

Public Document Pack



Helen Barrington
Director of Legal and
Democratic Services
County Hall
Matlock
Derbyshire
DE4 3AG

Extension 38324
Direct Dial 01629 538324
Ask for Alisha Parker

PUBLIC

To: Members of Governance, Ethics and Standards Committee

Wednesday, 5 July 2023

Dear Councillor,

Please attend a meeting of the **Governance, Ethics and Standards Committee** to be held at **2.00 pm** on **Thursday, 13 July 2023** in Committee Room 1, County Hall, Matlock, Derbyshire, DE4 3AG, the agenda for which is set out below.

Yours faithfully,

A handwritten signature in black ink that reads 'Helen E. Barrington'.

Helen Barrington
Director of Legal and Democratic Services

A G E N D A

PART I - NON-EXEMPT ITEMS

1. Apologies for absence
To receive apologies for absence (if any)
2. Declarations of Interest
To receive declarations of interest (if any)
3. Minutes (Pages 1 - 2)

To confirm the non-exempt minutes of the meeting of the Governance, Ethics and Standards Committee held on 16 March 2023.

4. Report of the Chairman of the Governance, Ethics and Standards Committee (Pages 3 - 10)
5. Councillor Attendance at Meetings (Pages 11 - 14)
6. Guidance on responding to Member Enquiries (Pages 15 - 22)
7. Removal of Code of Conduct for Officers from Constitution (Pages 23 - 48)

PUBLIC

MINUTES of a meeting of **GOVERNANCE, ETHICS AND STANDARDS COMMITTEE** held on Thursday, 16 March 2023 at Committee Room 1, County Hall, Matlock.

PRESENT

Councillor S Swann (in the Chair)

Councillors R Flatley, C Cupit, K Gillott, L Grooby, W Major and D Muller

Officers present: Alec Dubberley (Head of Democratic and Registration Services) and Jane Lakin (Assistant Director of Legal Services).

Also present: I Orford (Independent Person)

7/23 DECLARATIONS OF INTEREST

Under this item the Assistant Director of Legal Services advised that the Head of Legal and Democratic Services, in her capacity as Monitoring Officer, had determined that a blanket dispensation should be applied to Councillors when discussing the Members' Allowances Scheme at Council and Committee meetings. This was done under section 33 of the Localism Act 2011 and would be in force until the day of local government elections in 2025. This would enable the Members' Allowances Scheme to be determined without Councillors falling foul of having a disclosable pecuniary interest.

8/23 MINUTES

RESOLVED:

To approve, as a correct record, the Minutes of the meeting held on 19 January 2023.

9/23 COMPLAINTS RECEIVED AGAINST COUNCILLORS PURSUANT TO THE CODE OF CONDUCT FOR ELECTED MEMBERS FOR THE PERIOD 1 OCTOBER 2022 TO 28 FEBRUARY 2023

The Assistant Director of Legal Services introduced a report, which had been circulated in advance of the meeting, informing members of Code of Conduct complaints against Councillors received during the period of 1 October 2022 to 28 February 2023.

RESOLVED:

To note complaints received by the Monitoring Officer between 1 October 2022 and 28 February 2023 alleging that Members had breached the Code of Conduct.

10/23 ANNUAL REPORT OF THE INDEPENDENT REMUNERATION PANEL

The Head of Democratic and Registration Services introduced a report, which had been circulated in advance of the meeting, informing members of the latest report from the Council's Independent Remuneration Panel (IRP), relating to member remuneration for 2023/24 in order to make recommendations to Council.

RESOLVED:

To note the recommendations of the Independent Remuneration Panel in respect of Members' Allowances for 2022/23 and 2023/24 and recommend them to Council for approval.

The meeting finished at 11.10 am



FOR PUBLICATION

DERBYSHIRE COUNTY COUNCIL

GOVERNANCE, ETHICS AND STANDARDS COMMITTEE

THURSDAY, 13 JULY 2023

Report of the Director - Legal and Democratic Services

**Report of the Chairman of the Governance, Ethics and Standards
Committee**

1. Purpose

- 1.1 To consider the annual report of the Chairman of the Governance, Ethics and Standards Committee prior to presentation to full Council.

2. Information and Analysis

- 2.1 The terms of reference for the Governance, Ethics and Standards Committee as outlined at Article 11 of the Constitution require the Chairman to provide an Annual Report to Full Council.
- 2.2 The draft Annual report for consideration by the Committee is attached at Appendix 2. The annual Report outlines the work of the Committee over the last year and provides an indication of the work programme for the next municipal year. It is proposed that the Committee endorses the report and supports its presentation to full Council.

3. Consultation

- 3.1 As this is with regard to an administrative function, consultation is not required.

4. Alternative Options Considered

- 4.1 The Chairman could determine not to provide an annual report. However, this would not be in accordance with the Terms of Reference for the Governance, Ethics and Standards Committee which do require such a report being prepared.

5. Implications

- 5.1 Appendix 1 sets out the relevant implications considered in the preparation of the report.

6. Background Papers

- 6.1 None identified

7. Appendices

- 7.1 Appendix 1 – Implications
7.2 Appendix 2 – Report of the Chairman of the Committee

8. Recommendation(s)

That Committee:

- a) endorses the annual report of the Chairman of the Committee attached at Appendix 2; and
- b) supports its presentation to full Council.

9. Reasons for Recommendation(s)

- 9.1 The terms of reference for the Governance, Ethics and Standards Committee as outlined at Article 11 of the Constitution require the Chairman to provide an Annual Report to full Council. It is appropriate for the Chairman's report to be considered by the Committee before being presented to the Council.

Report Author: Elizabeth Wild

Contact details: elizabeth.wild@derbyshire.gov.uk

Implications

Financial

1.1 None directly arising.

Legal

2.1 As set out in the report.

Human Resources

3.1 None directly arising.

Information Technology

4.1 None directly arising.

Equalities Impact

5.1 None directly arising.

Corporate objectives and priorities for change

6.1 None directly arising.

Other (for example, Health and Safety, Environmental, Sustainability, Property and Asset Management, Risk Management and Safeguarding)

7.1 None directly arising.

This page is intentionally left blank

DERBYSHIRE COUNTY COUNCIL
GOVERNANCE, ETHICS AND STANDARDS COMMITTEE
ANNUAL REPORT OF THE GOVERNANCE, ETHICS AND STANDARDS COMMITTEE FOR THE
YEAR 2022-2023

Introduction from Councillor S Swann, Chairman of the Governance, Ethics and Standards Committee

I have been Chairman of the Governance, Ethics and Standards Committee since December 2021 and during that time I am pleased that its members have engaged in a collaborative manner to facilitate the effective working of the Committee.

I would like to thank Cllr Flatley for his dedication in the role of Vice-Chairman of the Committee during the last year while acknowledging the contributions of all Members, as well as the professional support provided by the officers.

During the last year, the Committee has continued its work of keeping the Council's Constitution, structures, and governance under review to ensure that they remain fit for purpose. These matters, along with other work undertaken by the Committee, are outlined further in the report below.

1. Membership of the Governance, Ethics and Standards Committee

1.1 Membership from May 2022 to May 2023 was:

Councillor S Swann (Chairman)
Councillor R Flatley (Vice-Chairman)
Councillor C Cupit
Councillor K Gillott
Councillor L Grooby
Councillor D Muller
Councillor W Major
Councillor B Woods

1.2 During the municipal year of 2022-2023 the Committee met in person on 4 occasions.

1.3 Recognition is given to the Independent Person, Ian Orford for his contribution, commitment and support to the Committee. Approval has been given by Council for there to be two independent persons to support the Committee. The second position remains vacant although it is proposed that a recruitment exercise will be undertaken during this next municipal year.

2. Review of the Standards Regime

- 2.1 The Committee undertook considerable work to develop a new Code of Conduct for Elected Members and a procedure for dealing with complaints made under the Code of Conduct. The new Code was adopted by the Council on 1st April 2022 together with the new procedure for dealing with complaints.
- 2.2 Following the adoption of the Code, the Committee also oversaw training which was delivered to all Elected Members to ensure awareness of obligations under the new Code, particularly with regard to changes in the regime for registering interests.

3. Complaints received that Members have breached the Code of Conduct

- 3.1 The Committee continues to support the Monitoring Officer in the consideration and determination of any such complaints and receives biannual reports from the Monitoring Officer in respect of complaints received. The Committee is also grateful for the support received from the Independent Person in determination of these complaints.

4. Corporate Complaints and referrals to the Local Government to Social Care Ombudsman

- 4.1. The Committee considered the annual report on Complaints and Compliments dealt with by the Council in 2021/22, together with a trend analysis for the last six years. The Committee also received the annual letter of the Local Government and Social Care Ombudsman (LGSCO) for the period ending 31 March 2022.

5. Constitution

- 5.1. Work has continued in respect of reviewing the Constitution to ensure it remains up to date and reflects any changes made to the Council's way of working. During 2022-23 the Committee agreed a number of changes to the Constitution and referred them to full council for formal approval. The updates have included the review of terms of references to the Appointments and Conditions of Service Committee (ACOS) and the Health and Wellbeing Board (HWB) to ensure that they remain effective in reflecting the purpose and objectives of the forum in question; the inclusion of terms of reference for the new Integrated Care Board (ICP) to support the partnership working between the ICP and the HWB ; delegations to officers in the areas of public health and trading standards to ensure prompt and efficient decision-making; and a review of the Officer Employment Procedure Rules.
- 5.2 The Committee has noted evidence of the success of the new streamlined process for decision making in ensuring that the Constitution remains up to date as a result

of receiving a number of reports from the Monitoring Officer to make minor amendments to the Constitution.

6. Member Development Working Group

- 6.1. The Committee received an update on the completion of the Member Induction Programme and the progress of the Member Development Working Group in increasing participation to enable Members of the council to be motivated, well-equipped and confident to be able to carry out their roles effectively.

7. Independent Remuneration Panel and Members Allowances Scheme

- 7.1 The Committee considered the recommendations of the Independent Remuneration Panel and advised the Council in connection with the appropriate Members Allowances for 2022-24.
- 7.2 The Committee also oversaw a successful recruitment process whereby Matthew Holden, Gemma Shepherd-Etchells and Robin Morrison were appointed to the Panel to join existing members Peter Clifford and Peter Clay. The Panel now has a full complement of five members

Work Programme for the next municipal year (2023-2024)

It is proposed that the work programme for the Committee for the next municipal year will include the following projects in addition to the business set out in the Terms of Reference:

1. Further review of the Constitution as necessary, including further work on the Scheme of Delegations and the Budget and Policy Framework documents;
2. Further review of the Code of Conduct and the procedure to deal with complaints in relation to members who have breached the Code as necessary.
3. Continue to have oversight of the performance of the Corporate Complaints process and Local Government Ombudsman referrals.
4. Oversight of a review of the call-in procedures, including the associated amendments to the Constitution.
5. Conduct a recruitment exercise for the vacant Independent Person position.

This page is intentionally left blank



FOR PUBLICATION

DERBYSHIRE COUNTY COUNCIL

GOVERNANCE, ETHICS AND STANDARDS COMMITTEE

13TH JULY 2023

Report of the Monitoring Officer and Director of Legal and Democratic Services

Councillor Attendance at Meetings

1. Purpose

- 1.1 To consider the statistics regarding attendance of members at meetings within the context of member development and the effectiveness of the political structure.

2. Information and Analysis

- 2.1 The Terms of Reference for the Governance, Ethics and Standards Committee as outlined at Article 11 of the Constitution require the Committee to monitor the attendance of Members at meetings of the County Council and its Committees on an annual basis within the context of member development and the effectiveness of the political structure.
- 2.2 Members are expected to attend full Council meetings and meetings of those Committees to which they have been appointed by Council. Executive members are also expected to attend Cabinet meetings. It is however recognised that there are occasions when Members are unable to attend meetings and the Council Procedure Rules include provision for substitutes at committee meetings. Information relating to attendance of Members at meetings of the Council, its committees and Cabinet is now routinely recorded as part of the committee administration processes through the modern.gov reporting system and an [Attendance Summary](#) is available on the Council's website. This now

enables more effective monitoring and oversight by the Governance, Ethics and Standards Committee. Figures obtained from the modern.gov reporting system show that out of 1340 possible attendances, councillors attended 1072 times during 2022-23 giving an average of 80% attendance. Attendance by individual Members ranged from 50% to 100%.

- 2.3 Committee will be aware that should a Member not attend meetings for six consecutive months, they would be disqualified from office by virtue of section 85 of the Local Government Act 1972. During 2022-23, no Members have failed to attend meetings throughout a period of six consecutive months resulting in vacation of office under s85 of the Local Government Act 1972.
- 2.4 No Derbyshire County Council meetings have been cancelled as a result of the meeting not being quorate.
- 2.5 Therefore, there is no cause for concern in terms of member development or effectiveness of the political structure.

3. Consultation

- 3.1 As this is with regard to an administrative function, consultation is not required.

4. Alternative Options Considered

- 4.1 The Committee could choose not to consider the position regarding the attendance of members at meetings. However, this would not be in accordance with the Terms of Reference for the Governance, Ethics and Standards Committee which do require the Committee to consider this.

5. Implications

- 5.1 Appendix 1 sets out the relevant implications considered in the preparation of the report.

6. Background Papers

- 6.1 None identified

7. Appendices

7.1 Appendix 1 – Implications

8. Recommendation(s)

That Committee:

- a) notes position with regard to member attendance at meetings; and
- b) is satisfied that there is no cause for concern with regarding to member development and the effectiveness of the political structure.

9. Reasons for Recommendation(s)

- 9.1 The Terms of Reference for the Governance, Ethics and Standards Committee require the Committee to monitor the attendance of members at meetings of the County Council and its committees on an annual basis. Therefore, it is appropriate for the Committee to consider this report and the statistics demonstrating the level of attendance.
- 9.2 To promote a culture of openness, ready accountability and probity in order to ensure the highest standards of conduct of Councillors as required by the Terms of Reference for the Committee.

Report Author: Elizabeth Wild

Contact details: Elizabeth.wild@derbyshire .gov.uk

Implications

Financial

1.1 None directly arising.

Legal

2.1 As set out in the report.

Human Resources

3.1 None directly arising.

Information Technology

4.1 None directly arising.

Equalities Impact

5.1 None directly arising.

Corporate objectives and priorities for change

6.1 This report links to the Council Priority of 'High Performing value for Money and Resident Focused Services'. The monitoring supports efficient, effective and lawful decision making.

Other (for example, Health and Safety, Environmental, Sustainability, Property and Asset Management, Risk Management and Safeguarding)

7.1 None directly arising.



DERBYSHIRE COUNTY COUNCIL

GOVERNANCE, ETHICS AND STANDARDS COMMITTEE

13 JULY 2023

Report of the Director of Legal and Democratic Services and Monitoring Officer

Guidance on responding to Member Enquiries

1. Purpose

- 1.1 To seek support and endorsement of officer guidance on responding to enquiries from Members.

2. Information and Analysis

- 2.1 The Local Government Act 2000 (Constitutions) (England) Direction 2000 made under section 37(1)(a) of the Local Government Act 2000 sets out the documents to be included in a local authority's constitution. The list includes 'any protocol established by the authority in respect of relationships between members of the authority and officers of the authority.' The Council has complied with the requirement of the Direction by the inclusion of the Member and Officer Relationships Protocol at Appendix 13 to the Constitution.
- 2.2 The Council's Member and Officer Relationships Protocol Employees sets out the respective roles of Members and Employees and is based on the following underlying principles:
- There shall be mutual courtesy and respect between Members and Employees with regard to their respective roles.
 - Members and Employees shall each carry out their respective duties in the best interests of the Council set out in the Constitution.
- 2.3 The Protocol states that Employees "will respond to queries raised by Members in a timely manner." Feedback from Members indicates that

the timeliness of responses varies across the Council and following a request from the Chair of the Committee consideration has been given as to how this may be improved. Following consultation with Directors and departmental management teams, the guidance attached at Appendix 2 has been drafted and approved by Corporate Management Team. The Committee is asked to support and endorse this guidance.

- 2.4 Following the Committee meeting, it is intended to promote the guidance to all Members via the Our Derbyshire Members briefing.

3. Consultation

- 3.1 Directors and departmental management teams have been consulted in the preparation of the guidance.

4. Alternative Options Considered

- 4.1 Not to seek support and endorsement from the Committee, however whilst the guidance is operational in nature it is appropriate that it receives political support.

5. Implications

- 5.1 Appendix 1 sets out the relevant implications considered in the preparation of the report.

6. Background Papers

- 6.1 None identified.

7. Appendices

- 7.1 Appendix 1 – Implications.
7.2 Appendix 2 – Guidance on responding to Member Enquiries.

8. Recommendation

That Committee supports and endorses the Guidance on responding to Member Enquiries at Appendix 2.

9. Reasons for Recommendation

- 9.1 To ensure that Members are aware of and support the guidance.

Report Author: Helen Barrington

Contact details: helen.barrington@derbyshire.gov.uk

Implications

Financial

1.1 None directly arising.

Legal

2.1 None directly arising.

Human Resources

3.1 None directly arising.

Information Technology

4.1 None directly arising.

Equalities Impact

5.1 None directly arising.

Corporate objectives and priorities for change

6.1 None directly arising.

Other (for example, Health and Safety, Environmental Sustainability, Property and Asset Management, Risk Management and Safeguarding)

7.1 None directly arising.

GUIDANCE ON RESPONDING TO MEMBERS ENQUIRIES

Background

The Member and Officer Relationships Protocol at Appendix 13 to the Constitution sets out the role of Members and Employees. Section 3 makes it clear that the expectation of employees is that they “will respond to queries raised by Members in a timely manner.”

Purpose

The Member and Officer Relationships Protocol does not define what is meant by “a timely fashion” and therefore the purpose of this document is to provide guidance so that expectations are clear.

Complaints

This guidance does not relate to complaints made by Members on behalf of constituents.

Complaints are defined as:

“An expression of dissatisfaction from a service user about a specific Council service that has been already provided, that isn’t resolved at the first point of contact”.

A complaint on behalf of a constituent should be dealt with through the official complaints procedure and the timescales relating to complaints will apply.

Other complaints, such as an allegation of breach of the code of conduct, will be dealt with in accordance with the relevant approved procedure.

Requests for service

This guidance does not relate to requests for service made by Members, for example a notification to fill a pothole, which should be made through the Highways Hub.

However, this guidance would apply, for example, where a Member is asking for a progress update on an earlier request for service, unless automated progress updates are already provided.

Responding to Members’ Enquiries

1. An acknowledgement must be sent by the end of the next working day
2. A response to a Member enquiry must be sent as soon as possible but in any event within 10 working days
3. It is expected that a full response to straightforward enquiries should be sent in this timescale. However, if the enquiry is more complicated, a holding response should be sent within the 10 working days, explaining the action which is being taken to investigate the enquiry and giving an estimated timescale for a full response
4. Where a holding response has been sent, it is expected that a full response will be sent as soon as possible but within 20 working days*. Where this is not

possible, the Member should be kept informed of the reasons and given revised timescales and regular updates on progress

5. Where an enquiry imposes a disproportionate burden on an Employee's work, a discussion should take place between the Member concerned and the Employee's manager to discuss an appropriate approach and agree an alternative deadline, if necessary
6. There may be occasions where an Employee needs to seek further information or clarification from a Member to enable them to respond to the enquiry in full. In order to enable Employees to respond to Member enquiries in a timely fashion Members are expected to respond to any requests for further information or clarification in relation to their enquiry as soon as possible but in any event within 10 working days. Where a response is not received an Employee cannot reasonably be expected to provide a response to the enquiry and the above timescales will not be applicable

*20 working days aligns with FOI request deadlines. Member enquiries should not take longer than the FOI timescales.

Capacity in which the enquiry is made

Members can make enquiries in different roles, for example:

- as a Derbyshire County Council councillor representing a constituent
- as a Derbyshire County Council Cabinet member or member of a council committee
- as a district/parish councillor
- on behalf of an external organisation of which they are a member or employee, or
- general interest in an issue/personal reasons

In the main, the capacity in which the Member is making the enquiry will be clear, but sometimes it is not. If it is not clear, Employees should not assume that the enquiry is being made in the Member's capacity as a Derbyshire County Councillor and clarification should be sought.

It is important that the capacity in which the Member is making the enquiry is understood, because if information is provided to a Member who is not acting in their capacity as a DCC Councillor, this can give rise to risk of:

- breach of confidentiality
- confusion about who the Employee is advising/responding to
- breach of the Code of Conduct if the Member is found to be using their position as a county councillor to gain an advantage or access information/ advice they otherwise would not be entitled to

Failure to respond in a timely fashion

Failure to respond to queries raised by Members "in a timely manner" could amount to a breach of the Member and Officer Relationships Protocol. Complaints of a

breach of the Protocol by an Employee may be referred to the relevant Executive Director, the Monitoring Officer or the Chief Financial Officer.

In order to avoid breach of the Protocol and the need to trigger a formal escalation process, Member and Management Support Services can provide support and guidance with the aim of resolving issues informally.

Support and guidance can be provided by the Business Manager, Member and Management Support Service.

This page is intentionally left blank



FOR PUBLICATION

DERBYSHIRE COUNTY COUNCIL

GOVERNANCE, ETHICS AND STANDARDS COMMITTEE

THURSDAY, 13 JULY 2023

**Report of the Director - Legal and Democratic Services and the Interim
Director of Organisation Resilience, People and Communications**

Code of Conduct for Employees

1. Purpose

- 1.1 To agree the updates and amendments to the Code of Conduct for Employees following the scheduled review, and recommendations by the Appointments and Conditions of Service Committee; and
- 1.2 To consider an amendment to the Constitution to remove the Code of Conduct for Employees and the Ethics Statement from the Constitution and delegate decision-making regarding future amendments to the Appointments and Conditions of Service Committee

2. Information and Analysis

- 2.1 The Council's employment procedures are updated and reviewed on an ongoing basis to ensure they remain relevant and up to date to ensure the Council meets its commitments outlined in the Council Plan. Work has been undertaken to review and revise the current Code of Conduct for Officers to ensure it remains relevant and fit for purpose.
- 2.2 On 27th June 2023, the Appointments and Conditions of Service Committee (ACOS) agreed a revised Code of Conduct for Employees.

ACOS also supported the proposal that that the Ethics Statement, which is currently a separate document at Appendix 10 of the Constitution should be incorporated into the Code and no longer remain separate. A copy of the report to the Appointments and Conditions of Service Committee setting out the proposed amendments and the reasons for those amendments is attached at Appendix 2.

- 2.3 Currently the Code of Conduct for Officers is included at Appendix 12 to the Constitution and any amendments must therefore be considered by the Governance, Ethics and Standards (GES) Committee and approved by full Council.
- 2.4 In addition to the amendments detailed in the attached report, ACOS Committee recommended at its meeting on 27 June 2023 to remove the Code of Conduct from the Constitution and propose that the role of the ACOS Committee be amended so that ACOS Committee has delegated authority to approve future changes to the Employee Code of Conduct.
- 2.5 Whilst the inclusion of the Employee Code of Conduct within the Constitution may raise the profile of the Code and ensure Member support for the Code, no other employment policy forms part of the Constitution. Furthermore, as an employment document, it is appropriate for it to be regularly updated and reflect employment conditions at any given time. Removing the Code from the Constitution will result in the Code being considered in line with other employment policies and enable amendments to be made and implemented more quickly and efficiently.
- 2.6 Removal of these two documents will also require further amendments to be made to the Constitution to re-number the appendices.
- 2.7 Should GES Committee support the recommendations then these will be presented to full Council for approval at its meeting on 13th September 2023.

3. Consultation

- 3.1 Consultation for the amendments to the Code of Conduct with recognised trade unions has been undertaken initially through the CJC HR Operation Workstream and latterly through the Policy Forum. Initial suggestions have been discussed and wording strengthened on the areas where the trade unions have expressed concerns. Further minor comments were received at the Policy Forum on 16th May and

20th June 2023. Where appropriate these have been incorporated into the Code of Conduct. The final document has been shared with trade unions and it is anticipated that we will reach agreement to the changes made to the Code of Conduct.

- 3.2 Consultation has not been undertaken in relation to whether or not the Code should be included within the Constitution as this is an administrative decision.

4. Alternative Options Considered

- 4.1 An alternative option would be to retain the Code of Conduct and the Ethics Statement as part of the Constitution. Whilst this might raise the profile of the Code and ensure Member support, it would entail any future amendments, however minor, being referred to both GES Committee and full Council for approval.

5. Implications

- 5.1 Appendix 1 sets out the relevant implications considered in the preparation of the report.

6. Background Papers

- 6.1 None.

7. Appendices

- 7.1 Appendix 1 – Implications
7.2 Appendix 2 – ACOS Report 27 June 2023 – Code of Conduct for Employees
7.3 Appendix 3 – EIA

8. Recommendation(s)

That Committee:

- a) Supports the amendments to the Employee Code of Conduct as outlined in the report and as recommended by ACOS and recommends them to full Council for approval.
- b) Supports the proposal and recommends to full Council that the Code of Conduct currently included within the Constitution at Appendix 12 and the Ethics Statement at Appendix 10 are removed from the Constitution and supports and recommends to full Council the proposal that

responsibility for the consideration and approval of the Code of Conduct is delegated to the ACOS committee as a corporate employment policy

- c) Recommends to full Council that should Council approve the recommendation, any consequential amendments resulting from the removal of these two appendices should be made to the Constitution.

9. Reasons for Recommendation(s)

- 9.1 It is considered that the proposed revisions will provide more clarity for employees and managers and reflect best practice when dealing with conduct issues.
- 9.2 The removal of the Code of Conduct for Officers and the Ethics Statement from the Constitution will enable future amendments to be implemented more expeditiously as it will only require consideration by one Committee. As the Code of Conduct is the only employment policy included in the Constitution, removal of it and delegation of responsibility to the ACOS Committee would align it with the other Council employment policies and ensure that all such policies are considered by the same Committee under the same procedure.

Report Author: Tracey Wall and Elizabeth Wild **Contact details:** tracey.wall@derbyshire.gov.uk and Elizabeth.wild@Derbyshire.gov.uk

Implications

Financial

- 1.1 None

Legal

- 2.1 Section 9P of the Local Government Act 2000 requires a local authority to prepare and keep up to date a constitution, which must contain a copy of the authority's standing orders and a copy of the authority's code of conduct and such information as the Secretary of State may direct.
- 2.2 In 2000, the Secretary of State issued the Local Government Act 2000 (Constitutions) (England) Direction 2000 which set out the information that the constitution of a local authority should contain. This includes, "A description of the roles of officers of the local authority including...the code of conduct for local government employees issued by the Secretary of State in accordance with section 82 of the Local Government Act 2000." Since the issue of the Direction, section 82 has been repealed for England by the Localism Act 2011 and no longer applies. The Council could, therefore, agree to remove the Code of Conduct for Officers from the Constitution and delegate responsibility for its approval to the Appointments and Conditions of Service Committee. This is a non-executive function and can therefore be delegated to the Committee.
- 2.3 Under its terms of reference, the Governance Ethics and Standards Committee is required to advise the Council on the monitoring, amendments to and overall operation of the Constitution. Article 22 of the Constitution also makes it clear that changes to the Constitution will only be approved by full Council after consideration of the proposal by the Governance, Ethics and Standards Committee. Therefore, GES Committee is required to consider the amendments to the Code of Conduct and the proposal to remove it from the Constitution.

Human Resources

- 3.1 Legal comments have been sought and incorporated. Legal Services have suggested it would be advisable to ensure employees be required to sign to confirm receipt of the Code of Conduct. It is proposed to include a statement within the employment contract which outlines that in signing the contract the employee accepts receipt of the Code of Conduct. This is in response to feedback from disciplinary cases whereby an employee has breached the Code of Conduct, but

individual's state they were not aware of it. Work will be undertaken with HR Services to facilitate this.

Information Technology

4.1 None

Equalities Impact

5.1 An Equalities Impact Assessment has been completed and shared for comment with the Equalities, Diversity and Inclusion Manager. A copy of this document is attached as Appendix 3.

Corporate objectives and priorities for change

6.1 None

Other (for example, Health and Safety, Environmental, Sustainability, Property and Asset Management, Risk Management and Safeguarding)

7.1 To enable organisational transformation and effective employee relations.



FOR PUBLICATION

DERBYSHIRE COUNTY COUNCIL

APPOINTMENTS AND CONDITIONS OF SERVICE COMMITTEE

TUESDAY, 27 JUNE 2023

Report of the Executive Director - Corporate Services and Transformation

Code of Conduct for Employees

1. Purpose

1.1 To agree the updates and amendments to the Code of Conduct for Employees following the scheduled review and refer them to Governance, Ethics and Standards Committee and full Council for approval and inclusion in the Constitution.

2. Information and Analysis

2.1 The Council's employment procedures are updated and reviewed on an ongoing basis to ensure they remain relevant and up to date to ensure the Council meets its commitments outlined in the Council Plan. Work has been undertaken to review and revise the current Code of Conduct for Officers to ensure it remains relevant and fit for purpose.

2.2 The last major review of the Code of Conduct was in April 2015. Minor updates were undertaken in June 2015 to reflect the replacement of the General Social Care Council by the Health and Care Professional Council and in July 2020 to reflect changes to terminology aligned to the current HR model.

2.3 The updated Code of Conduct is aligned to reflect the Council's values and People Strategy and to reflect the recently implemented Working Arrangements Policy.

2.4 Benchmarking has been carried out against other similar organisations with the aim of achieving best practice.

2.5 Prior to any amendments being undertaken, the current document was shared with both Legal and Audit Services to obtain advice and suggestions on any necessary revisions. It has also been shared with Trade Unions for

comments.

2.6 Additionally, Adult Social Care and Health currently have in place a separate Code of Conduct which mirrors the Council Code, but with additional information relating mostly to gifts, hospitality and legacies. Following a suggestion by Adult Social Care and Health, the two documents have been incorporated into one single document and work has been undertaken with the department to facilitate this.

2.7 The amendments to the Code are detailed below:

- To rename it Code of Conduct for Employees
- Technical changes and terminology to ensure links and dependencies and any references to current procedures are accurate and up to date.
- Additional wording has been included to reflect alignment to the Council Plan.
- The scope has been widened to encompass relief workers and apprentices and to suggest that other relevant individuals should adhere to its principles and ethos in line with current legal advice. This includes contractors, agency workers, consultants and those on student / work experience placements.
- A new section is included regarding roles and responsibilities to ensure all those affected are fully aware of their individual responsibilities.
- The section on personal behaviours has been strengthened in order to clarify possible repercussions in regard to attending work when under the effect of alcohol or non-prescription drugs and clarification provided on what might be considered as inappropriate dress.
- The relevant legislation in relation to political neutrality has been referenced as a matter of good practice.
- The section on personal relationships has been updated in order to clarify an individual's personal responsibilities with regard to when it may be necessary to declare a personal relationship, and also to link to other policies, specifically Recruitment and Selection.
- The section on additional employment has been updated. This has enabled additional information contained in the Adult Social Care and Health Code to be incorporated, which includes the requirement of not undertaking private work for clients. This section has also been updated to reference additional requirements of the Officer's Interests Policy.
- The section relating to use of council property has been updated to incorporate additional information from the Adult Social Care and Health document.
- The section on gifts, hospitality and legacies has been updated to incorporate the information in the Adult Social Care and Health document. Legal advice has been sought and incorporated, specifically in relation to

legacies to ensure employees are aware that are required to sign an official disclaimer should they benefit from a client's will.

- An additional section has been included, incorporated from the Adult Social Care and Health document, concerning transactions, correspondence, legal and financial business. This is to ensure employees understand the boundaries to which they must work when undertaking roles in relation to clients.
- It has been suggested by Legal Services that employees be required to sign to confirm that they have received a copy of the Code of Conduct and this will be incorporated into employment contracts.
- Additional wording acknowledging employee's right to a private life.

2.8 Currently the Code of Conduct for Officers is included at Appendix 12 and the Ethics Statement at Appendix 10 of the Constitution. The Ethics Statement is based on the Nolan principles which apply to all those appointed to work in local government and is focused on expected behaviours and are referenced in the revised Code of Conduct. Any amendments to the Constitution must therefore be considered by the Governance, Ethics and Standards (GES) Committee and approved by full Council. In addition to the amendments outlined above, it is proposed that the Appointments and Condition of Service (ACOS) Committee recommend to the (GES) Committee at its meeting on 13 July 2023, to remove the Code of Conduct from the Constitution, and amend the role of the ACOS Committee to delegate authority to approve future changes to the Employee Code of Conduct. In addition, it is proposed that, the Ethics Statement is also removed from the Constitution and incorporated into the revised Employee Code of Conduct as a separate Appendix. Should the GES Committee support the recommendation this would then be presented to Full Council for approval at its meeting on 13 September 2023.

3. Consultation

3.1 Consultation with recognised trade unions has been undertaken initially through the CJC HR Operations Workstream and latterly through the Policy Forum. Initial suggestions have been discussed and wording strengthened on the areas where the trade unions have expressed concerns. Further minor comments were received at the Policy Forum on 16 May 2023. Where appropriate these have been incorporated into the Code of Conduct and the final document has been shared with trade unions. The Code of Conduct for Employees has been developed in consultation with the trade unions however, they have not yet confirmed final agreement.

4. Alternative Options Considered

4.1 An alternative option could be not to update the Code of Conduct however; it is accepted good practice to regularly review current employment procedures to ensure they remain relevant and up to date with current legal advice. By not reviewing the Code of Conduct it could become out of date and out with best practice.

4.2 In addition, it has been considered that the council chooses not to have a code of conduct in place, however this is not the recommended approach. The benefits of having a code of conduct enables the council's mission, values, and principles to be assembled in one document and links them with standards of professional conduct expected and articulates the desired behaviours of employees.

4.3 Finally, an alternative option could be to leave the Code of Conduct in the Constitution. However, this is not recommended as the Constitution does not include any other employment policies, with other employment policies being approved at ACOS. Therefore, amending the delegations to enable the ACOS Committee to approve changes to the Employee Code of Conduct aligns our approach consistently to the approval of the Council's other employment policies.

5. Implications

5.1 Appendix 1 sets out the relevant implications considered in the preparation of the report.

6. Background Papers

6.1 None

7. Appendices

7.1 Appendix 1 – Implications

7.2 Appendix 2 – Revised Employee Code of Conduct

7.3 Equality Impact Assessment

8. Recommendation(s)

That Committee:

- a) Notes and supports the updates and amendments to the Employee Code of Conduct following the scheduled review and refers them to Governance, Ethics and Standards Committee for consideration and referral to Council for approval.
- b) Recommends to Governance, Ethics and Standards Committee and Council that the Code of Conduct for Officers is removed from the Constitution and Council delegates responsibility for the consideration and approval of the Code of Conduct to the Appointments and Conditions of Service Committee.
- c) Recommends to Governance, Ethics and Standards Committee and Council that the Ethics Statement is removed from the Constitution and incorporated into the Employee Code of Conduct as a separate appendix.

9. Reasons for Recommendation(s)

9.1 It is considered that the proposed revisions will provide more clarity for employees and managers and reflect best practice when dealing with conduct issues.

9.2 The removal of the Code of Conduct for Officers and the Ethics Statement from the Constitution will enable future amendments to be implemented in an expedient manner and avoid the need to make future changes and updates to the Constitution as well as aligning the Code of Conduct with other employment policies.

Report Author: Tracey Wall

Contact details: tracey.wall@derbyshire.gov.uk

Implications

Financial

1.1 There are no financial implications connected with this report.

Legal

2.1 Legal advice has been sought and implemented into the revised Code of Conduct.

2.2 Section 9P of the Local Government Act 2000 requires a local authority to prepare and keep up to date a constitution, which must contain a copy of the authority's standing orders and a copy of the authority's code of conduct and such information as the Secretary of State may direct.

2.3 In 2000, the Secretary of State issued the Local Government Act 2000 (Constitutions) (England) Direction 2000 which set out the information that the constitution of a local authority should contain. This includes "A description of the roles of officers of the local authority including...the code of conduct for local government employees issued by the Secretary of State in accordance with section 82 of the Local Government Act 2000." Since the issue of the direction, section 82 has been repealed for England by the Localism Act 2011 and no longer applies. The Council could, therefore, agree to remove the Code of Conduct for Officers from the Constitution and delegate responsibility for its approval to the Appointments and Conditions of Service Committee. This is a non-executive function and can therefore be delegated to the Committee.

2.4 Article 22 of the Constitution makes it clear that changes to the Constitution will only be approved by the full Council after consideration of the proposal by the Governance, Ethics and Standards Committee.

Human Resources

3.1 Legal comments have been sought and incorporated. Legal Services have suggested it would be advisable to ensure employees be required to sign to confirm receipt of the Code of Conduct. It is proposed to include a statement within the employment contract which outlines that in signing the contract the employee accepts receipt of the Code of Conduct. This is in response to feedback from disciplinary cases whereby an employee has breached the Code of Conduct, but individual's state they were not aware of

it. Work will be undertaken with HR Services to facilitate this.

Information Technology

4.1 There are no IT implications connected with this report.

Equalities Impact

5.1 An Equalities Impact Assessment has been completed and shared for comment with the Equalities, Diversity and Inclusion Manager. A copy of this document is attached as Appendix 3.

Corporate objectives and priorities for change

6.1 To enable organisational transformation and effective employee relations.

Other (for example, Health and Safety, Environmental, Sustainability, Property and Asset Management, Risk Management and Safeguarding)

7.1 None

This page is intentionally left blank

Equality Impact Analysis Record Form 2023 – Derbyshire County Council

Introduction and context

Policy/ Service under development/ review		Employee Code of Conduct			
Department/ Corporate		CST HR Operations			
Lead officer		Lorraine Booth			
EIA Team:		Lorraine Booth, Jayne Mason, Tracey Wall			
Date analysis commenced:	28 March 2023	Date completed:	26 April 2023	Date approved:	27 June 2023

About the service/ policy or function and the reason for the EIA

<p>What is the purpose of the service, policy or function?</p> <p>The Code of Conduct has been reviewed and updated to:</p> <ul style="list-style-type: none"> - Ensure it remains relevant and up to date with latest guidance and legal advice; - Ensure the council meets its commitments outlined in the Council Plan - Rationalise procedures by combining the corporate code of conduct with the currently separate Adult Social Care and Health code of conduct. <p>This Code applies to all employees (and other workers) of the Council except those employed by schools where the Governing Board is the employer.</p>

Anticipated outcomes of the Code include a fair and consistent approach for all employees who may find themselves under investigation for a breach of the Code of Conduct.

Are there any proposals to change these?

No - This is an update of the current Code of Conduct.

Supporting evidence about impact

What is presently known about how the current service or policy impacts upon people with a protected characteristic, people from disadvantaged communities, armed forces personnel and other groups outlined in the Council's guidance for EIAs?

The Code of Conduct is not an employment procedure in itself, it is a set of guidelines and expected behaviours for employees to follow. Not acting in accordance with the Code of Conduct may mean that an employee is in breach of their terms and conditions and as a result may be investigated under the disciplinary procedure.

Information relating to any protected characteristic is not collected in relation to use of the Code of Conduct. It is currently issued to all employees with their contract of employment. There is no specific procedure related to breach of the Code of Conduct. Any perceived breaches of the Code may be investigated under the Council's separate disciplinary procedure.

Care has been taken in revising the procedure to take account of cases which have arisen since the last review, and to incorporate lessons learned.

Recent Equalities Profile for Derbyshire County Council employees indicates the following (January 2023) based on 11,194 appointments:

- Age: 17-25 – 4.7%; 26-35 – 14.3%; 36-45 – 18.98%; 46-55 – 29.4%; 56-65 – 28.9%; 66+ - 3.72%
- Gender: female 79.4% and male 20.6%
- Ethnicity: White British 93.9%, ethnic minority background 3.6%, undisclosed 2.49%
- Sexual orientation: LGB* 2.8, Heterosexual 72.49%), undisclosed 24.71%
- Disability: yes 4.7%, no 91.8%, undisclosed 3.45%
- Religion: Christian 42.2%, any other 1.1%, no religion 31.1%, undisclosed 25.6%

By contract type the Council has 40% (4,519) part time appointments, 40% (4,433) full time appointments and 20% (2,242) relief appointments.

Please detail the sources for the above information

Information taken from SAP.

Is consultation planned/ has consultation take place? If Yes, what is this telling us about the likely impact on the protected characteristic and other communities/ groups etc.?

Joint Trade Unions

The Joint Trade Unions have been consulted on the Disciplinary Procedures through the HR Operations Workstream meetings and more latterly the HR Policy Forum as follows:

March 2022 – Current version circulated for initial comments

June 2022 - Workstream meeting – initial comments discussed

September 2022 - Workstream meeting – discussion on feedback

October 2022 – Written summary of changes / amendments distributed to workstream reps

January 2023 – Workstream meeting to discuss final comments including impact of the Officer's Interests Policy

3 February 2023 – Final draft issued to trade unions for comments (no comments received)

8 March 2023 – Reminder issued – no comments received

22 March 2023 – Workstream meeting to finalise draft – no TU attendance

Input has also been requested from legal services and audit and comments incorporated as appropriate.

If there is insufficient information to determine likely impact, what information is needed and how will it be obtained in the future?

Any information required would be gathered in relation to the use of the disciplinary procedure as there is no specific procedure to follow for breach of the code of conduct. Any investigation would be carried out under the council's disciplinary procedure.

Part 3. Analysing and assessing the impact by equality Protected Characteristic group

Use the information, customer feedback and other evidence to determine upon whom the policy/ service and any proposed changes will impact upon and how, highlighting where these have a negative, positive or no impact, including where this could constitute unfair treatment, limit access, or result in additional inequality or disadvantage, hardship, or exclusion.

For any identified negative potential impact, you must provide details of any action or options which could mitigate against this, and in serious cases, you should highlight where the Council would be advised not to proceed with a new or changing policy or service, including any proposals which are being considered.

Please use your action plan towards the rear of this document to record the action and the monitoring that will take place to deliver or identify appropriate mitigation.

<i>Protected Characteristic or Group</i>	<i>Positive impact</i>	<i>Negative impact</i>	<i>No impact</i>
All protected characteristics			Considered – no impact
(Please describe)	N/A		
Age			Considered – no impact
(Please describe)	N/A		
Disability			Considered – no impact

Protected Characteristic or Group	Positive impact	Negative impact	No impact
(Please describe)	N/A		
Gender re-assignment			Considered – no impact
(Please describe)	N/A		
Marriage & civil partnership¹			Considered – no impact
(Please describe)	N/A		
Pregnancy & maternity			Considered – no impact
(Please describe)	N/A		

¹ Under EA 2010 – someone in a CP must not be treated less favourably than a married person

Protected Characteristic or Group	Positive impact	Negative impact	No impact
Race & ethnicity			Considered – no impact
(Please describe)	N/A		
Religion/ belief²			Considered – no impact
(Please describe)	N/A		
Sex or gender³			Considered – no impact
(Please describe)	N/A		

² Under EA 2010 – must also consider non-religious belief

³ Sex and gender can be used at different times depending upon whether you are referring to the EA 2010 and the different duties which exist

Protected Characteristic or Group	Positive impact	Negative impact	No impact
Sexual orientation			Considered – no impact
(Please describe)	N/A		
Human Rights			Considered – no impact
(Please describe)	N/A		
Armed Forces personnel/ households			Considered – no impact
(Please describe)	N/A		
Users of British Sign Languages			Considered – no impact
(Please describe)	N/A		
DCC Employees			Considered – no impact
(Please describe)	N/A		

Protected Characteristic or Group	Positive impact	Negative impact	No impact
Community and Voluntary sector organisations working with protected characteristic groups			Considered – no impact
(Please describe)	N/A		
Other not listed above			Considered – no impact
(Please describe)	N/A		

Part 4. Summary of main findings

Introduction of the revised code of conduct gives the Council an opportunity to ensure that employees are treated fairly and equitably. It may be useful to better understand any relationship between actions taken as a result of a breach of the code of conduct and implementation of the code and the employees affected. This could take place by monitoring implementation of the disciplinary procedure.

This would identify whether any group of employees with protected characteristics are adversely affected. This would allow identification of any potential positive and/or negative impacts and allow specific actions to be taken.

Are there any recommendations for changes to proposals?

Proposed Equality Action Plan

Please complete this Action Plan to outline any mitigation you intend to take.

Issue identified	Action required to reduce impact/ mitigate	Timescale and responsibility	Monitoring and review arrangements
No monitoring of the implementation of the code of conduct in relation to protected characteristics is currently carried out.	Additional personal information would need to be recorded on case files, or an ongoing programme of analysis would need to be implemented based on relevant categories, including protected characteristics. This may be able to be facilitated within the case management system currently being developed but would only be in relation to those disciplinary cases which are a result of a breach of the code of conduct.	In line with case management system development. Tracey Wall	12 months following implementation

Date and outcome of any Cabinet/ Cabinet Member or Council Report to which this was attached and their decision:

Appointments and Conditions of Service Committee – 27th June 2023.