

EAST CAMBRIDGESHIRE DISTRICT, TOWN AND PARISH COUNCILLOR CODE OF CONDUCT COMPLAINTS PROCEDURE REVIEW

Committee: Corporate Governance and Finance Committee

Date: 30th January 2017

Author: Chief Executive and Monitoring Officer

[R187]

1.0 ISSUE

1.1 Review of the East Cambridgeshire District, Town & Parish Councillor Code of Conduct Complaints Handling procedure.

2.0 RECOMMENDATION(S)

2.1 Members are requested to consider the proposal to:

- (i) Amend the East Cambridgeshire Member Code of Conduct Complaints Handling procedure to delete reference to “political motivation”;
- (ii) If Members wish to retain the “political motivation” criteria, it is recommended that the Monitoring Officer/Deputy Monitoring Officer should be obliged to consult the Independent Person prior to make the decision at Stage 2 of the process.

3.0 BACKGROUND/OPTIONS

3.1 Members considered this matter at the Corporate Governance and Finance Committee on 29th September 2016 and concluded that a review of the Members’ Code of Conduct Complaints Procedure should be instigated.

3.2 Accordingly, the Monitoring Officer was authorised to carry out the necessary consultation, subject to the Chief Executive being authorised, in consultation with the Chairman of the Committee, to make any amendments to the final version of the proposed letter of consultation to District Council Members, Parish Councils and Independent Persons.

3.3 The Monitoring Officer drafted a letter of consultation and after consideration by the Chief Executive, the Chairman and Vice-Chairman of the Committee, the Leader of the Liberal Democrats and Independents, the letter was sent to all Parish Clerks, District Councillors and the Independent Persons on 25th October 2016, requesting any comments by 16th December 2016. A copy of the letter is attached.

3.4 Responses were received as follows:-

Burwell Parish Council – had no comments to make regarding the Code of Conduct Complaints Procedure Review.

Cllr B Hunt – was uneasy with the fact that “politically motivated” could cover any or all behaviours of any Councillor, so thought automatic rejection at Stage 2 was not helpful. He also thought Stage 1 “acting as a Councillor” could be amended to read “Acting as a Councillor or a registered Councillor candidate”.

On reflection, Cllr Hunt sent a second email to say that he had seen Cllr Bailey’s email, completely agreed with her viewpoint and said that in his view, “a breach is a breach and should be considered as such irrespective of where the complaint comes from or the motivation behind it”.

Cllr A Bailey – did not agree with rejecting complaints which are deemed to be “politically motivated”. Cllr Bailey felt the issue is about “the behaviour of the person being complained about, not the motivation of the complainant (and how can any third party make any sort of judgment about the motivation of the complainant anyway?)”. Cllr Bailey is therefore of the view that it is the behaviour of the individual that is being complained about that is open to question and scrutiny and stands to be judged against the Code, *not* the reason or motivation of the complainant. For these reasons, Cllr Bailey believes that the reference to “political motivation” should be removed from the process.

Cllr M Rouse – commented that the phrase “politically motivated” concerned him as to who determines and how, whether the individual is “politically motivated”? Cllr Rouse made the comment that a person may be “politically motivated” but this did not mean that there has not been a breach of the Code of Conduct.

Cllr N Hitchin – said that in the context of the flow chart, the idea is that it is the petty politically motivated complaint which the procedure is intended to reject. He didn’t see the reason to include “politically motivated” as a reason for rejection, as a complaint can simply be rejected on the grounds that it is petty, vexatious or malicious. He agreed with Cllr Bailey’s observation that it is the behaviour of the person being complained about, not the motivation of the complainant.

Cllr L Dupre – felt that, as the current procedure had been in place a little while, a general review of its operation was timely. Cllr Dupre referred to the Government’s comment in 2010 that the Standards Board regime was being used “as a vehicle for vexatious or politically motivated complaints” and therefore it seemed that the aim of East Cambridgeshire District Council’s process should be to uphold the high standards of conduct in public office locally, and treat breaches of such standards seriously, while at the same time ensuring the process is not abused and “trammelled up with vexatious complaints or complaints that derive from political motivations”.

Cllr Dupre is of the view that the current process generally achieves that balance, and therefore she believes that there is no need to change it.

However, with regard to politically motivated complaints, she feels that it is entirely wrong if any proposed change were to place officers in a position of adjudicating between opposing political parties, as this would undermine officers' perceived neutrality and damage the reputation of local government generally. She therefore suggested that a solution to this dilemma would be "for the Monitoring Officer to call on the advice of the Independent Person on this point, a course of action which would respect the neutrality of the Monitoring Officer while enabling a reasonable judgment to be formed on the motivation behind the complaint".

4.0 ARGUMENTS/CONCLUSIONS

4.1 The argument for deleting reference to "political motivation" is on the basis that Members feel the emphasis should be on the conduct of the person being complained about, i.e. any perceived breach of the Code of Conduct by the Member, rather than the motivation behind the complaint. In conclusion, if "political motivation" is deleted, the Monitoring Officer would still be able to reject a complaint at Stage 2 on the basis that the complaint is very minor, trivial or tit-for-tat, without having to make a call on the perceived motivation of the complainant.

4.2 The argument for retaining the "political motivation" criteria within the current procedure would be to retain the safeguards put in on the abolition of the Standards Board regime in allowing the Monitoring Officer to reject complaints based on "political motivation" at an early stage in the process. As this could put the Monitoring Officer in the position of adjudicating between the political parties, it is concluded that the current procedure should only be retained if the Monitoring Officer/Deputy Monitoring Officer is obliged to consult the Independent Person prior to making the decision at Stage 2.

5.0 FINANCIAL IMPLICATIONS/EQUALITY IMPACT ASSESSMENT

5.1 There are no additional financial implications arising from this report.

5.2 Equality Impact Assessment (INRA) not required.

6.0 APPENDICES

6.1 Appendix 1 - Copy Letter dated 25th October 2016 and attached Flowchart

<u>Background Documents</u>	<u>Location</u>	<u>Contact Officer</u>
Members Code of Conduct Section 5 (Pages 2-10) Constitution Corporate Governance & Finance Committee report & minutes – 29 th September 2016 Letter from the Monitoring Officer to all District Councillors, Parish Councils & Independent Persons – 25 th October 2016 Email responses from Cllrs Bailey, B Hunt, Rouse, Dupre and Hitchin	Room 103, The Grange, Ely and Room 112, The Grange, Ely	John Hill, Chief Executive (01353) 616271 Email: john.hill@eastcambs.gov.uk and Maggie Camp, Legal Services Manager & Monitoring Officer (01353) 616277 E-mail: maggie.camp@eastcambs.gov.uk