Audit, Governance and Standards Committee
30 November 2016

Councillor Recall Scheme Review and Code of Conduct

Report by Head of Corporate Governance and Corporate Solicitor

**Purpose**

To review the Councillor Recall Scheme and the operation of the Code of Conduct.

**Recommendations**

To **Resolve** that -

1. the report on the annual review of the Councillor Recall Scheme is noted and any proposed amendments to the Scheme are recommended to the Council for approval as a change to the Constitution;

2. the operation of the Code of Conduct and arrangements for dealing with complaints is noted and the Committee indicate any actions it wishes to be implemented as part of its role to “promote and maintain high standards of conduct amongst elected, co-opted, and advisory members of the Authority”

**Key Points**

A. A local Councillor Recall scheme was adopted by the Council in July 2015. This Committee has overall responsibility for the operation of the scheme and receives an annual report on its operation.

B. The Scheme does not have the force of law but it has been adopted as a non-statutory protocol, within the Council’s Code of Conduct. The intention is to provide residents with a democratic means of holding locally elected politicians to account when they do something that is fundamentally against the principles of behaviour as an elected Member.

C. Where certain criteria are met the Monitoring Officer, in consultation with the Independent Person appointed by the Council to advise on Code of Conduct matter, will determine whether a petition should be initiated on the Council’s website calling for the resignation of the Councillor concerned and triggering a by-election to fill the vacancy.

D. As part of its responsibilities for Standards, the Committee has also requested some detail on the operation of the Code of Conduct and the incidence and outcome of any complaints received concerning Councillors.

E. The Code of Conduct dates from July 2012 and is based on a template issued by the Department for Communities and Local Government (DCLG). The DCLG view was that Council’s should have the freedom to have a local Code of Conduct, whilst adhering to the requirements to have a Code that promotes and maintains high standards of conduct by members and co-opted members and;
has arrangements in place to deal with any issues that might arise regarding conduct

is consistent with seven of the ten Nolan Principles of Standards in Public Life.

F. The template was considered by the Constitutional Review Working Group and the then Standards Committee and recommendations were presented to Council in October 2012 on amendments to the template expanding on the registration and declaration of pecuniary interests, other personal interests and including the Council's own longstanding requirement to register offers of Gifts and Hospitality, whether accepted or declined.

G. Since May 2014 3 complaints have been received concerning Councillors. Further detail is included in paragraphs 16 - 17.

H. At the last meeting the Committee’s role in promoting the Code of Conduct was discussed. As suggested the slides on the operation of the Code, presented at the Committee’s refresher training session in June, have been circulated to all Members.

Context

3. The Recall Scheme reflected the Recall of MPs provisions becoming law. Whilst the Kingston scheme does not have the force of law it has been adopted as a non-statutory protocol, within the Council’s Code of Conduct, The intention is to provide residents with a democratic means of holding locally elected politicians to account when they do something that is fundamentally against the principles of behaviour as an elected Member.

4. Representations were made to the LGA, and via the Council’s Members of Parliament, on the promotion of legislation to introduce a power of recall for local Councillors on a national basis.

5. Kingston is the only Council with provision for a Recall. Thurrock Council is exploring the possibility of such a scheme and agreed a motion at its July 2016 meeting calling upon the government to introduce legislation to provide for a right of "Recall" of local government councillors, alongside Thurrock Council also exploring the possibilities of introducing its own local recall scheme. Interest in the Kingston scheme has been expressed by a number of other authorities.
Operation of the Scheme

6. An e-petition calling for a Councillor’s resignation may be triggered where a Councillor has;

   (a) attended less than 20% of meetings they were expected to attend over a municipal year

   (b) attended less than two full Council or less than two Neighbourhood Committee meetings within a year

   (c) been convicted of a crime for which a prison sentence (whether suspended or not) has been imposed and the appeal period has expired without the sentence having been overturned

   (d) moved their main residence outside the Borough

7. If the absence in (a) and (b) is due to special circumstances, such as illness, or has been sanctioned by the Council itself, no action is taken.

8. In all other cases before initiating a petition calling upon the Councillor to resign the Monitoring Officer will advise the Councillor concerned of the proposed action and allow 10 working days for the Councillor to make representations. These will be considered by the Monitoring Officer in consultation with the Independent Person.

9. Where there are grounds for initiating a petition, the name of the Councillor, their Ward and the grounds under which the Monitoring Officer considers the Recall Scheme has been ‘triggered’ will be published. The threshold for valid signatures will also be published, this will be equivalent to at least 33% of the total number of electors registered in the Ward on the first day of the month in which the petition was launched. Based on current Ward electorates a 33% threshold is, on average, 2494 signatures.

10. The petition will be live for 3 months or until the threshold is reached, whichever is the sooner. At the end of this period, or when the threshold is reached, the Councillor concerned will be advised of the outcome by the Monitoring Officer.

11. If the threshold is reached, then, in accordance with the terms of the Recall scheme, the Councillor will be invited to resign. If the Councillor decides not to stand down, the Audit, Governance and Standards Committee will consider the circumstances of the case and whether any further action should be taken.

12. No circumstances arose during the course of 2015-16, the first year of operation of the recall scheme, where the Monitoring Officer needed to give consideration to initiation of a petition. Neither has there been any cause to do so in the current Municipal Year to date. The scheme has therefore yet to be tested. The Committee is, nevertheless, invited to consider whether it wishes to recommend any adjustments to the arrangements at this point. Reports on the operation of the Scheme will continue to be submitted to this Committee on an annual basis.
Practical issues

Code of Conduct

13. Since its adoption in October 2012 the Code of Conduct has been added to twice
   ● in March 2014 to clarify the responsibilities of Members with a significant
     Personal Interest
   ● In July 2015 to add Annex 1 - the local Recall Scheme

14. Annex 1 sets out the Code showing its development from the template of 2012.

Arrangements for Dealing with Complaints

15. The detail of the arrangements for dealing with complaints of a breach of the Code of
    Conduct are set out in Annex 2

Complaints received Since May 2014

16. Since May 2014 three formal complaints have been received, the brief details of which are set out below:

   (1) Member complaint against two Members. Allegation that the members failed to promote high standards of conduct as a result of comments published about the complainant, in accordance with clause 2.8 of the Code and the general principles. Outcome: Initial consideration and the Independent Person consulted. Further information obtained. Complaint subsequently discontinued.

   (2) Member of public complaint against a Member. Allegation that the Member failed to maintain high standards of conduct, in connection with comments made at a committee meeting, in accordance with the general principles of the Code. Outcome: Detailed consideration given as complaint arose in the context of an extensive service complaint. Independent Person consulted. Decision taken that no investigation or action required.

   (3) Member complaint against another Member. Allegation that the member failed to promote and support high standards of conduct in connection with comments made at a committee meeting, in accordance with clause 2.8 of the Code and the general principles. Current status: In progress. Independent Person consulted.

17. The fact that there have been so few complaints made since May 2014 is a reflection of the high standards of conduct in the Council.

Legal Implications

18. The standards regime for Members is governed by the Localism Act 2011 and Regulations made pursuant to that Act as reflected in the Member Code of Conduct adopted by the Council. The Council is under a statutory duty to promote and maintain high standards of conduct.

Equalities Impact Assessment - Not required

Background papers - held by Andrew Bessant, Head of Corporate Governance
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   o None other than those referred to in this report