



## Governance and Audit Committee 20 March 2017

### Proposal to Change the Council's Constitution

#### Purpose of report

This report proposes two changes to Parts 4.3 and 9 of the Council's Constitution.

#### 1.0 Proposed Change to Part 9 of the Constitution

- 1.1 The first stage of the assessment of a complaint of an alleged complaint of breach of the Councillor Code of Conduct is an Initial Assessment by the Monitoring Officer. There are three possible outcomes arising from the Initial Assessment decision:
- i) To take no further action.
  - ii) To take other/informal action
  - iii) To refer the complaint for formal investigation.
- The current procedure contained in Part 9 of the Constitution allows an appeal to be made against all the possible outcomes of the Initial Assessment made on a complaint
- 1.2 Where a complaint is referred for investigation and it is determined that there is a case to answer, the Councillor complained against may be either referred to a Panel Hearing or the complaint resolved by other action without the need for a Hearing. Part 9 includes appeal rights at the conclusion of the Hearing process and any "other action" would be by agreement. The right of appeal is therefore protected in Part 9 at this stage of the process.
- 1.3 The current right of appeal against the Initial Assessment outcome to refer the complaint for investigation gives a further opportunity to appeal at a stage where no determination has been made as to whether a breach of the Code of Conduct for Councillors has occurred and before an investigation into the complaint has taken place.
- 1.4 It can be argued that an appeal at this stage is inappropriate as no final decision has been made as to whether action is necessary. Such appeals delay the commissioning of an investigation by several weeks as the timescales for allowing representations are taken into account as well as convening a Hearing. This can prove to be a source of frustration for other parties involved in the process and a right of appeal at this stage of the process is not considered to be necessary in order to protect the rights of the parties involved. **It is therefore proposed to remove the right of appeal for the decision at Initial Assessment to refer for further investigation.**
- 1.5 The Initial Assessment decision is in any case subject to consultation with the Chairman or Vice-Chairman of the JSCC as well as the Independent Person (or Reserve). These checks and balances would serve to identify any procedural flaws in the process. No sanction is applied at the Initial Assessment stage of the procedure (this would only arise from a Panel Hearing where a breach of the Code was found) and any significant new information could be provided as the investigation is carried out. The removal of the right to appeal against referral of the complaint for investigation is therefore considered not to adversely affect the Councillor complained against.
- 1.6 An Initial Assessment decision to take no further action or to take other/informal action would effectively bring the process to an end. It is therefore considered that a right of appeal against these outcomes should be retained.

1.7 In order to implement this proposal quickly, if it receives the support of this Committee, this matter has also been reported to the Joint Standards Complaints Committee which is meeting on 22 March. The outcome of the consideration by this Committee will be reported to that Committee. If the proposal receives support from both Committees it will be presented in a separate report by the Monitoring Officer for consideration by Council on 10 April.

## 2.0 Change to Part 4.3

2.1 Currently paragraph 5.49 of Part 4.3 of the Constitution states:

Excusal of debts due to the Council shall require the following authorisation:

Type of Debt	Members of the Corporate Management Team	Chief Finance Officer	Relevant Committee
Business Rates/National Non Domestic Rates	Up to £1,500	Up to £25,000	Above £25,000
All other debts (including Council Tax & Housing Benefit)	Up to £1,500	Up to £25,000	Above £25,000

2.2 A recent internal audit of NNDR processes has recommended that the authority to write off business rate debts between £1,500 and £25,000 be extended to the Finance Manager (Deputy Section 151 Officer) as the S151 is not a full time employee. In the view of Internal Audit, such an extension of delegated arrangement of write offs is considered reasonable and appropriate.

2.3 In addition, Internal Audit have noted that there was previously delegation arrangements in place for the write off of much smaller amounts to be approved by senior officers within the Revenues Team. This approach would appear more proportionate to the values and Internal Audit have therefore recommended that senior officers within Revenues should be able to authorise the write off of small value amounts through formal delegation of authority arrangements from the respective member of CMT. It is not considered necessary for small amounts to receive such a high level of authorisation for write off as CMT, and senior officers within Revenues are ideally placed to review these cases.

2.4 It is therefore proposed to modify paragraph 5.49 as follows with changes highlighted in red:

Excusal of debts due to the Council shall require the following authorisation:

Type of Debt	Revenues Manager and Benefits Manager	Members of the Corporate Management Team	Chief Finance Officer and Deputy S151 Officer	Relevant Committee
Business Rates/National Non Domestic Rates	Up to £100	Up to £1,500	Up to £25,000	Above £25,000
All other debts (including Council Tax & Housing Benefit)	Up to £100	Up to £1,500	Up to £25,000	Above £25,000

### **3.0 Equality and diversity issues**

3.1 There are no known negative equality and diversity issues arising from this paper.

### **4.0 Legal implications**

4.1 The change proposed to Part 9 is compliant with provisions of the Localism Act 2011 and related regulations.

### **5.0 Risk management**

5.1 The actions reported reduce the risk of non-compliance with legislation.

### **6.0 Resource and Financial implications**

6.1 There are no known additional financial implications arising from this report.

### **7.0 Constitutional Implications**

7.1 There are no constitutional implications directly arising from this report. If the proposal at 1.4 to remove the right of appeal at Initial Assessment to refer for further investigation is supported a separate report will be taken to Council. If it is then approved there will be a resultant change in the Constitution Part 9 Complaint Assessment Procedure.

### **8.0 Customer Service Implications**

8.1 There are no specific customer services implications arising from this report.

### **9.0 Corporate outcomes**

9.1 The work reported here contributes to the Corporate Outcomes of Effective Management and Strong Community Leadership.

### **10.0 Recommendation**

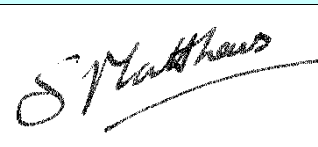
10.1 The Committee is recommended to

1. Consider the proposal to remove the right to appeal an Initial Assessment decision to refer a complaint for further investigation and indicate if they would wish this proposed change to the Constitution to be referred to Council

*(Reason: It is considered this proposal would assist in decreasing the length of time to complete investigations of complaints of alleged breach of the Code of Conduct for Cllrs)*

2. Resolve to Recommend to Council the changes to Part 4.3 Paragraph 5.49 to make additional provision for write off of debts as outlined in 2.4

*(Reason: To implement the recommendations of Internal Audit in relation to debt write off).*

<b>Legal</b>	Power: <b>Localism Act 2011</b>			
	Other considerations:			
<b>Background Papers:</b>				
<b>Person</b>	<b>Originating</b>	Sharn Matthews, Monitoring Officer, ☎ 01832 742108, ✉ smatthews@east-northamptonshire.gov.uk		
<b>Date: 8/3/17</b>				
<b>CFO</b>		<b>MO</b> 9/3/17		<b>CX</b>