

Committee: STANDARDS

Agenda Item

Date: 21 March 2016

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Title: BUDGET FOR INVESTIGATIONS

Author: Michael Perry, Assistant Chief Executive – Legal, 01799 510416 Item for decision

Summary

1. This report is to ask members whether they wish to request a budget to support external investigations into allegations of breaches of the Code of Conduct. This report has been prepared at the request of the Chairman of the Committee

Recommendations

2. Members determine whether to request a budget and if so, how much that should be.

Financial Implications

3. As set out in the body of this report.

Background Papers

4. None.

Impact

- 5.

Communication/Consultation	None
Community Safety	None
Equalities	None
Health and Safety	None.
Human Rights/Legal Implications	None
Sustainability	None.
Ward-specific impacts	None.
Workforce/Workplace	None.

Situation

6. Under the Local Government Act 2000 councils are required to have in place arrangements whereby they can investigate allegations of a breach of the Code of Conduct and to determine what action (if any) to take in respect of breaches.
7. The council's current procedure is that when a complaint is received it is considered by an independent member of the Standards Committee along with the Monitoring Officer. A decision is taken as to whether applying the council's policies it is appropriate to investigate the allegation. If it is considered appropriate then an investigation will be carried out.
8. The council does not have any budgetary provision to pay for the cost of external investigations. As Monitoring Officer I have no budget for standards issues. The only financial provision made with regard to standards is the modest allowance to the independent persons.
9. Under s.5(1)(b) Local Government & Housing Act 1989 it is a duty of the council to provide me with such staff, accommodation and other resources as are in my opinion sufficient to allow me to perform my duties under s.5 and 5A of that Act. That however, does not extend to my role in supporting the Standards Committee and carrying out investigations into complaints. Therefore any budget which is provided for those purposes is at the discretion of the council.
10. The current standards regime came into being on the 1 July 2012. Since that time there have been 61 complaints alleging various breaches of the Code of Conduct. Thirty-three of these related to district councillors only. Seventeen related to parish councillors only. Eleven involved members who were both district and town or parish councillors and in five of those cases it was alleged that the Code of Conduct of both the district and town or parish councils had been breached.
11. Thirty cases have been passed for investigation and 17 of these investigations are currently pending.
12. With the exception of one pending investigation, all of the investigations have been carried out internally. The pending investigation has been carried out on behalf of the council on my instruction by an assistant director of Essex County Council who was designated Monitoring Officer for Maldon District Council when it procured its legal services from Essex. This instruction was made through the Public Law Partnership. This is a partnership of all Legal Services departments within the county of Essex together with Hertfordshire and Suffolk County Councils and some of the districts within Hertfordshire.
13. The partnership offers very attractive rates for its lawyers to members of the partnership. The hourly rate for solicitors is £85. For a solicitor with the experience of the Assistant Director carrying out the current investigation, I would expect to pay at least £217 per hour if instructing outside lawyers.

14. The procurement process within the Public Law Partnership is that a circular is sent electronically to all members of the partnership and any with capacity can bid to undertake the work. Only one bid was received for this investigation which was from Essex. The availability therefore of solicitors at these preferential rates cannot be guaranteed.

15. I have notified members in a separate email of the interim bill received from Essex. I estimate that the final bill will come in at just under £3,000 (including the interim amount) which equates to slightly more than 35 hours work. I would say this is fairly typical for an investigation. It follows therefore that the cost of an investigation carried out externally will vary between £3,000 (PLP rates) or £7,700 (external solicitors) on average.

Risk Analysis

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Risk	Likelihood	Impact	Mitigating actions
The council does not have budget to meet the cost of external investigations.	4, there is no provision in the current budget and any provision would therefore need to be made from reserves.	2, the Legal Services department does have resources to carry out investigations and the decision to externalise the current investigation was not based upon lack of capacity.	If members consider a budget necessary, then it recommend to Full Council that provision be made from the reserves.

1 = Little or no risk or impact

2 = Some risk or impact – action may be necessary.

3 = Significant risk or impact – action required

4 = Near certainty of risk occurring, catastrophic effect or failure of project.