

Report for: Standards Committee – 2 March 2021

Title: Proposed Amendments to the Constitution (Part Five, Section A – Protocol for Complaints Against Members)

Report authorised by: John Jones, Interim Monitoring Officer

Lead Officer: Ayshe Simsek, Democratic Services and Scrutiny Manager, ayshe.simsek@haringey.gov.uk, 020 8489 2929.

Ward(s) affected: Not applicable

**Report for Key/
Non-Key Decision:** Non-Key Decision

1. Describe the issue under consideration

- 1.1 The Council constitution governs the organisation of Council decision making. It is kept under review and, when necessary, amendments are proposed to Standards Committee for consideration and recommendation on to Full Council, in accordance with Article 14.03 (Changes to the Constitution).
- 1.2 This report seeks approval to include additions to section 5.3 of Part Five, Section A of the constitution (Protocol for Complaints Against Members), responding to the comments by Standards Committee at its recent meetings to consider additional circumstances where the Monitoring Officer could dismiss a complaint at an earlier stage. In particular, where an allegation took place more than three months prior to the complaint. To provide assurance, it was agreed that the Monitoring Officer could provide an annual report on complaints, including details of the number of complaints that were dismissed at an earlier stage.
- 1.3 In response to the comments of the Standards Committee, additional wording has been added in tracked changes to section 5.3 of Part Five, Section A of the constitution (Protocol for Complaints Against Members) for consideration and agreement; this is included as Appendix 1 to the report.
- 1.4 If this proposal is agreed by the Standards Committee, it will be recommended for approval at the Full Council meeting on 18 March 2021.

2. Cabinet Member Introduction

Not applicable.

3. Recommendations

The Standards Committee is asked:

- 3.1 To approve the additions to section 5.3 of Part Five, Section A of the constitution (Protocol for Complaints Against Members), contained at Appendix 1 to the report.
- 3.2 To recommend that this change to the constitution is adopted by Full Council at its meeting on 18 March 2021.

4. Reasons for decision

To respond to Committee comments and ensure that the Council constitution includes all the necessary information.

5. Alternative options considered.

To not agree the changes to the Council constitution and/ or defer consideration. This option is not recommended as it would be contrary to the request made by the Committee.

6. Background information

- 6.1 The Standards Assessment Sub-Committee, in its recent meetings, had considered that there were a number of minor complaints reaching the Sub-Committee and sought understanding on whether the Monitoring Officer could use their discretion to deal with minor complaints at an earlier stage. They noted that the constitution did allow the Monitoring Officer to dismiss complaints in various circumstances, including where the allegation did not demonstrate a breach of the Member Code of Conduct, if the person was no longer a councillor or co-opted member, there was insufficient evidence, the same or a similar allegation had been investigated and determined, an informal resolution was facilitated, or the complaint was considered to be vexatious. This criterion is set out at section 5.3 of Part Five, Section A Protocol for Complaints Against Members. It was explained that the Committee could recommend certain additions to the Monitoring Officer's remit; this would involve an amendment of the constitution which would need to be agreed by Full Council.
- 6.2 The Committee noted that, for all other circumstances, only the Assessment Sub-Committee could decide whether the allegation was dismissed. It was explained that the constitution set out, at section 5.6 of Part Five, Section A (Protocol for Complaints Against Members), the circumstances where a complaint might be dismissed, including where it was not considered sufficiently serious to warrant investigation, it appeared to be motivated by malice, it appeared to be politically motivated, or the allegation took place more than three months prior to the complaint unless there were exceptional circumstances.
- 6.3 The Committee agreed that it would be appropriate to consider additional circumstances where the Monitoring Officer could dismiss a complaint at an earlier stage. It was noted that it would not be appropriate for the Monitoring Officer to consider whether a complaint was politically motivated but that there

were other situations, such as where an allegation took place more than three months prior to the complaint, which was currently in section 5.6 but could be included in the Monitoring Officer's remit at section 5.3. It was considered that this would be more efficient in terms of time and resources and it was noted that the Monitoring Officer could provide an annual report on complaints, including details of the number of complaints that were dismissed at an earlier stage. This would further assist the Committee in reaching an understanding if there was a theme or pattern to these complaints that would warrant further update of the criteria at section 5.3. This has been added into the constitution to ensure that this consideration is not overlooked.

- 6.4 There was consideration given to neighbouring borough complaint protocols, and these had broadly similar criteria for the Monitoring Officer's initial consideration of complaints. There was one borough which had additional criteria mainly focused on the complaint being already subject to an existing legal process. Another Council had criteria including considering whether there was potential for evidence which supports the complaint to be obtained, and whether the conduct is something which it is practically possible to investigate.
- 6.5 Committee Members are asked to note that the name of the Monitoring Officer is included instead of the role, to ensure that there is not a delay in complaint emails being considered in a separate email inbox.
- 6.6 Members are asked to comment on the report and to agree any changes and recommendations.

7. Contribution to strategic outcomes

The Council's constitution supports the governance of the Council and its decision making thereby assisting the Council to meet its strategic outcomes.

8. Statutory Officers comments (Chief Finance Officer (including procurement), Assistant Director of Corporate Governance, Equalities)

Finance and Procurement

- 8.1 There are no financial implications arising from this report.

Legal

- 8.2 The proposed changes to the Council constitution were taken forward with Legal Service assistance.

Equality

- 8.3 There are no equality matters in this report.

9. Use of Appendices

Appendix 1: Section 5.3 of Part Five, Section A of the constitution (Protocol for Complaints Against Members).

10. Local Government (Access to Information) Act 1985

The Council constitution can be found at: <http://www.haringey.gov.uk/local-democracy/about-Council/Council-constitution>.