Members will note that, briefly:

- The Monitoring Officer will decide whether the complaint is one which should be investigated under the code of conduct. If not, the complainant will be informed of that decision and the complaint will be referred on to the appropriate person or body if possible. In complex or difficult cases the Standards Committee may be asked to make the decision on whether or not to investigate.
- If the complaint is one that should be investigated under the code of conduct then an investigation will be carried out by the Monitoring Officer or a person appointed by her.
- If upon conclusion of the investigation the Monitoring Officer determines that there has been no breach then, subject to consulting the Independent Person, the Monitoring Officer can decide to take no further action.
- If upon conclusion of the investigation the Monitoring Officer determines that there has been a breach then the findings will be reported to the Standards Committee who will appoint a sub-committee to hold a hearing into the matter. The procedure for that hearing is also set out in the appendix. The appendix also sets out the possible sanctions that could be applied if the committee so determine.

4. Financial Implications

- 4.1 There are no financial implications to the approval of this policy. There may be costs if an external investigator is appointed.

5. Legal Implications

- 5.1 The procedure follows the necessary statutory requirements and good practice.

6. Staffing and other resource implications

- 6.1 This report has no staffing implications.

7. Equality and Diversity implications

- 7.1 In making this decision the Council must have regard to the public sector equality duty under section 149 of the Equalities Act 2010. The Council is required to have due regard to the need to:
- (a) Eliminate unlawful discrimination, harassment and victimisation and other conduct prohibited by the Act.
 - (b) Advance equality of opportunity between people who share a protected characteristic and those who do not.
- 7.2 There is no disadvantageous impact anticipated on people; based on their race or culture, age, sexual orientation, impairment, gender, caring role, re-assigned gender, pregnancy/maternity/paternity, marital status or civil partnership, religion/belief or socio-economic and/or health inequalities. The procedure makes it clear that adjustments will be carried out if a person's disability affects their ability to participate in an investigation or hearing.

8. List of Appendices

Appendix 1 – draft Investigations and Hearings Procedure.

9. List of Background Papers

- The ECC member Code of Conduct
- The previous procedure adopted by the Committee for dealing with complaints governed by the Local Government Act 2000.