

## **MEMBER CONDUCT COMMITTEE – 13TH DECEMBER 2021**

### **Report of the Monitoring Officer**

#### **ITEM 7      CODE OF CONDUCT - COMPLAINTS PROCEDURE**

##### Purpose of Report

To enable the Committee to consider differences between Charnwood's agreed procedure for dealing with Member conduct complaints, and the Local Government Association's recently produced Guidance on Member Model Code of Conduct Complaints Handling (the 'LGA Guidance').

##### Recommendations

1. That the Committee considers the main differences set out in Part B of this report and whether they wish to recommend any changes to Council in respect of:
  - (a) Removing the right of appeal for a complainant against a decision not to progress their complaint at the initial fact-finding stage,
  - (b) Expanding the procedure to provide further details of options for informal resolution of complaints,
  - (c) Introducing a requirement for investigations to be completed within 6 months,
  - (d) Introducing potential further sanctions,
  - (e) Removing the right of appeal after a hearing which has determined that a Member has breached the Code of Conduct of their authority.
2. That if any of the options 1(a) to 1(e) are selected, delegated authority be given to the Monitoring Officer to make the required proposed amendments to the Constitution to be recommended to full Council for adoption.

##### Reasons

1. To determine whether the Committee wishes to recommend amending Charnwood's procedure for dealing with Member conduct complaints to align with best practice as set out in the LGA guidance.
2. To ensure that any amendments the Committee may support can be recommended to full Council for adoption in an expeditious manner.

##### Policy Justification and Previous Decisions

The Localism Act 2011 requires that the Council must have arrangements in place under which allegations about Member conduct can be investigated, and under which decisions on allegations can be made.

## Implementation Timetable including Future Decisions

If the Committee decide to recommend any amendments these will be considered at the next available full Council meeting.

## Report Implications

The following implications have been identified for this report.

### *Financial Implications*

None

### *Risk Management*

No risks have been identified with this item.

Background Paper: LGA Guidance: [Guidance on Member Model Code of Conduct Complaints Handling | Local Government Association](#)

Officer to Contact: Adrian Ward  
Monitoring Officer  
01509 634573  
[adrian.ward@charnwood.gov.uk](mailto:adrian.ward@charnwood.gov.uk)

## Part B

### Background

1. The LGA Guidance has been produced in conjunction with their Model Councillor Code of Conduct.
2. Therefore, it will be particularly important for the Committee to consider differences between the Guidance and the Council's current procedure should they decide to recommend to full Council that the locally amended LGA Code of Conduct be adopted (earlier on the agenda for this meeting). In that case it would also appear advisable to align the current procedure with the LGA Guidance.
3. The main substantive differences between the LGA Guidance and the current Charnwood procedures are summarised below:

LGA Guidance	Charnwood Procedure	Comments
<b>Appeals at the initial fact-finding stage</b>		
<p>At the initial fact-finding stage: <i>'there should be no right of appeal against a decision not to take any further action if the system is to be efficient and proportionate'</i>.</p>	<p>The complainant can appeal against a decision by the Monitoring Officer to take no action, or if the Independent Person disagrees with the Monitoring Officer. The appeal, and any response from the subject member to the appeal, is submitted to the Chair and Vice-chair of the Member Conduct Committee, who can either refer the appeal to a Panel for consideration or take no action.</p>	<p>Originally there was no right of appeal at this stage in the Charnwood procedure, but it was introduced a few years ago.</p> <p>There have since been a number of appeals, and in every case the Chair and Vice-chair have supported the decision of the Monitoring Officer (i.e. the appeal has not progressed).</p> <p>An appeal can potentially add more than 20 working days to the fact-finding stage.</p> <p>The removal of a right of appeal at this stage could be considered.</p>

<b>Informal resolution</b>		
The LGA guidance includes a detailed section on the process for applying informal resolution.	Informal resolution is specified as an option for resolving complaints, but the detail is left to the Monitoring Officer.	Informal resolution is applied quite rarely, and usually where an apology from the subject member is agreeable to both parties as a way of resolving the complaint.
<b>Timescales for Investigation</b>		
If a complaint is referred for investigation, the investigation should be completed, and report produced within a maximum of 6 months.	No time period is specified for completing an investigation.	Investigations can be time consuming and complex, but 6 months should be an achievable period for completion.
<b>Sanctions</b>		
The following additional potential sanctions are specified in the event that a breach is found at a hearing: <ol style="list-style-type: none"> <li>1. Removal from outside body appointments</li> <li>2. Withdrawal of facilities (IT equipment, internet access, email access) for a specified period</li> <li>3. Exclusion from council premises for a specified period, except where necessary to attend council or committee meetings.</li> </ol>	The sanctions listed are additional to those already specified in the Charnwood procedure.	The additional potential sanctions could be considered.  For Borough Councillors this may require a recommendation to the appointing committee, which would usually be Cabinet.
<b>Appeals at the hearing stage</b>		
At the hearing stage: <i>'given that the framework and sanctions are meant to be light-touch and proportionate, there should be no right of appeal against a decision on a Code of Conduct complaint'</i> .	An appeal to the Appeals & Reviews Committee is allowed if a breach is found, but only on the basis of a procedural breach or if new evidence has come to light.	The removal of a right of appeal at this stage could be considered.