

Meeting:	Audit and governance committee
Meeting date:	Wednesday 23 January 2019
Title of report:	Standards Appeals Panel Working Group Update
Report by:	Head of Corporate Governance

Classification

Open

Decision type

This is not an executive decision

Wards affected

(All Wards);

Purpose and summary

To endorse the amendments the monitoring officer proposes to make to the appeals and appeals panel processes and the Arrangements for Dealing with Complaints About the Code of Conduct for Members having regard to the recommendations of the standards appeals panel working group.

At its meeting on 28 November 2018 the committee agreed to establish a working group to review the clarity and effectiveness of operational procedures supporting the appeals process for member Code of Conduct complaints. The working group met on 10 December and a summary of the issues raised in relation to the procedures and arrangements, and how the monitoring officer proposes to address them is contained at appendix 1.

Recommendation(s)

That:

- (a) the monitoring officer's proposed actions in response to issues raised regarding the operational appeals and appeals panel procedures and the arrangements for dealing with complaints about the code of conduct for members, as detailed in appendix 1, be endorsed.**

Alternative options

1. The committee may determine not to endorse the proposed actions. This is not recommended because the proposed actions seek to ensure that the arrangements and procedures in place ensure that a clearly understood, fair and equitable process is in place, and have full regard to the proposals made by the working group.
2. It is open to the committee to propose that the monitoring officer consider alternative or additional amendments.

Key considerations

3. Following concerns expressed at the November Audit and Governance Committee meeting, the committee established a working group to look at the appeals processes. The committee suggested that the Independent Person and the Herefordshire Association of Local Councils (HALC) nominated parish council representative be invited to attend to gain the benefit of their views.
4. The working group met on 10 December, attended by Councillors Harvey, Phillips and Newman. The working group also included Councillor Gething as the HALC nominated representative and Richard Stow, the Independent Person. Councillors Chappell and Chowns were unable to attend but the views they had expressed following the standard panel appeals hearings held in October 2018 were taken into account.
5. The working group reviewed the Standards Appeals Process (appendix 2) and the Standards Panel Procedure (appendix 3). Additionally a member of the working group made some suggestions relating to the clarity of the Arrangements for Dealing With Complaints About the Code of Conduct for Members (appendix 4) which the working group also considered.
6. A summary of the issues discussed by the working group is contained in appendix 1, together with the action it is proposed to take to address the issue raised. The committee is invited to endorse the actions proposed by the monitoring officer.

Community impact

7. Having an effective process for dealing with code of conduct complaints upholds principles A and G of the adopted code of corporate governance by ensuring that councillors behave with integrity and that councillors are accountable for their actions. This should provide assurance to the community that councillors are behaving in the best interests of their communities, and that the council's processes are effectively supporting adherence to the code.

Equality duty

8. Under section 149 of the Equality Act 2010, the 'general duty' on public authorities is set out as follows:

A public authority must, in the exercise of its functions, have due regard to the need to -

- (a) eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under this Act;

- (b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it;
 - (c) foster good relations between persons who share a relevant protected characteristic and persons who do not share it.
9. The public sector equality duty (specific duty) requires us to consider how we can positively contribute to the advancement of equality and good relations, and demonstrate that we are paying 'due regard' in our decision making in the design of policies and in the delivery of services. As the proposed actions seek to ensure that processes and procedures are clear and equitable to all parties we do not believe they have an impact on our equality duty.

Resource implications

10. There are no resource implications arising from the recommendations.

Legal implications

11. The recommendations are in accordance with the constitution paragraph 3.6.4 of which states that the council has agreed that the arrangements for determining breaches of the code of conduct for members will include, where the matter cannot be resolved informally, the consideration of the complaint by the Standards panel. The function of the panel is to consider submissions made either in person or in writing by the complainant, the subject member and the Monitoring Officer and produce a report.
12. There are no other specific legal implications.

Risk management

- 13.

Risk / opportunity	Mitigation
If the processes and procedures are not clearly understood there is a risk that individuals may be discouraged from raising a concern and/or be treated unfairly	The actions proposed seek to mitigate this risk by ensuring that the processes are clearly set out and can be applied consistently.

Consultees

14. The working groups views are set out in appendix 1 together with the proposed response to the issues raised.

Appendices

Appendix 1 – Summary of issues raised by the working group and actions proposed in response.

Appendix 2 – Current Standards Appeal Process

Appendix 3 – Current Standards Panel Procedure

Appendix 4 – Current Arrangements for Dealing With Complaints About the Code of Conduct for Members

Background papers

None Identified