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PUBLIC

To: Members of Governance, Ethics and Standards Committee

Wednesday, 18 October 2023

Dear Councillor,

Please attend a meeting of the **Governance, Ethics and Standards Committee** to be held at **2.00 pm** on **Thursday, 26 October 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 13 July 2023.

4. Annual Review Letter of the Local Government and Social Care Ombudsman (Pages 3 - 34)
5. Register of Gifts and Hospitality 1 April 2022 - 31 March 2023 (Pages 35 - 44)
6. Complaints received against Councillors pursuant to the Code of Conduct for Elected Members for the period 1st March to 30th September 2023 (Pages 45 - 52)
7. Customer Feedback: Compliments and Complaints 2022/23 (Pages 53 - 68)
8. Review of the Councillors' Code of Conduct and arrangements for dealing with complaints made under the code of Conduct. (Pages 69 - 100)

PUBLIC

MINUTES of a meeting of **GOVERNANCE, ETHICS AND STANDARDS COMMITTEE** held on Thursday, 13 July 2023 at Committee Room 1, County Hall, Matlock, Derbyshire, DE4 3AG.

PRESENT

Councillor S Swann (in the Chair)

Councillors R Flatley, K Gillott, L Grooby, D Muller, W Major, C Dale and S Hobson.

Also in attendance was H Barrington, P Buckley and E Wild.

There were no apologies for absence.

11/23 DECLARATIONS OF INTEREST

There were no declarations of interest.

12/23 MINUTES

RESOLVED that the minutes of the meeting of the Governance, Ethics and Standards Committee held on 16 March 2023 be confirmed as a correct record and signed by the Chairman.

13/23 REPORT OF THE CHAIRMAN OF THE GOVERNANCE, ETHICS AND STANDARDS COMMITTEE

Principal Solicitor E Wild introduced a report, asking the Committee to consider the annual report of the Chairman of the Governance, Ethics and Standards Committee prior to presentation to full Council.

RESOLVED to

- 1) Endorse the annual report of the Chairman of the Committee attached at Appendix 2; and
- 2) Support its presentation to full Council.

14/23 COUNCILLOR ATTENDANCE AT MEETINGS

Principal Solicitor E Wild introduced a report, asking the Committee to consider the statistics regarding attendance of members at meetings within the context of member development and the effectiveness of the political structure.

RESOLVED to

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

15/23 GUIDANCE ON RESPONDING TO MEMBER ENQUIRIES

The Director of Legal and Democratic Services H Barrington introduced a report, seeking support and endorsement of officer guidance on responding to enquiries from Members.

RESOLVED to

- 1) Support and endorse the Guidance on responding to Member Enquiries at Appendix 2.

16/23 REMOVAL OF CODE OF CONDUCT FOR OFFICERS FROM CONSTITUTION

Head Of Reward And Resourcing P Buckley introduced a report, asking the Committee to agree the updates and amendments to the Code of Conduct, consider the amendment to the Constitution and delegate decision-making regarding future amendments.

RESOLVED to

- 1) Support the amendments to the Employee Code of Conduct as outlined in the report and as recommended by ACOS and recommend them to full Council for approval;
- 2) Support the proposal and recommend 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 support and recommend 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; and
- 3) Recommend to full Council that should Council approve the recommendation, any consequential amendments resulting from the removal of the two appendices should be made to the Constitution.



FOR PUBLICATION

DERBYSHIRE COUNTY COUNCIL

GOVERNANCE, ETHICS AND STANDARDS COMMITTEE

26 OCTOBER 2023

Report of the Director of Legal and Democratic Services

**Annual Review Letter of the Local Government
and Social Care Ombudsman**

1. Purpose

- 1.1 To inform the Committee that Cabinet, at its meeting on 19 October 2023, considered a report of the Local Government and Social Care Ombudsman's (LGSCO) Annual Review Letter for the year ended 31 March 2023 (a copy of the report which was submitted to Cabinet is attached for the Committee's information – Appendix 4).

2. Information and Analysis

- 2.1 The terms of reference for the Governance, Ethics and Standards Committee include *"to receive regular reports on Local Government Ombudsman referrals"*. Therefore, the Committee is invited to receive the Annual Review Letter from the LGSCO, giving details of the total number of complaints for Derbyshire County Council for the year ending 31 March 2023. The letter is attached at Appendix 2 for consideration.
- 2.2 All of the Ombudsman's annual review letters are published on their website (www.lgo.org.uk) and copied to the Audit Commission.
- 2.3 The aim of the Annual Review Letter is to provide councils with information which will help them assess their performance in handling complaints.

2.4 For the period ending 31 March 2023

The Council received its annual review letter for 2022-2023 from the LGSCO in July 2023 (Appendix 2).

2.5 For the period ending 31 March 2023, the LGSCO received 97 complaints and enquiries relating to Derbyshire County Council. The 97 complaints compares to 86 complaints for Derbyshire in the period 2021/22 (an increase of 12.7%).

2.6 Looking specifically at the decisions made by the LGSCO for the period ending 31 March 2023, there were 25 detailed investigations carried out, of which 5 were not upheld and 20 were upheld. This gives an upheld rate of 80%, against an average of 80% in similar authorities. By way of comparison in 2021/22 the LGSCO investigated 30 complaints against the Council; this represents a decrease in complaints investigated in 2022/23 of 33%. The upheld rate in 2021/22 was 80% compared to 80% in 2022/23.

2.7 In respect of the 20 complaints upheld by the LGSCO in 2022/23 the LGSCO found fault and suggested a remedy in respect of each case and the remedies were acceptable to the Council

2.8 In terms of the 97complaints made and 20 complaints upheld by the LGSCO these can be identified in relation to the following County Council departments:

| Department | Number of complaints and enquiries made to the LGSCO | Number of complaints upheld by the LGSCO |
|---------------------|--|--|
| Adult Care | 29 | 5 |
| Children's Services | 50 | 11 |
| PLACE | 12 | 4 |
| CST | 6 | 0 |

Details of the 20 complaints and the remedies are set out in Appendix 3.

2.9 In respect of compliance with the LGSCO's recommendations of the 18 complaints where compliance with the recommended remedy was recorded during the year, the Council complied with all the recommended remedies giving a compliance rate of 100%.

3. Alternative Options Considered

- 3.1 Not to report the LGSCO report to Governance, Ethics and Standards Committee, however the remit of the Committee included in the Constitution envisages such reports will be considered.

4. Implications

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

5. Consultation

- 5.1 Not applicable.

6. Background Papers

- 6.1 None identified.

7. Appendices

- 7.1 Appendix 1 – Implications.
- 7.2 Appendix 2 – Annual Review letter of the LGSCO.
- 7.3 Appendix 3 – Details of the 20 cases upheld by the LGSCO.
- 7.4 Appendix 4 – Report to Cabinet dated 19 October 2023

8. Recommendations

That Committee notes the Annual Review Letter of the Local Government and Social Care Ombudsman for the year ending 31 March 2023 and notes that a report on this matter has already been considered by Cabinet on 19 October 2023.

9. Reasons for Recommendations

- 9.1 To ensure compliance with the Council's Constitution.

Appendix 1 **Implications**

Financial

- 1.1 Payments have already been made to the complainants in accordance with the recommendations of the LGSCO.

Legal

- 2.1 The terms of reference for the Governance, Ethics and Standards Committee include *“to receive regular reports on Local Government Ombudsman referrals”*.
- 2.2 The Local Government and Social Care Ombudsman’s powers are defined by the Local Government Act 1974 as amended by the Local Government and Public Involvement in Health Act 2007.
- 2.3 The LGSCO cannot question whether a Council’s decisions are right or wrong simply because the complainant disagrees with them. He must consider whether there was fault in the way the decision was reached. (Local Government Act 1974, section 34(3)).
- 2.4 The LGSCO will generally only investigate a complaint where the complainant has exhausted the council’s corporate complaints process. It is therefore important that the council maintains a robust complaints procedure.
- 2.5 The LGSCO has the power to make recommendations to a public authority following a complaint, however the recommendations are not mandatory. Findings and recommendations are however published by the LGSCO.
- 2.6 Section 31 of the Local Government Act 1974 requires a report to be submitted to “the authority” when a report on maladministration is received from the Local Government and Social Care Ombudsman. The specific requirement is that the report to “the authority” is made to the “executive” i.e. Cabinet (s.25(4ZA) Local Government Act 1974) where the matter relates to executive functions and Council or a Committee where the matter relates to non-executive functions. During the period April 2022 – March 2023 no such reports of maladministration have been received from the LGSCO. However, complaint 21/018/475 (referred to in appendix 3) is a matter where the Ombudsman found fault, causing injustice, and determined that two key aspects of the Home to School Transport Policy did not comply with

legislation and statutory guidance. Section 5A of the Local Government and Housing Act 1989 imposes a duty on the Monitoring Officer to prepare a report to the Executive if at any time it appears to her that any proposal, decision or omission would give rise to a contravention of any enactment or rule of law in the exercise of its functions. Therefore, a report was presented to Cabinet on 18 May 2023 and approval was given for amendments to the Council's Home to School Transport Policy for children of compulsory school age to ensure compliance with statutory responsibilities.

Human Resources

3.1 None directly arising out of this report.

Information Technology

4.1 None directly arising out of this report.

Equalities Impact

5.1 None directly arising out of this report.

Corporate objectives and priorities for change

6.1 None directly arising out of this report.

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

7.1 None directly arising out of this report.

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FOR PUBLICATION

DERBYSHIRE COUNTY COUNCIL

CABINET

19 October 2023

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

**Annual Review Letter of the Local Government & Social Care
Ombudsman (LGSCO) 2022-23**

(Corporate Services and Budget)

1. Divisions Affected

1.1 County Wide

2. Key Decision

2.1 This is not a key decision

3. Purpose

3.1 The purpose of this report is to inform Cabinet of the Local Government and Social Care Ombudsman's (LGSCO) Annual Review letter for the year ended 31 March 2023.

4. Information and Analysis

4.1 The LGSCO's Annual Review letter 2022/23, giving details of the total number of complaints for Derbyshire County Council for the year ending 31 March 2023, is attached as Appendix 2 for consideration. All of the Ombudsman's annual review letters are published on their website.

- 4.2 The aim of the Annual Review Letter is to provide councils with information which will help them assess their performance in handling complaints.
- 4.3 For the period ending 31 March 2023, the LGSCO received 97 complaints and enquiries relating to Derbyshire County Council. The 97 complaints compares to 86 complaints for Derbyshire in the period 2021/22 (an increase of 12.7 %).
- 4.4 Looking specifically at the decisions made by the LGSCO for the period ending 31 March 2023, there were 25 detailed investigations carried out, of which 5 were not upheld and 20 were upheld. This gives an upheld rate of 80%. By way of comparison in 2021/22 the LGSCO investigated 30 complaints against the Council; this represents a decrease in complaints investigated in 2022/23 of 33%. The upheld rate in 2021/22 was 80% compared to 80% in 2022/23.
- 4.5 In respect of the 20 complaints upheld by the LGSCO in 2022/23 the LGSCO found fault and suggested a remedy in respect of each case and the remedies were acceptable to the council.
- 4.6 In terms of the 97 complaints made and 20 complaints upheld by the LGSCO these can be identified in relation to the following County Council departments:

| Department | Number of complaints and enquiries made to the LGSCO | Number of complaints upheld by the LGSCO |
|---------------------|--|--|
| Adult Care | 29 | 5 |
| Children's Services | 50 | 11 |
| Place | 12 | 4 |
| CST | 6 | 0 |

Details of the upheld complaints and the remedies are set out in Appendix 3.

- 4.8 In respect of compliance with the LGSCO's recommendations of the 18 complaints where compliance with the recommended remedy was recorded during the year, the Council complied with all the recommended remedies giving a compliance rate of 100%.
- 4.9 Of the 20 upheld decisions the Ombudsman found the Council had not provided a satisfactory remedy in any of the cases before the complaint

reached the Ombudsman. This compares to an average of 6% in similar organisations.

- 4.10 The LGSCO has noted that during the year 2022/23 there were several occasions when their investigations were delayed by the Council's failure to respond in a timely manner to the LGSCO's requests for information. The response times to the LGSCO are usually five working days to respond to an initial request for information or supply additional information, twenty working days to respond fully to an investigation and ten days to respond to a draft decision. More than two fifths of the responses to the LGSCO's enquiries were late. The delays were mainly within Children's Services but there was also a proportion of Adult Care cases where there were delays in sending responses. The LGSCO accepted that these delays were partly attributable to staff shortages, which the LGSCO acknowledged could be challenging to manage. In nearly all cases however the Council requested extensions before the due date lapsed. Whilst staff shortages still remain, departments are doing their best to respond to complaints whilst dealing with other competing priorities.
- 4.11 The LGSCO also became aware of a long running Children's Services complaint the Council had been investigating. The complaint began in December 2017, and despite repeated requests and promises from the Council that it would be progressed to the next stage of the local resolution process, the learning review took place instead. This ultimately did not resolve the complaint and the complaint came to the LGSCO's office for consideration. The LGSCO's investigation did not find systemic failings but noted the poor practice. The LGSCO was pleased to see the Council's willingness to accept its actions were wrong and practice had since changed.
- 4.12 The Children's Services department are continuing to review their practices and procedures relating to provision of the Education Health and Care Plans (EHCP's) for young people with special educational needs and disabilities. Cabinet will note that the provision of the EHCP plans and educational placements to support the plans is a national problem.

5. Consultation

- 5.1 No consultation is necessary.

6. Alternative Options Considered

- 6.1 Not to inform Cabinet of the LGSCO's Annual Review letter for the period ending 31 March 2023; however, it is considered important that

the Executive are informed of the Annual Review letter to enable proper oversight of complaints.

7. Implications

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

8. Background Papers

- 8.1 None identified.

9. Appendices

- 9.1 Appendix 1- Implications
- 9.2 Appendix 2 – Annual Review letter
- 9.3 Appendix 3 – Details of the 20 upheld cases

10. Recommendation

- 10.1 That Cabinet notes the Annual Review letter of the Local Government and Social Care Ombudsman for the year ending 31 March 2023.

11. Reasons for Recommendation

- 11.1 To ensure that the Executive is aware of the contents of the LGSCO Annual Review letter and has oversight of complaints made.

12. Is it necessary to waive the call-in period?

- 12.1 No

Report Author: Paul Peat

Contact details: Paul.Peat@derbyshire.gov.uk.

Implications

Financial

- 1.1 Payments have already been made to the complainants in accordance with the recommendations of the LGSCO.

Legal

- 2.1 The Local Government and Social Care Ombudsman's powers are defined by the Local Government Act 1974 as amended by the Local Government and Public Involvement in Health Act 2007.
- 2.2 The LGSCO cannot question whether a Council's decisions are right or wrong simply because the complainant disagrees with them. He must consider whether there was fault in the way the decision was reached. (Local Government Act 1974, section 34(3)).
- 2.3 The LGSCO will generally only investigate a complaint where the complainant has exhausted the council's corporate complaints process. It is therefore important that the council maintains a robust complaints procedure.
- 2.4 The LGSCO has the power to make recommendations to a public authority following a complaint, however the recommendations are not mandatory. Findings and recommendations are however published by the LGSCO.
- 2.5 Section 31 of the Local Government Act 1974 requires a report to be submitted to "the authority" when a report on maladministration is received from the Local Government and Social Care Ombudsman. The specific requirement is that the report to "the authority" is made to the "executive" i.e. Cabinet (s.25(4ZA) Local Government Act 1974) where the matter relates to executive functions and Council or a Committee where the matter relates to non-executive functions. During the period April 2022 – March 2023 no such reports of maladministration have been received from the LGSCO. However, complaint 21/018/475 (referred to in appendix 3) is a matter where the Ombudsman found fault, causing injustice, and determined that two key aspects of the Home to School Transport Policy did not comply with legislation and statutory guidance. Section 5A of the Local Government and Housing Act 1989 imposes a duty on the Monitoring Officer to prepare a report to the

Executive if at any time it appears to her that any proposal, decision or omission would give rise to a contravention of any enactment or rule of law in the exercise of its functions. Therefore, a report was presented to Cabinet on 18 May 2023 and approval was given for amendments to the Council's Home to School Transport Policy for children of compulsory school age to ensure compliance with statutory responsibilities.

- 2.6 The Council's Constitution provides that one of the roles and function of the Governance, Ethics and Standards Committee is '11. *To receive regular reports on the of the Corporate Complaints process, Local Government Ombudsman referrals and to recommend revisions to related policies and procedures as appropriate*'. A report will therefore also be prepared for the Committee.

Human Resources

- 3.1 None directly arising from this report.

Information Technology

- 4.1 None directly arising from this report.

Equalities Impact

- 5.1 As this is a statutory report in response to the findings of the Local Government and Social Care Ombudsman no equality impact assessment has been prepared.

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 None directly arising from this report.

Local Government & Social Care OMBUDSMAN

19 July 2023

By email

Ms Alexander
Executive Director
Derbyshire County Council

Dear Ms Alexander

Annual Review letter 2022-23

I write to you with your annual summary of complaint statistics from the Local Government and Social Care Ombudsman for the year ending 31 March 2023. The information offers valuable insight about your organisation's approach to complaints. As always, I would encourage you to consider it as part of your corporate governance processes. As such, I have sought to share this letter with the Leader of your Council and Chair of the appropriate Scrutiny Committee, to encourage effective ownership and oversight of complaint outcomes, which offer such valuable opportunities to learn and improve.

The end of the reporting year, saw the retirement of Michael King, drawing his tenure as Local Government Ombudsman to a close. I was delighted to be appointed to the role of Interim Ombudsman in April and look forward to working with you and colleagues across the local government sector in the coming months. I will be building on the strong foundations already in place and will continue to focus on promoting improvement through our work.

Complaint statistics

Our statistics focus on three key areas that help to assess your organisation's commitment to putting things right when they go wrong:

Complaints upheld - We uphold complaints when we find fault in an organisation's actions, including where the organisation accepted fault before we investigated. We include the total number of investigations completed to provide important context for the statistic.

Over the past two years, we have reviewed our processes to ensure we do the most we can with the resources we have. One outcome is that we are more selective about the complaints we look at in detail, prioritising where it is in the public interest to investigate. While providing a more sustainable way for us to work, it has meant that changes in uphold rates this year are not solely down to the nature of the cases coming to us. We are less likely to carry out investigations on 'borderline' issues, so we are naturally finding a higher proportion of fault overall.

Our average uphold rate for all investigations has increased this year and you may find that your organisation's uphold rate is higher than previous years. This means that comparing uphold rates with previous years carries a note of caution. Therefore, I recommend comparing this statistic with

that of similar organisations, rather than previous years, to better understand your organisation's performance.

Compliance with recommendations - We recommend ways for organisations to put things right when faults have caused injustice and monitor their compliance with our recommendations. Failure to comply is rare and a compliance rate below 100% is a cause for concern.

Satisfactory remedy provided by the authority - In these cases, the organisation upheld the complaint and we were satisfied with how it offered to put things right. We encourage the early resolution of complaints and credit organisations that accept fault and find appropriate ways to put things right.

Finally, we compare the three key annual statistics for your organisation with similar authorities to provide an average marker of performance. We do this for County Councils, District Councils, Metropolitan Boroughs, Unitary Councils, and London Boroughs.

Your annual data, and a copy of this letter, will be uploaded to our interactive map, [Your council's performance](#), on 26 July 2023. This useful tool places all our data and information about councils in one place. You can find the detail of the decisions we have made about your Council, read the public reports we have issued, and view the service improvements your Council has agreed to make as a result of our investigations, as well as previous annual review letters.

Your organisation's performance

During the year, there were several occasions when our investigations were delayed by your Council's failure to respond in a timely way to our requests for information. More than two fifths of your responses to our enquiries were late. I understand these delays were partly attributable to staff shortages, which can be challenging to manage. I am pleased to see in nearly all cases, extensions were requested before the due date elapsed. I ask that you take action to ensure your Council responds to our enquiries promptly in future.

More specifically, my investigators became aware of a long-running Children's Services complaint your Council had been investigating. The complaint began in December 2017, and despite repeated requests and promises from your Council that it would be progressed to the next stage of the local resolution process, a learning review took place instead. This ultimately did not resolve the complaint and the complaint came to my office for consideration. Our investigation did not find systemic failings, but we noted the poor practice. I am pleased to see the Council's willingness to accept its actions were wrong and practice had since changed.

Supporting complaint and service improvement

I know that complaints offer organisations a rich source of intelligence and insight that has the potential to be transformational. These insights can indicate a problem with a specific area of service delivery or, more broadly, provide a perspective on an organisation's culture and ability to learn. To realise the potential complaints have to support service improvements, organisations need to have the fundamentals of complaint handling in place. To support you to do so, we have continued our work with the Housing Ombudsman Service to develop a joint complaint handling code that will provide a standard for organisations to work to. We will consult on the code and its implications prior to launch and will be in touch with further details.

In addition, our successful training programme includes practical interactive workshops that help participants develop their complaint handling skills. We can also offer tailored support and bespoke training to target specific issues your organisation might have identified. We delivered 105 online workshops during the year, reaching more than 1350 people. To find out more visit www.lgo.org.uk/training or get in touch at training@lgo.org.uk.

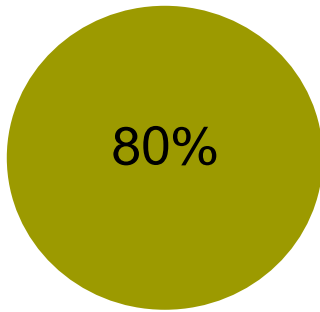
We were pleased to deliver two online complaint handling courses to your staff during the year. I welcome your Council's investment in good complaint handling training and trust the courses were useful to you.

Yours sincerely,



Paul Najsarek
Interim Local Government and Social Care Ombudsman
Interim Chair, Commission for Local Administration in England

Complaints upheld



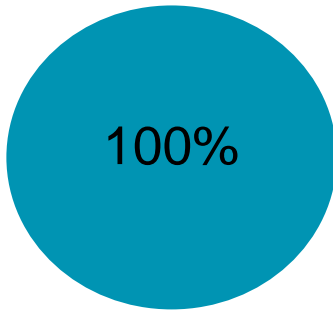
80% of complaints we investigated were upheld.

This compares to an average of **80%** in similar organisations.

20
upheld decisions

Statistics are based on a total of **25** investigations for the period between 1 April 2022 to 31 March 2023

Compliance with Ombudsman recommendations



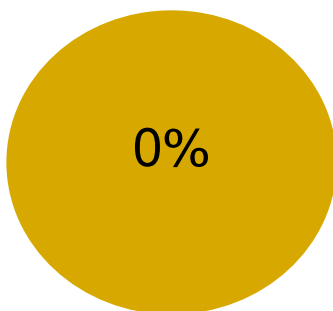
In **100%** of cases we were satisfied the organisation had successfully implemented our recommendations.

This compares to an average of **100%** in similar organisations.

Statistics are based on a total of **18** compliance outcomes for the period between 1 April 2022 to 31 March 2023

- Failure to comply with our recommendations is rare. An organisation with a compliance rate below 100% should scrutinise those complaints where it failed to comply and identify any learning.

Satisfactory remedy provided by the organisation



In **0%** of upheld cases we found the organisation had provided a satisfactory remedy before the complaint reached the Ombudsman.

This compares to an average of **6%** in similar organisations.

0
satisfactory remedy decisions

Statistics are based on a total of **20** upheld decisions for the period between 1 April 2022 to 31 March 2023

| Complaint Reference | Details of complaint | Findings and Remedy |
|--|--|---|
| <p>21/003/755</p> <p>Children's Services</p> | <p>The complainant, Mr X, complained about the actions of the Council's Children's Services Department regarding his son's Education, Health and Care plan. Mr X complained:</p> <ul style="list-style-type: none"> • The Council did not obtain parental consent to carry out an occupational therapist's assessment in October 2020; • An officer who responded to Mr X's complaint was the same officer involved in the actions complained about. As a result, Mr X complained the Council failed to address a conflict of interest; • The Council incurred delays in its complaint handling; • The Council restricted Mr X's contact with it due to what it considered to be excessive demands, and • The Council failed to refund the cost of an Educational Psychologist's report commissioned privately in 2016. <p>Mr X said that the Council's actions had caused financial hardship to him and avoidable distress to himself and his son. Mr X also complained:</p> | <p>The Ombudsman found fault.</p> <p>The Council agreed to carry out the following actions:</p> <ul style="list-style-type: none"> • Provide an apology to Mr X; • Make a payment of £300 for the time and trouble taken to pursue the complaint; • Make a further payment of £200 in recognition of the distress caused by the fault identified; • Reimburse Mr X the cost of the 2016 educational psychologist's assessment, and • Remind its staff to adhere to the Council's complaints policy regarding timescales. |

| | | |
|---|--|--|
| | <ul style="list-style-type: none"> • The Council failed to carry out occupational therapy assessments, speech, language and communication needs assessments and social care assessments; • The Council carried out an assessment which contained misleading information; • The Council included provision for speech and language needs in an incorrect section of the Education, Health and Care plan; • The Council failed to provide a response to a subject access request within the expected timeframe; • The Council’s assessment contained inaccurate diagnostic information and selective diagnoses, and • The Council’s actions did not align with outcome of a decision regarding a previous complaint in 2016. | |
| <p>22 /003 /283 Children’s Services</p> | <p>The complainant, Mr X complained that the Council failed to ensure the provision of mental health support that was specified in his son, Y’s, Education Health and Care Plan (EHCP). Mr X said that Y has been disadvantaged as a result.</p> | <p>The Ombudsman upheld the complaint The Council agreed to:</p> <p>a) Award Mr X a symbolic payment of £500. This was in recognition of the missed opportunity and impact that an absence of mental health provision had on Y. This was a figure of £100 per month apportioned to exclude school holidays.</p> <p>b) Award Mr X an additional amount of £150 in recognition of the distress and additional pressures Mr X and his family experienced.</p> |

| | | |
|--------------------------------------|--|--|
| | | c) Share the outcome of its review with the Ombudsman that it had undertaken regarding its working protocols between education, health, and social care in order that the Ombudsman could see that the Council had considered how its working processes could be improved to ensure better sharing of information between services. |
| 21/007/902 Children's Services | The complainant, Miss X, complained that the Council failed to secure provision in her son's education, health and care plan during the period March 2020 to March 2021. She said this affected her son's well-being and academic progress. She said he, (Y), was socially isolated and became anxious about school. | The Ombudsman found fault. The Council agreed to: <ul style="list-style-type: none"> • apologise to Miss X and Y for the uncertainty caused by the faults identified. • pay £500 to recognise the impact of this uncertainty on Y. • remind staff to keep written records of telephone calls and discussions about individual cases. |
| 22/002/917 Children's Services | The complainant, Miss B, complained that the Council was at fault in failing to obtain an occupational therapy assessment during the education care and health needs assessment for her son. | The Ombudsman found fault causing injustice. The Council agreed to reimburse Miss B £550 for the cost she incurred in obtaining the occupational therapy assessment. |
| 21/018/475 | The complainant, Mrs X complained about the Council's decision to not provide her child, Y, with | The Ombudsman upheld the complaint. He found fault causing injustice. |

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| <p>Children's Services</p> | <p>school transport assistance. Mrs X said Y had a physical disability which meant they needed to use a wheelchair. Mrs X said as a result, the Council expected her to take Y to school by pushing Y in their wheelchair. Mrs X said this had affected Y's mental health as Y could not independently go to school. It had also caused distress to Mrs X and the family. Mrs X wanted the Council to reconsider its decision.</p> | <p>The Council agreed to arrange transport assistance for Y, to and from their school, School B, as an 'eligible child'. The Council has also agreed to:</p> <ul style="list-style-type: none"> a. apologise to Mrs X for the time and trouble she has gone through by unnecessarily appealing and complaining about the Council's decision. b. apologise to Mrs X, Y and their family for the distress and frustration the matter caused them. c. make a symbolic payment to Mrs X for the time and trouble and distress the matter had caused her. This payment was £10 a day for each school day Y attended school but was not given transport assistance from the date Mrs X applied for it in December 2021. <p>The Council agreed to review its 'home to school transport policy' to comply with statutory guidance. The report was submitted to Cabinet on 18 May 2023 approving amendments to the council's home to school transport policy for children of compulsory school age to ensure compliance with statutory responsibilities.</p> |
| <p>22/004/335 Children's Services</p> | <p>The complainant, Mrs D, complained on behalf of her son (Young Person X). Her complaint concerned an unsuccessful school transport appeal to the Council which would have entitled Young Person X to free home to school transport. Specifically, Mrs D alleged the following:</p> <ul style="list-style-type: none"> a) The Council's appeal panel failed to consider and take proper account of national guidance in relation to home to school transport, particularly with respect to reasonable walking time and safety. | <p>The Ombudsman found fault and injustice. The Council agreed to provide Mrs D with a written apology acknowledging the delay in hearing her Stage 2 appeal and agreed to pay Mrs D £150 to acknowledge the uncertainty and anxiety she suffered by reason of the delay.</p> <p>The Council also agreed to undertake a formal review of Mrs D's case to identify why the delay occurred and to adopt measures to prevent similar occurrences in the</p> |

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| | <p>b) The Council's appeals panel did not consider any of the points raised during the hearing beyond the 'statutory walking distance'. Mrs D felt this undermined the entire process, particularly with respect to her safety concerns.</p> <p>c) The Council failed to adhere to its own policy timeframes for reaching a decision in this case as it took 28 months to provide a decision.</p> <p>d) The appeal process lacked transparency and integrity as she was not afforded a face-to-face hearing despite requesting one.</p> <p>e) The appeal panel members were not independent as they were employees of the Council's Children's Services team who had prior knowledge of the case.</p> <p>f) The minute taker of the appeal hearing was a Council employed Solicitor. Mrs D felt this was unfair as she was not afforded the same level of representation.</p> | <p>future. The review would also look at whether it was suitable for the Council to be accepting school transport review requests by telephone when its policy outlined this must be by written means. The review outcome would be shared with Council officers involved in school transport decision making to inform any necessary training and guidance.</p> |
| <p>22 002 559 Children's Services</p> | <p>The complainant, Mrs X complained the Council delayed carrying out an annual review of her son Mr Y's Education, Health and Care Plan (EHC plan) and then delayed issuing a final amended plan. This delayed the opportunity to appeal and caused frustration and uncertainty. Mrs X said the Council had also failed to ensure Mr Y received all the provision in the EHC plan in the meantime which impacted on his education and mental health.</p> | <p>The Ombudsman found fault and injustice. The Council agreed to:</p> <ul style="list-style-type: none"> • Apologise to Mrs X and Mr Y for the faults identified • Pay Mr Y £1800 to acknowledge his loss of education provision between April 2021 and December 2021 (£300 a month for six months excluding school holidays) and a further £700 for the failure to provide all the provision set out in his plan for three and a half months between January 2022 and May 2022 (£200 a month excluding school holidays) when it issued the final amended plan. • Pay Mrs X £200 to acknowledge the frustration caused to her by the Council's delays. |

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| | | <ul style="list-style-type: none"> • Provided Mrs X provides evidence, to refund her any expenditure Mrs X had made for SALT, OT or tuition provision since August 2021 up until when it agreed a personal budget. • Carry out the annual review of Mr Y’s EHC Plan if it had not done so already. <p>The review should address the personal budget for SALT and OT going forward and how company A intended to meet the provision set out in Mr Y’s EHC Plan going forward.</p> |
| 22/009/330 Children’s Services | The complainant, Mrs X, said the Council did not follow the relevant time limits in finalising her son’s (Y) Education, Health and Care plan (EHCP) after it carried out an annual review in 2021 which caused her avoidable distress because she was unsure about the provision that her son would get in the following academic year. The delays also prevented Mrs X in getting her appeal prepared in good time. | The Ombudsman found fault due to delay. The Council agreed to make a payment of £100 to Mrs X to recognise the avoidable distress she experienced in the delays to Y’s EHCP. |
| 22/000/077 | The complainants, Mr and Mrs B complained the Council failed to ensure an adequate investigation into a complaint made in December 2017 which concerned events before and after their adopted son entered foster care. | The Ombudsman found fault causing injustice. The Council agreed to: a) provide Mr and Mrs B with an apology accepting the findings of the Ombudsman’s investigation; b) pay Mr and Mrs B £500 in recognition of their time and trouble and £250 in recognition of their distress; |

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| <p>Children's Services</p> | <p>Mr and Mrs B said as a result both they, and their son, had unanswered questions arising from the events complained about. Those events caused distress for them all. They considered that events may have turned out differently had their complaint been handled better.</p> | <p>c) appoint, an Investigating Officer and Independent Person to investigate Mr and Mrs B's complaint at stage two of the statutory complaint procedure.</p> <p>The Council also agreed that it would review existing liaison arrangements between its complaint service and legal services where it sought legal advice on whether to investigate a complaint (something which was appropriate in some cases) and would ensure it had procedures in place that meant it did not lose track of the complaint and ensured that it kept in touch and replied to the complainant accordingly.</p> |
| <p>22/012/869 Children's Services</p> | <p>The complainant, Mr X, complained firstly that the Council's social workers involvement with his family led to a reduction in his contact with his daughter. He said social workers advised the mother to stop his contact. Mr X said social workers failed to understand his mental health and misled a judge about his situation in 2020 and 2022. Mr X said the Council made things worse, prevented him getting help, and harmed his physical and mental health. Mr X said the Council should help with contact handovers between him and daughter's mother. Mr X wanted his daughter to stay overnight with him again. Mr X said he needed help at home and a carer to bring this about.</p> <p>Mr X also complained that the Council had failed to handle his complaint properly. He said the stage 2 investigation report contained contradictory information. He said the Council had not fully acknowledged or understood what went wrong. He</p> | <p>The Ombudsman upheld the complaint in respect of the handling of Mr X's complaint. The Council agreed to remedy Mr X's injustice by paying him £600 for the complaint handling.</p> <p>The Ombudsman could not lawfully investigate the contact complaint because it was a matter which is had been dealt with by the court.</p> |

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| | said the offered remedy of £300 compensation was not enough for the delay and damage caused. | |
| 22 006 951 Children's Services | The complainant, Mrs X, complained that the Council did not provide the speech and language therapy (SALT) support and physiotherapy support as set out in her daughter, Y's Education, Health and Care Plan since it was issued in December 2021. Mrs X said this was detrimental to Y's ability to maintain the skills needed to function independently. | <p>The Ombudsman upheld the complaint, finding fault and injustice. The Council agreed to write to Mrs X and apologise for the uncertainty caused to her and the injustice caused to Y by the delay in securing the specified SALT and physiotherapy provision; and agreed to:</p> <ul style="list-style-type: none"> • pay Mrs X a symbolic £450 to recognise the injustice caused to Y to be used for Y's educational benefit as Mrs X saw fit; and • pay Mrs X £200 to recognise the uncertainty caused to her and the time and trouble she had been put to in pursuing the correct provision for Y. <p>The Council also agreed to:</p> <ul style="list-style-type: none"> • ensure it had a robust system in place to ensure provision specified in EHC plans was in place where a new or substantially different EHC plan is issued; and • review how it commissions private SALT services and implement any changes it identified as necessary to ensure SALT can be commissioned without significant delay. |
| 21/012/109 Adult Care | The complainant, Mrs B, complained about the care and support provided to her late mother, Mrs C, when she was a resident in a Derbyshire County Council care home. The complainant said the Council and Derbyshire Community Health Services NHS Foundation Trust failed to ensure her mother was provided with adequate social and clinical | <p>The Ombudsman found fault by both the Council and the Trust and recommended the following actions which the Council /Trust respectively agreed:</p> <ul style="list-style-type: none"> • the Council agreed to apologise in writing to Mrs B and her siblings for the worry and avoidable distress caused by its failure to review her mother's care needs when she |

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| | <p>care during the final months of her life. She said the care home failed to acknowledge her mother’s clinical diagnosis and prevented Mrs C’s family from visiting her as agreed. Mrs B also complained about errors with medication, poor advice about gifting from Mrs C’s funds, insufficient staffing in the home and a failure to manage her mother’s risk of falls.</p> <p>Mrs B also said the alleged faults caused her avoidable stress, anxiety and increased frustration due to a lack of transparency by the Council and the Trust.</p> | <p>was at the end of her life. It would also apologise for the poor care it acknowledged she received at times.</p> <ul style="list-style-type: none"> • the Council agreed to reimburse £2,350 to Mrs C’s estate which she paid for care fees in recognition of the fact that the care she paid for fell below expected standards at times. The Council agreed to make the payment to Mrs B who would deal with it accordingly. • the Trust agreed to apologise in writing to Mrs B and her siblings for the uncertainty and worry they experienced caused by its failure to properly consider Mrs C’s condition and prognosis when it considered her presentation and decided she did not meet the criteria for fast track healthcare funding. It also agreed to apologise for the uncertainty they experienced because of its failure to communicate with their mother’s GP practice after it acted on the referral made. • the Council and the Trust agreed to pay Mrs B £500 to acknowledge the impact the faults had on her and her siblings at a time when their mother was at the end of her life. • the Trust agreed to liaise with Mrs B and the relevant ICB (formerly CCG) and arrange for the ICB to consider a retrospective assessment of Mrs C’s entitlement to continuing healthcare funding from the date in November 2020 when it received the urgent referral from her medical practice. • the Trust agreed to remind its officers of the importance of fully considering information in referrals for healthcare |
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| | | <p>funding assessments and importance of communicating with other clinicians or professionals who had made the referral. The Trust also agreed to consider whether any training was necessary for its staff particularly around consideration of healthcare funding in end of life cases.</p> <ul style="list-style-type: none"> • the Council and the Trust agreed to remind their officers of the importance of care plan reviews and working together to coordinate end of life care plans in an individual personalised way. |
| 21 001 885 Adult Care | <p>The complainant, Mrs C, complained on behalf of her daughter, Ms D that there had been an unreasonable delay by the Council in finding her daughter suitable accommodation since she moved into care accommodation. The Council recognised her placement was unsuitable and it was only ever intended as temporary. This resulted in distress to her and her daughter. While at this placement, the Council failed to ensure that her daughter followed a healthy diet. As a result, she increased from a size 12 to a size 24.</p> | <p>The Ombudsman found fault.</p> <p>The Council agreed to apologise to Mrs C and her daughter and to pay Mrs C £600 for the distress she experienced and pay £1,800 to her daughter.</p> <p>The Council also agreed to:</p> <ul style="list-style-type: none"> • Arrange for a dietician who could work with Ms D. • Carry out the required mental capacity assessment. • Discuss with Ms D if she would like to have Slimming World Meals again from the supermarket, and cook slimming world recipes, and facilitate this. • Review Ms D's activity planner, including considering the possibility of different short walk routes that did not go past any shops where she could buy snacks, and a structured weekly exercise routine. |
| 21/011/359 | <p>The complainant, Mr X, complained on behalf of his late father, Mr Y. He complained that the Council:</p> | <p>The Ombudsman found fault with the service of the care provider, and noted that when a council commissions</p> |

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| <p>Adult Care</p> | <ul style="list-style-type: none"> • Did not properly assess Mr Y’s needs and placed him in an unsuitable care home which could not meet his needs. • Did not respond adequately to the concerns he raised until the rapid response team became involved. <p>Mr X says Mr Y was found by the dementia rapid response team in a distressed and neglected state. He also said Vitalbalance Limited (the Care Provider), who ran the care home, could not cope with Mr Y’s behaviour and had not met his needs for some time. Mr X said Mr Y’s care was “shambolic” and he did not accept that COVID-19 was an excuse for neglecting those safeguarding issues.</p> <p>He said the Council should not have placed someone in a care home which was rated ‘inadequate’. He would like to make sure this did not happen to anyone else and would like the Council to refund Mr Y’s care fees to his estate.</p> | <p>another organisation to provide services on its behalf it remains responsible for those services and for the actions of the organisation providing them. The Council agreed to:</p> <ul style="list-style-type: none"> • Apologise to Mr X, setting out the faults and injustice identified above and the actions the Council had taken, or will take, to avoid similar problems in future. • Waive 50% of Mr Y’s care fees from the date concerns were raised in early November 2020. • Review the safeguarding activity and ensure relevant staff are clear about the Council’s responsibility where other organisations complete the s42 enquiry. • Review the commissioning of care home placements for people with complex needs such as Mr Y and ensure the Council has a robust plan to avoid such long delays in future. |
| <p>22/007/187</p> | <p>Miss X complained on behalf of Mr Y that the Council completed an assessment without Mr Y being involved in the process. Mr Y also complained that the Council cancelled his support without discussing it with him. Mr Y said he was not supported by the service, and this had affected his mental health.</p> | <p>The Ombudsman found fault. The Council agreed to:</p> <ul style="list-style-type: none"> • Remind staff of the importance of keeping accurate and complete records. |

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| <p>Adult Care</p> | | |
| <p>22/007/057</p> <p>Adult Care</p> | <p>The complainant, Mrs X complained about the Council’s handling of her concerns about the quality of care her late mother (Mrs C) received in a care home. Mrs X said she had no confidence in the Council’s safeguarding enquiries into the care home’s actions or that it had implemented any meaningful improvements to the care home’s practices. Mrs X was also very unhappy with how long the Council took to respond to her complaints and the quality of its responses.</p> <p>Mrs X says the Council actions had caused her and her family additional distress at an already difficult time of bereavement.</p> | <p>The Ombudsman upheld the complaint. The Council agreed to:</p> <ul style="list-style-type: none"> • apologise to Mrs X and to pay £500 for her time and trouble in making her complaint and the uncertainty and distress caused by the faults; • provide evidence that the provider had reviewed its policies for housekeeping and inventories for when people move into the care home; • provide evidence that staff at the care home have been reminded of its privacy and dignity policy; • provide evidence the provider has discussed with nurses and nursing assistants the falls protocol; • provide evidence that nurses are aware of the residents that are prescribed blood thinners and the appropriate actions to take in the event of injury; and • provide evidence that relevant staff at the care home have been reminded of the importance of obtaining statements from all witnesses in a timely manner. <p>The Council also agreed to ensure that the care home reviewed it falls policy and accident reporting procedure and consider whether it should include specific guidance about what action to take if a resident who is taking blood thinning medication falls.</p> <p>Further that the Council would, through contract Monitoring, ensure that the care home was:</p> |

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| | | <ul style="list-style-type: none"> • correctly applying its fall prevention policy and procedure; • accurately completing incident reports and body maps; • maintaining robust records that clearly document decisions about seeking medical attention following a fall; • communicating with family members where there are significant changes in a residents needs or circumstances; and • adhering to its privacy and dignity policy and ensuring residents are dressed in their own clothes and that personalisation and dignity are upheld. |
| <p>21/012/109</p> <p>Place</p> | <p>The complainant, Mr X, complained as part of his role in an association which represented the interests of the local community. Mr X said the Council carried out a flawed consultation about a proposed scheme to extend a cycling and walking route. He said the Council failed to consult with a number of residents, many of whom are opposed to the scheme.</p> <p>Mr X further complained that he did not believe the funding for the scheme was enough and therefore it would fall on taxpayers to make up the cost. Mr X believed the Council's failure to properly estimate the cost is an example of maladministration.</p> <p>Mr X also said that the Council approved the scheme based on flawed statistics and it had failed to consider the views of the residents most affected by the scheme.</p> | <p>The Ombudsman found fault in the way the Council dealt with Mr X's complaint.</p> <p>The Council agreed to write to Mr X and apologise for the poor handling of his complaint and make a payment of £100 to Mr X's association to acknowledge the frustration this caused.</p> |

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| <p>21/011/406</p> <p>Place</p> | <p>The complainant, Mr X, complained that the Council failed to adequately consult him about a proposed scheme to extend a cycling and walking route near his home. Mr X said he only found out about the scheme the day before the committee were due to consider the proposal which meant he lost the opportunity to put forward his views and concerns.</p> <p>Mr X said the Council approved the scheme based on flawed statistics and had failed to consider the views of the residents most affected by the scheme.</p> | <p>The Ombudsman found fault, but found that fault did not cause Mr X a significant injustice.</p> |
| <p>21/014/987</p> <p>Place</p> | <p>The complainant, Mr X, complained that the Council failed to properly consult with residents about a proposed scheme to extend a walking and cycling route in his area. Mr X said the flawed consultation meant residents including himself who will be most affected by the scheme, were unfairly disadvantaged and therefore the decision to approve the scheme was based on inaccurate consultation results.</p> | <p>The Ombudsman found fault, but found that fault did not cause Mr X a significant injustice.</p> |
| <p>21/016/469</p> <p>Place</p> | <p>The complainant, Mr X, complained about the Council's decision to approve a proposed scheme to extend a walking and cycling route in his area. Mr X said the Council failed to adequately consult with him. Mr X was also unhappy about a proposed road closure as part of the scheme which he said will cause him inconvenience.</p> | <p>The Ombudsman found fault, but found that fault did not cause Mr X a significant injustice.</p> |

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DERBYSHIRE COUNTY COUNCIL

GOVERNANCE, ETHICS AND STANDARDS COMMITTEE

26 October 2023

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

Register of Gifts and Hospitality 1 April 2022 – 31 March 2023

1. Purpose

- 1.1 To inform CMT of gifts and hospitality offered during 2022- 2023 (1 April 2022 - 31 March 2023).

2. Information and Analysis

- 2.1 It is important that the Council has a robust policy and procedures in place to ensure compliance with the following statutory obligations which employees are subject to:
- a) Section 117(2) of the Local Government Act 1972 provides that an officer of a local authority shall not, under the colour of his or her office of employment, accept any fee or reward whatsoever other than his or her proper remuneration. The expression 'any fee or reward' includes such things as unauthorised commissions, gifts or presents. Any person who contravenes this commits a criminal offence.
 - b) The Bribery Act 2010 makes it an offence to seek, accept or agree to accept a financial or other advantage as an inducement or reward to perform a function improperly. In simple terms, it is a criminal offence for employees to seek or accept a financial or other advantage in return for asking a decision, granting an award or performing any other public function, regardless of what decision is made. The maximum sentence for a bribery offence is 10 years imprisonment. The Bribery Act 2010 also makes it an offence for the Council to offer or pay bribes and both the individual and the organisation may be prosecuted.

Employees

- 2.2 The Financial Regulations and Code of Conduct for employees require all offers of Gifts and Hospitality, whether accepted or refused, to be reported to a Line Manager and/or Executive Director (Relevant extracts are included in Appendix 2). In addition the Code of Conduct for Adult Social Care Employees who have a direct working relationship with clients includes specific provisions relating to legacies in wills. This separate Code of Conduct applies during 2022-2023, but has now been incorporated into the new revised Code of Conduct for Employees which was recently approved by Council.
- 2.3 Each Department has an officer responsible for maintaining the departmental gifts and hospitality register. Historically the registers were held in paper form within departments which did not support consistency and corporate oversight. An online reporting solution in the form of a Microsoft Teams form was therefore introduced in October 2021 in order to ensure consistency and accurate recording of all relevant information. Initially this was launched across Corporate Services and Transformation and rolled out to other departments. Regular reminders are now sent to employees to ensure that they register offers of gifts and hospitality, whether accepted or not. Reports can now easily be generated from the new online system and quarterly reports are provided to enable reporting and monitoring by Departmental Management Teams.
- 2.4 During 2022-2023, across the Council, 254 offers of gifts and hospitality were reported totalling an estimated value of £4,378. There were 196 offers of gifts (191 accepted and 5 refused) and 58 offers of hospitality (47 accepted and 11 refused).
- a) Across Adult Social Care and Health, 111 offers of gifts or hospitality were reported totalling an estimated value of £1647. There were 96 offers of gifts (95 accepted and 1 refused) and 15 offers of hospitality (15 accepted and 0 refused). The majority of the gifts are boxes of chocolates, biscuit and alcohol and the majority of the offers were from members of the public.
 - b) Across Children's Services, 14 offers of gifts or hospitality were reported totalling an estimated value of £198. All 14 were gifts and all were accepted. The majority of the gifts were chocolates, flowers and candles and the majority of the offers were from members of the public.

- c) Across CST, 32 offers of gifts or hospitality were reported totalling an estimated value of £717. There were 9 offers of gifts (7 accepted and 2 refused) and 23 offers of hospitality (17 accepted and 6 refused). The gifts consisted of stationery, flowers, chocolates and a candle offered by both members of the public and organisations. The hospitality was offered by organisations at networking events, working lunches and conferences.
- d) Across Place, 94 offers of gifts or hospitality were made totalling an estimated value of £1737. There were 77 offers of gifts (75 accepted and 2 refused) and 17 offers of hospitality (13 accepted and 4 refused). The majority of gifts were boxes of chocolates, biscuits and bottles of alcohol offered by both members of the public and organisations. The hospitality was offered by organisations during meetings, training and events.
- e) The Managing Director reported 3 offers all of which were hospitality totalling an estimated value of £80. Two offers of hospitality were accepted and 1 refused. The 3 offers were all from Deloitte but do not raise any specific cause for concern.

2.5 The following areas have been identified and, where required, steps have been taken during the year to address the issues arising:

- i. There are a number of officers who have reported more than one offer which is positive and in general does not create cause for concern. This demonstrates an understanding that any offer should be reported, whether accepted or not.
- ii. There are multiple offers of hospitality from Newton Europe, Granicus, 39 Essex Chambers, Deloitte, Browne Jacobson, Derby University, Premier Surfacing and Aggregate Industries however these do not give cause for concern.
- iii. A number of entries relate to a number of different gifts from different individuals. To ensure there is openness and transparency, these should have been reported separately.
- iv. There are a several entries from care home employees, demonstrating that there is an understanding of the requirements of the code of conduct and Financial Regulations.
- v. Fourteen entries on the face of it appear to be a low number for Children's Services. Whilst regular reminders are provided, consideration is being given as to whether further activity needs to

take please to ensure officers are not accepting gifts and hospitality without reporting them in accordance with the Code of Conduct.

- vi. There are three offers of Gift Cards. The Code of Conduct makes it clear that “In no circumstances should you accept a monetary gift (including gift vouchers).” One voucher was correctly refused, however one employee accepted two separate gift vouchers (£5 and £10) given to them on their birthday. This is in contravention of the Code.
- vii. £20 cash was given to be used to purchase sweets and cakes for staff as a thank you. The Code is clear that money should not be accepted under any circumstances and therefore this offer should have been politely declined.
- viii. Tickets to festivals and concert were incorrectly accepted as a gift of token value. Tickets to events should be treated as hospitality and can only be accepted if there is a genuine need to impart information or to represent the Council.
- ix. Three entries incorrectly declare offers of Hand soap & Candle, Box of Quality street and Chocolates Mince Pies Crackers and Scotch Eggs as hospitality, whereas they should have been reported as gifts.
- x. There were a number of instances where the form had not been completed correctly. For example, there were occasions where the officer who submitted the form has inserted ‘Unknown’ or ‘N/A.’ This occurred even after the form had been amended to make it clear what information should be inserted. If the form is not completed correctly there is insufficient information to ascertain whether the offer presents a concern. In addition, fifteen of the Library Service entries were allocated to Performance & Engagement with another being recorded as Managing Director.

Elected Members

2.6 The Council’s Code of Conduct for Elected Members includes the following obligation:

“As a councillor:

- 10.1 I do not accept gifts or hospitality, irrespective of estimated value, which could give rise to real or substantive personal gain or a reasonable suspicion of influence on my part to show favour from persons seeking to acquire, develop or do business with the local

authority or from persons who may apply to the local authority for any permission, licence or other significant advantage.

10.2 I register with the Monitoring Officer any gift or hospitality with an estimated value of at least £50 within 28 days of its receipt.

10.3 I register with the Monitoring Officer any significant gift or hospitality that I have been offered but have refused to accept.”

2.7 The Monitoring Officer sends an email to all Elected Members on a quarterly basis reminding them of the need to declare any changes to their interests and offers of gifts and hospitality. All gifts and hospitality reported is included in the Register of Members’ Interests published on the Council’s website through mod.gov.

2.8 During 2022-23 a total of 4 offers of hospitality were reported totalling an estimated value of £320, which were all accepted. The offers related to the “Official opening of Long Eaton Rugby Club’s Clubhouse” and tickets to sporting events. There are no specific issues of concern identified.

3. Consultation

3.1 No consultation is required.

4. Alternative Options Considered

4.1 Not to report information relating to offers of gifts and hospitality to the Governance, Ethics and Standards Committee; however the role and function of the Committee includes the receipt of reports from the Monitoring Officer on the operation of the system of declarations from time to time.

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 – Relevant extracts from the Financial Regulations and Employee Code of Conduct

8. Recommendation

That Committee notes the Annual Gifts & Hospitality register for 2022-2023.

9. Reasons for Recommendation

9.1 To ensure that the Committee is aware of the operation and effectiveness of the system of declaration of offers of gifts and hospitality.

Report Author: Helen Barrington

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

Implications

Financial

1.1 None directly arising.

Legal

2.1 The role and function of the Governance, Ethics and Standards Committee includes “To be responsible for written advice and guidance on the operation of gifts and hospitality for both Elected Members and Officers and to receive reports from the Monitoring Officer on the operation of the system of declarations from time to time”.

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.

Financial Regulations

GIFTS

d.6 You may accept 'token' gifts from customers, contractors or service users up to the value of £50. Acceptable examples are calendars, diaries, pens or chocolates. All gifts should be reported to your manager.

You must not accept gifts worth more than £50 and you must report such offers to your Executive Director.

You must refuse any offer of a gift where you suspect that an improper motive may exist – i.e. the giver is seeking to influence your decisions or actions and you must report such offers to your Executive Director. This is the case regardless of the monetary value of the offer.

In no circumstances should you accept a monetary gift (including gift vouchers) and again, you must report such offers to your Strategic Director.

Hospitality

d.7 You should only accept hospitality (meals/refreshments) if there is a genuine need to impart information or to represent the Council. You should also ensure that accepting the hospitality does not create a conflict of interest and is not likely to cause embarrassment to the Council.

You should report the offer of hospitality, whether accepted or not, to your line manager, and should ensure that all such offers are recorded in the appropriate hospitality register.

Responsibilities of Executive Directors

d.8 To maintain an appropriate register detailing secondary employment for staff within the Department and ensure that this register is subject to periodic review.

d.9 To maintain an appropriate register of gifts and hospitality including details of any offers which have been declined and ensure that this register is subject to periodic review.

Code of Conduct for Officers

“13 Corruption

13.1 You must be aware that it is a serious criminal offence for you to corruptly receive or give any gift, loan, fee, reward or advantage for doing or not doing anything or showing favour or disfavour to any person in your official capacity.

14 Hospitality and Gifts

14.1 You should only accept hospitality if there is a genuine need to impart information or to represent the Council. You should also ensure that accepting the hospitality does not create a conflict of interest and is not likely to cause embarrassment to the Council.

14.2 You should report the offer of hospitality, whether accepted or not, to your line manager.

14.3 Gifts should only be accepted if they are of nominal value (under £50) and reported to your line manager.

14.4 If gifts of more than nominal value (£50 and over) are offered or you suspect that an improper motive exists, you should always decline the offer and report it to your Executive Director. This includes any preferential rates offered for goods and services. Officers should report the offer to your Executive Director.”

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FOR PUBLICATION

DERBYSHIRE COUNTY COUNCIL

GOVERNANCE, ETHICS AND STANDARDS COMMITTEE

THURSDAY, 26 OCTOBER 2023

Report of the Director - Legal and Democratic Services

**Complaints received against Councillors pursuant to the Code of
Conduct for Elected Members for the period 1st March to 6th October
2023**

1. Purpose

- 1.1 To inform the Committee of Code of Conduct complaints against Councillors received during the period of 1st March to 6th October 2023.

2. Information and Analysis

- 2.1 By virtue of the Council's approved procedure for considering complaints that members have breached the Code of Conduct, the Monitoring Officer will carry out an initial assessment of complaints received. The Monitoring Officer will review the complaint together with any representations received from the Subject Member and, after consultation with the Independent Person, take a decision as to whether the complaint merits formal investigation or whether it should be dealt with informally or rejected.
- 2.2 In accordance with the procedure and in order to support the Monitoring Officer with the management of complaints, the Governance, Ethics and Standards Committee is kept informed of initial assessment decisions. This report is presented to the Committee on a bi-annual basis. The last report was presented to the Committee on 16th March for the period 1st October 2022 to 28 February 2023.

2.3 During the period from 1st March 2023 to 6th October 2023, 2 complaints have been received. One of those complaints remains in progress at the time of preparation of this report. Details of these complaints are provided on the table attached at Appendix 2.

2.4 Two complaints were still in progress at the time of the preparation of the previous report and these have now been determined by the Monitoring Officer. Details of these complaints are also provided on the table attached at Appendix 2.

3. Consultation

3.1 None required.

4. Alternative Options Considered

4.1 Not to report to Committee information relating to complaints that Elected Members have breached the Code of Conduct received by the Monitoring Officer.

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 – Table detailing complaints received since 1st March 2023.

8. Recommendation(s)

That Committee:

Notes the complaints received by the Monitoring Officer between 1 March 2023 and 6 October 2023 alleging that Member have breached the Code of Conduct.

9. Reasons for Recommendation(s)

- 9.1 To comply with the procedure for considering complaints that members have breached the code of conduct.
- 9.2 To support the Monitoring Officer dealing with complaints against Elected Members.
- 9.3 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.

Legal

- 2.1 Section 27 of the Localism Act 2011 requires authorities to promote and maintain high standards of conduct by Members and co-opted Members and that in discharging that duty, must adopt a code dealing with the conduct that is expected of members and co-opted members of the authority when they are acting in that capacity, the current Code of Conduct was adopted by the Council with effect from 1 April 2022. Under s 28(6), the Council must also have in place arrangements under which allegations can be investigated and decisions on allegations can be made. The current procedure was approved by Governance, Ethics and Standards Committee on 18 January 2022.
- 2.2 In accordance with its terms of reference, the Governance, Ethics and Standards Committee supports the Monitoring Officer in taking any action required on the receipt, management and investigation of any code of Conduct Complaint against an Elected Member. The Terms of Reference also require the Committee to promote a culture of openness, ready accountability and probity in order to ensure the highest standards of conduct of Councillors.

Human Resources

3.1 None.

Information Technology

4.1 None.

Equalities Impact

5.1 None.

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 None.

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Code of Conduct Complaints received 1st March 2023 to 6th October 2023

| Complainant | Summary of complaint | Outcome | Date complaint made | Final response sent |
|----------------------|---|---|----------------------------|----------------------------|
| Member of the Public | Lack of respect and failure to give reasons for decision | No further action. Whilst the complaint if proven, discloses a potential breach of the Code, it is not sufficiently serious to warrant investigation. In addition, the complaint is such that it is unlikely that an investigation will be able to come to a firm conclusion on the matter. | 06/02/23 | 30/03/2023 |
| Member of the Public | Failure to follow up constituents' issues and respond to emails | Rejected – as if the complaint were proven it would not meet the threshold for there to potentially be a breach of the Code. | 27/02/2023 | 04/05/2023 |
| Member of the Public | Failure to deal appropriately with complaints from ex-employees | Rejected – Councillor not acting in his capacity as a DCC councillor therefore allegation does not fall within scope of the DCC Code of Conduct. | 14/03/23 | 30/03/2023 |
| Member of the public | Failure to respond to emails or provide support and advice | In progress | 02/10/23 | |

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FOR PUBLICATION

DERBYSHIRE COUNTY COUNCIL

GOVERNANCE, ETHICS AND STANDARDS COMMITTEE

26 OCTOBER 2023

Report of the Director of Organisation Resilience, People and Communications

Customer Feedback: Compliments and Complaints 2022/23

1. Purpose

- 1.1 This report provides an end of year update on complaints and compliments reported to the Council. From 1st April 2022 to 31st March 2023.
- 1.2 Trend analysis for the last seven years is also included, in order to give some historical context to the data presented.

2. Information and Analysis

2.1 Background

The Council is committed to delivering high quality public services and engages in a very substantial number of transactions with the public each year. A robust compliments and complaints policy, with effective supporting procedures, is a way to monitor how well the Council:

- Delivers an equitable service and remedies any injustices.
- Works constructively and sympathetically with its clients to put things right as quickly as possible; and

- Learns how it can do things better

Complaints and compliments data is currently collected through a range of systems within departments. Place currently use Apex and Adult Social Care and Corporate Services & Transformation use Mosaic and local systems. All departmental complaints processes are still planned to be migrated into Granicus in the future. Summary and detailed information from this data has been collected from all departments and is presented below.

This work will be part of the development of a Customer Experience Strategy, which is planned to include a refreshed Customer Charter with mechanisms for gathering feedback and implementing that feedback into an improvement process.

2.2 Council compliments and complaints

Derbyshire County Council has hundreds of thousands of direct contacts with residents every year. As examples, Call Derbyshire receives around 30,000 calls each month and the Highways team receives over 90,000 enquiries annually. The number of compliments and complaints should be viewed in the context of the bigger picture of resident interaction with consideration that they make up a very small proportion of the contacts received. It should be noted that this data is currently produced through localised reporting undertaken by departments.

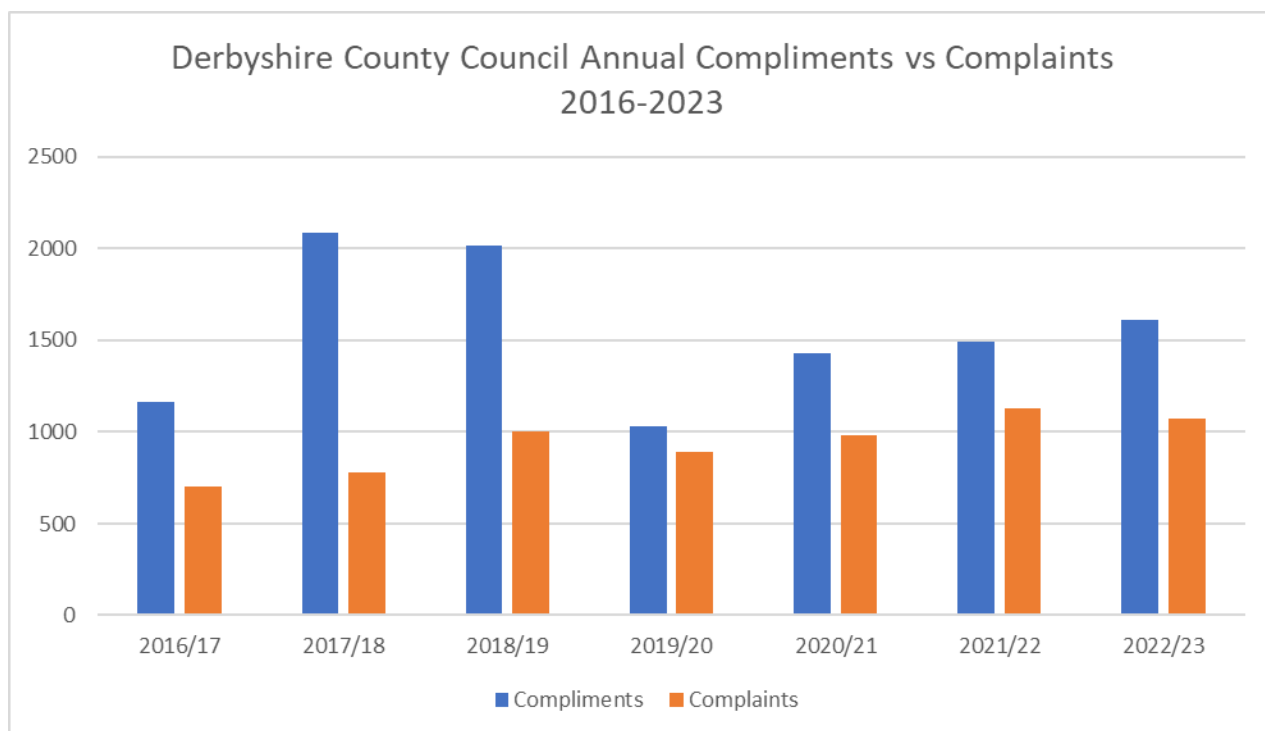
It is the Council's future aspiration that, as part of a wider Customer Experience Strategy and refreshed Customer Charter, the Complaints and Compliments to the Council will be centralised into the Customer Relationship Management (CRM) system, which will allow for the reporting on this subject to develop further and become more efficient to produce.

A standardised CRM approach will allow the council to better understand with a richer depth and quality the issues being raised by residents and to allow this data to be feedback into an improvement process.

There is a gap at present in the Council's ability to analyse the data in an optimal way, and the data from departments below must currently be viewed through that lens with a lack of ability to look at trends and the picture emerging from them.

A standardised CRM approach would also be one of the ways in which the views of the residents can be fed into the improvement loop that will be a focus of the Customer Experience Strategy.

A summary of compliments and complaints recorded over the last seven years is highlighted below.



Compliments

Compliments provide important feedback to individual officers and service areas regarding quality of work, the appreciation of clients and the impact of services on people’s lives.

Compliments data has been collected using the following guidelines:

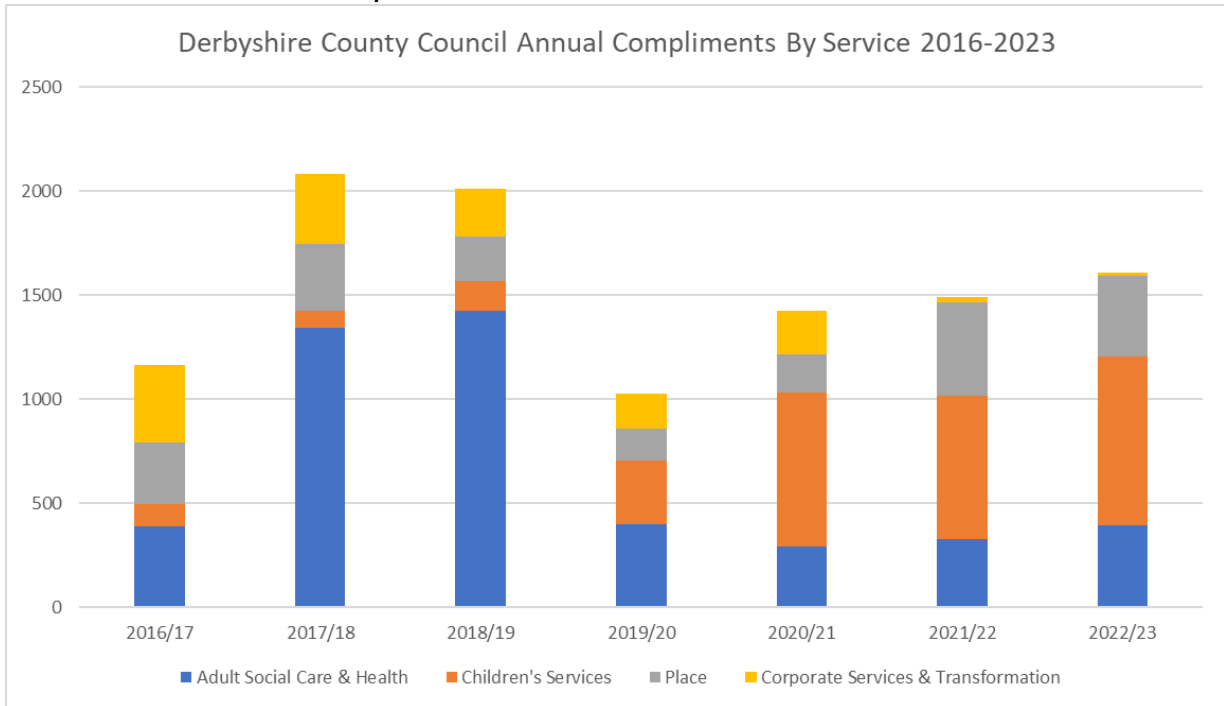
“Any contact outside of the usual courtesies where a member of the public, person who uses our services or partner agency has been in touch with a specific compliment or expressed the difference our work has made to them.”

In 2022/23 the Council recorded 1,558 compliments. This is an increase from 2021/22 where 1,494 compliments were recorded. Since 2016/17, the Council has seen an overall increase in recorded compliments received in Children’s Services. Over the same period, there has been a general decrease in the recording of compliments received by Adult Social Care and Corporate Services & Transformation. Place have seen a slight decrease in compliments this year.

Children’s Services also collect compliments data from partner agencies and other professionals, both internal and external.

| | 2016/17 | 2017/18 | 2018/19 | 2019/20 | 2020/21 | 2021/22 | 2022/23 |
|-------------------------------------|---------|---------|---------|---------|---------|---------|---------|
| Adult Social Care and Health | 390 | 1,345 | 1,427 | 402 | 292 | 330 | 393 |
| Children's Services | 109 | 81 | 140 | 302 | 738 | 687 | 812 |
| Place | 294 | 323 | 218 | 155 | 187 | 447 | 390 |
| Corporate Services & Transformation | 371 | 335 | 229 | 169 | 209 | 30 | 13 |
| Derbyshire County Council | 1,164 | 2,036 | 2,014 | 1,028 | 1,426 | 1,494 | 1,608 |

Table 1: Number of compliments received



Complaints

The Council's complaints data is collected using the definition of a complaint as outlined in the Corporate Complaints Procedure as follows:

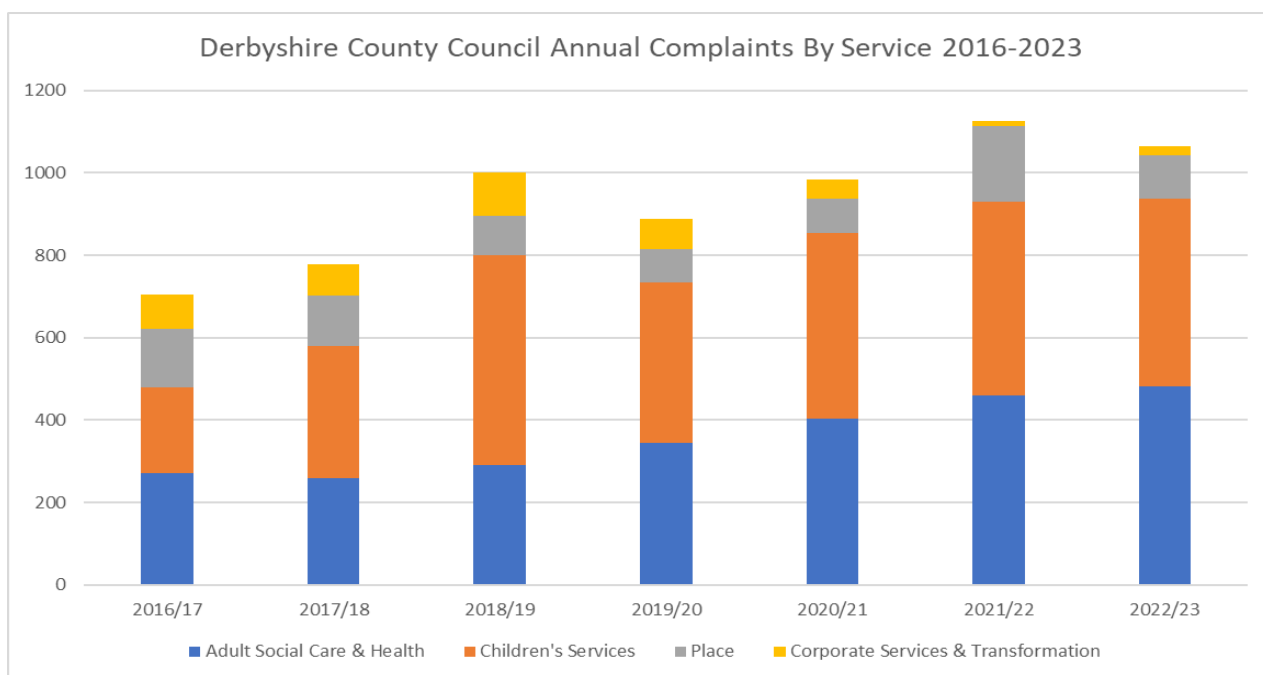
“An expression of dissatisfaction from a service user about a specific Council service that has been already provided, that isn't resolved at the first point of contact”

In most cases, the Council deals with and resolves any issues directly with residents and interested third parties without their need to make a complaint. The Council's complaints procedures offer a more formal process where a resident or third party wants to follow this route immediately or is dissatisfied with the initial response.

In 2022/23, the Council received 1,064 complaints. This is a decrease from 1,126 complaints received in 2021/2022. Between 2016/17 and 2022/23, there has been an increase in the number of complaints received by Adult Social Care and Health, Corporate Services & Transformation and Children’s Services, with a decrease in complaints in Place between the same period.

| | 2016/17 | 2017/18 | 2018/19 | 2019/20 | 2020/21 | 2021/22 | 2022/23 |
|-------------------------------------|---------|---------|---------|---------|---------|---------|---------|
| Adult Social Care & Health | 272 | 260 | 290 | 344 | 403 | 460 | 489 |
| Children's Services | 207 | 321 | 511 | 391 | 452 | 471 | 456 |
| Place | 143 | 122 | 95 | 79 | 83 | 184 | 107 |
| Corporate Services & Transformation | 83 | 75 | 105 | 75 | 47 | 11 | 20 |
| Derbyshire County Council | 705 | 778 | 1001 | 889 | 985 | 1126 | 1072 |

Table 2: Number of complaints received

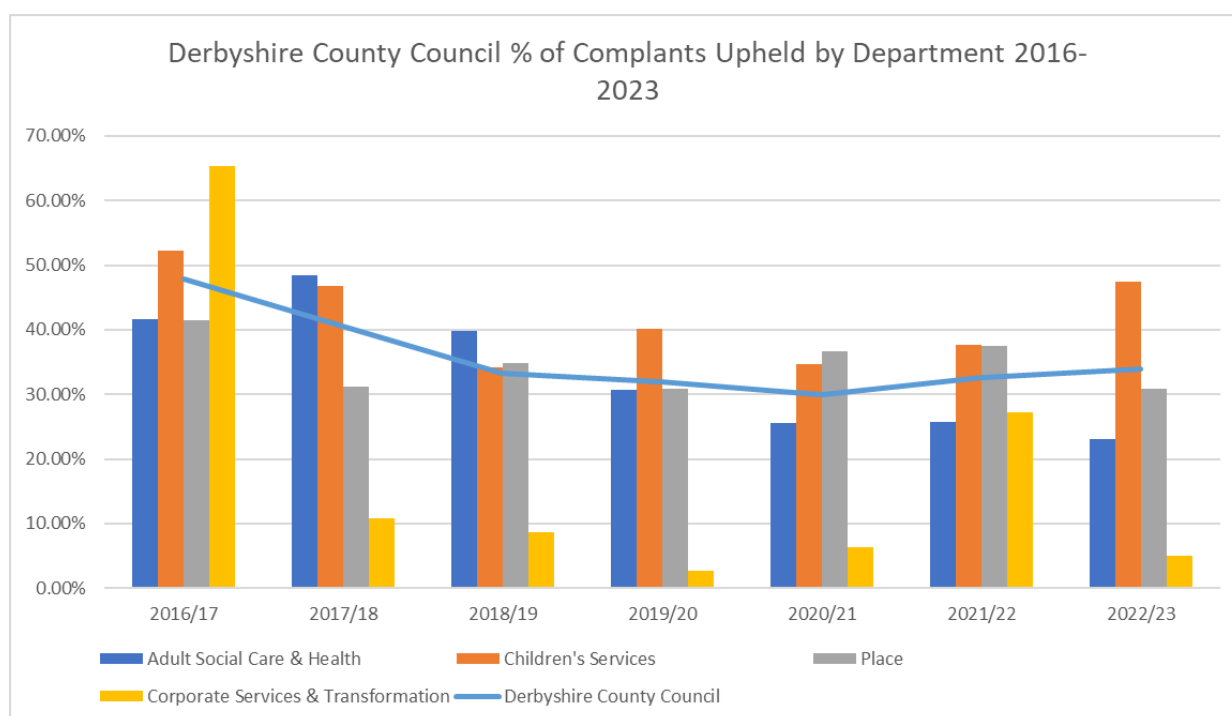


Complaints received and decisions upheld or partially upheld

In 2022/23, 34% of complaints were upheld or partially upheld by the Council. This was a higher percentage of complaints upheld compared to the previous year. In 2022/2023, Children’s Services upheld the largest percentage of complaints. The percentage of upheld complaints have slightly increased in the past two years.

| Department | 2016/17 | 2017/18 | 2018/19 | 2019/20 | 2020/21 | 2021/22 | 2022/23 |
|-------------------------------------|---------|---------|---------|---------|---------|---------|---------|
| Adult Social Care and Health | 41.60% | 48.40% | 39.80% | 30.70% | 25.60% | 25.70% | 23.00% |
| Children's Services | 52.30% | 46.70% | 34.20% | 40.20% | 34.60% | 37.60% | 47.40% |
| Place | 41.50% | 31.20% | 34.90% | 30.80% | 36.60% | 37.50% | 30.84% |
| Corporate Services & Transformation | 65.40% | 10.80% | 8.60% | 2.70% | 6.40% | 27.20% | 5.00% |
| Derbyshire County Council | 47.90% | 40.50% | 33.20% | 32.00% | 29.90% | 32.60% | 34.00% |

Table 3: Percentage of complaints upheld by department



Response times

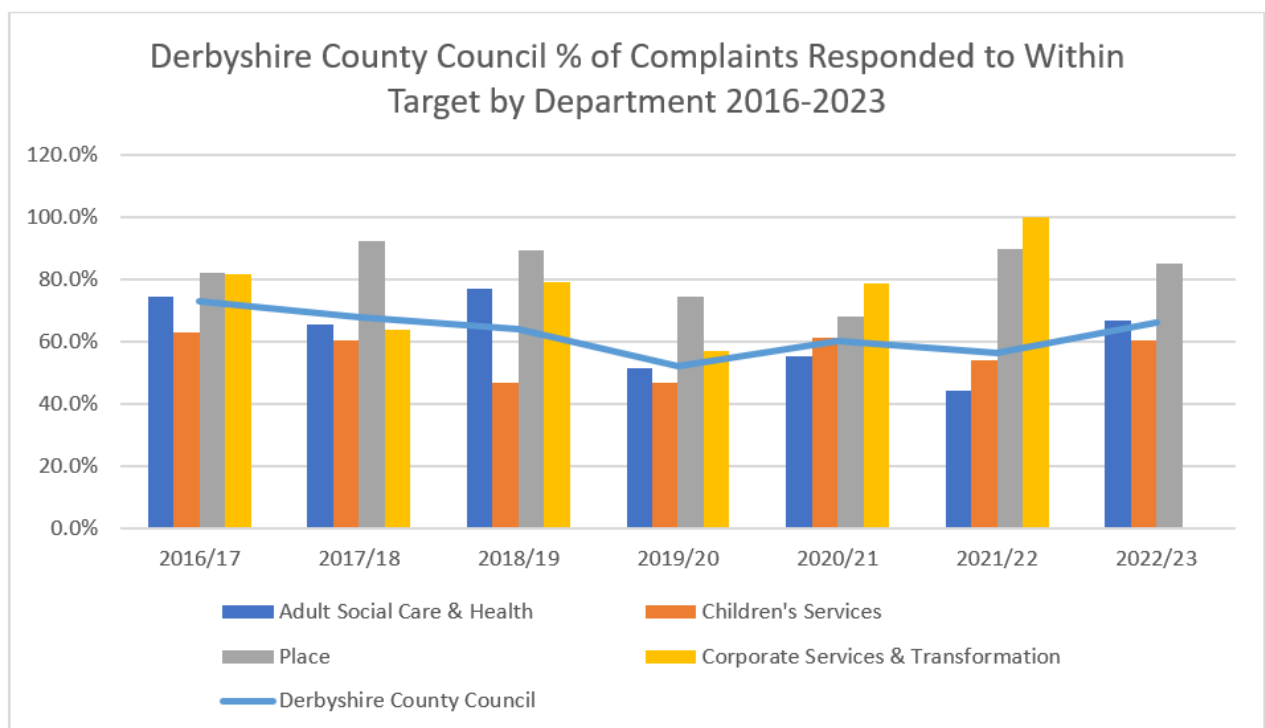
The Council's policy is to respond to complaints within 28 calendar days. This target was met for 66.2% of complaints during 2022/23 as set out below. This is an increase from the previous year when 56.3% of complaints were responded to within target, although there should be some caution as Corporate Services & Transformation 100% result reflects a total of 20 complaints, which has an impact on the overall percentage.

Complaints received by Corporate Services & Transformation in 2022/23 had the highest percentage of complaints responded to within the Council’s target (although numbers of complaints are very low as stated above), with Children’s Services having the lowest percentage of complaints responded to within target.

It should be noted that the table below includes statutory complaints within Adult Social Care and Children’s Services, which have different response time targets. If these statutory complaints were removed from the figures the response rate within 28 days would be significantly higher.

| Department | 2016/17 | 2017/18 | 2018/19 | 2019/20 | 2020/21 | 2021/22 | 2022/23 |
|-------------------------------------|---------|---------|---------|---------|---------|----------|----------|
| Adult Social Care and Health | 74.50% | 65.60% | 77.20% | 51.60% | 55.10% | 44.10% | 67.00% |
| Children’s Services | 63.20% | 60.30% | 46.70% | 46.80% | 61.20% | 54.10% | 60.50% |
| Place | 82.30% | 92.40% | 89.40% | 74.40% | 68.30% | 89.70% | 85.05% |
| Corporate Services & Transformation | 81.90% | 63.80% | 79.20% | 57.10% | 78.80% | 100.00 % | 100.00 % |
| Derbyshire County Council | 73.20% | 67.70% | 64.10% | 51.90% | 60.40% | 56.30% | 66.20% |

*Table 4: Percentage of complaints responded to within 28 day target by department * includes statutory complaints which have different target response times*



Complaints by type

To assist with understanding the reasons why complaints are made, each complaint should be allocated to a single category of complaint, based on the most significant issue raised by the complainant. This helps to identify and understand the nature of complaints and potential weaknesses in service delivery. The list of categories, with examples of issues that fall within each category, is provided in Appendix A.

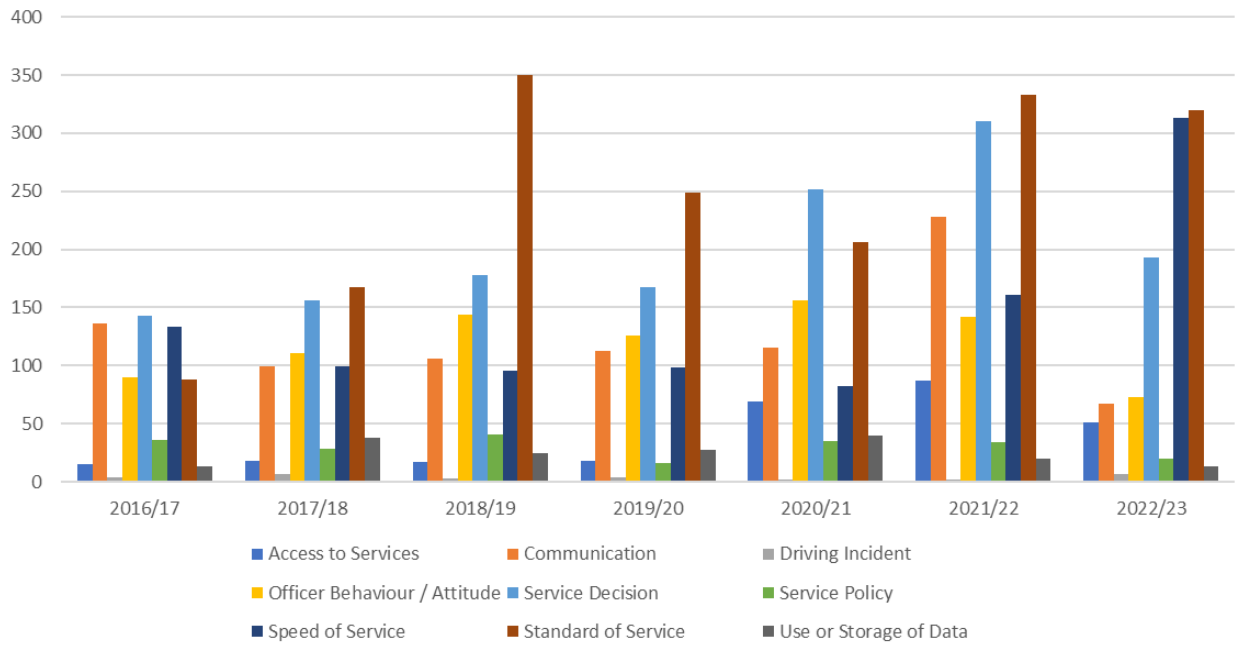
There is some discrepancy between the overall number of complaints and the total number of complaints that have been categorised. In some cases, this is because complaint categories are reported, if and when the complaint enters the statutory process, which not all do (Children's Services) and because some do not fit into the main categories reported here. However, there is sufficient categorisation information for us to be confident in the areas of higher concern, and departments have more in-depth data to analyse and support their service improvement activity.

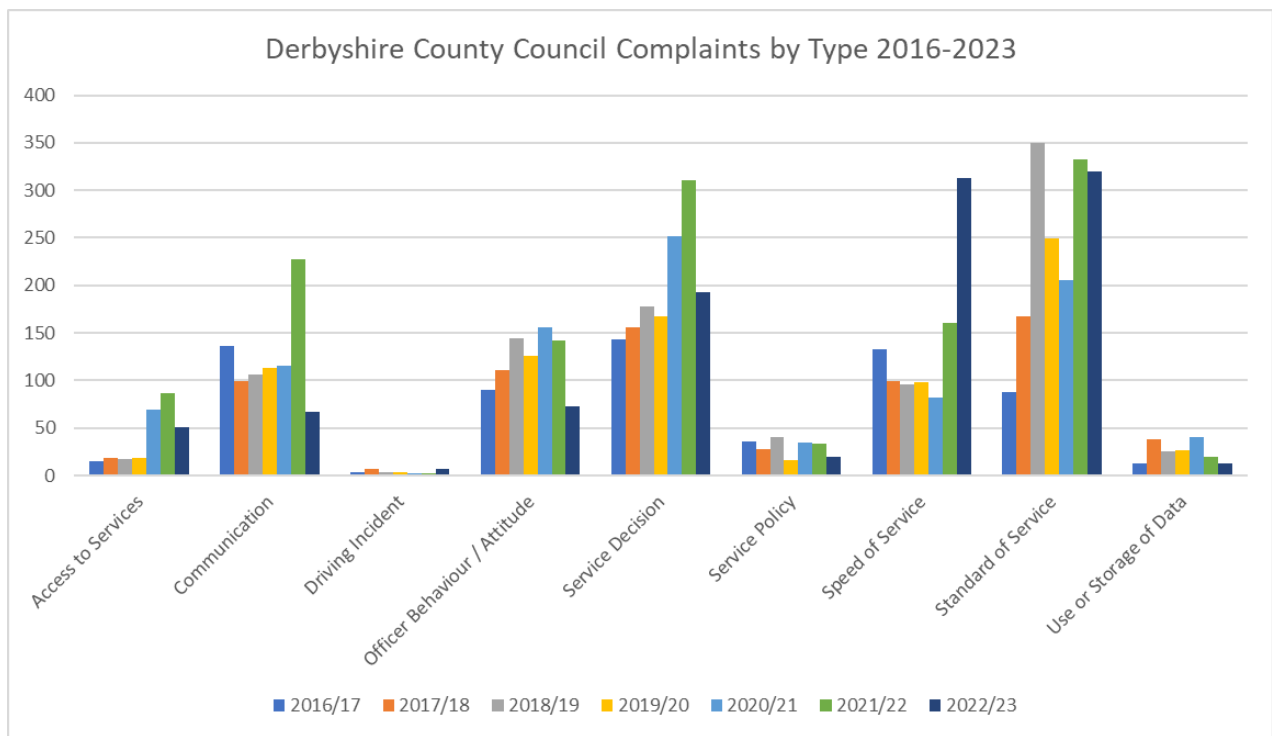
Speed of service has seen a significant jump in the last year, largely made up of Adult's and Children's services, with Service decision decreasing significantly.

| | 2016/17 | 2017/18 | 2018/19 | 2019/20 | 2020/21 | 2021/22 | 2022/23 |
|------------------------------|---------|---------|---------|---------|---------|---------|---------|
| Access to Services | 15 | 18 | 17 | 18 | 69 | 87 | 51 |
| Communication | 136 | 99 | 106 | 113 | 115 | 228 | 67 |
| Driving Incident | 4 | 7 | 3 | 4 | 2 | 2 | 7 |
| Officer Behaviour / Attitude | 90 | 111 | 144 | 126 | 156 | 142 | 73 |
| Service Decision | 143 | 156 | 178 | 167 | 252 | 310 | 193 |
| Service Policy | 36 | 28 | 41 | 16 | 35 | 34 | 20 |
| Speed of Service | 133 | 99 | 96 | 98 | 82 | 161 | 313 |
| Standard of Service | 88 | 167 | 350 | 249 | 206 | 333 | 320 |
| Use or Storage of Data | 13 | 38 | 25 | 27 | 40 | 20 | 13 |

Table 5 – Breakdown of complaints received by type

Derbyshire County Council Complaints by Type 2016-2023





Demographics

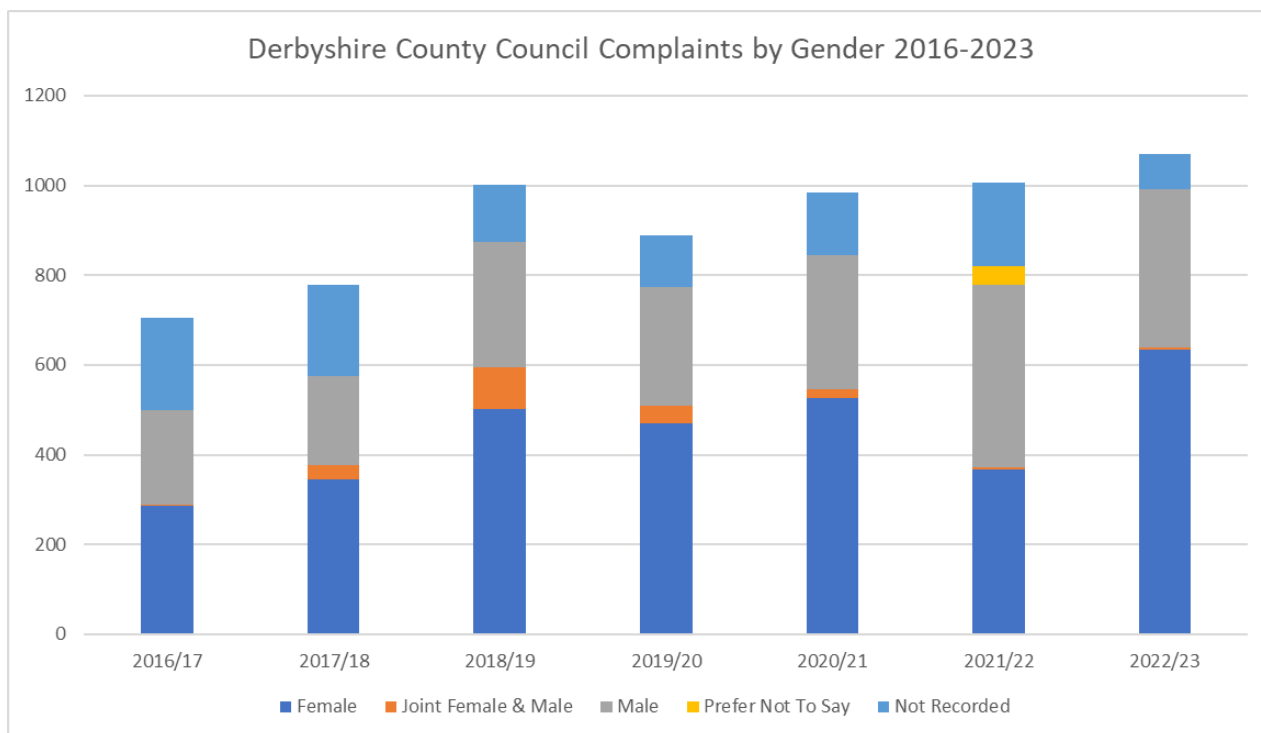
The Council also collects data on the gender of complainants and this information is set out in Table 6 for information. As can be seen in the table and graph in 2022/23, the highest percentage of complaints were female.

Again, this category has not been recorded for every case and this is an optional question in some reporting areas.

It is suggested that the Council considers and clarifies why it collects this data and what it is used for. Work is underway between Communications & Customers and HR to define a new list of identification categories based on best practice.

| | 2016/17 | 2017/18 | 2018/19 | 2019/20 | 2020/21 | 2021/22 | 2022/23 |
|---------------------|---------|---------|---------|---------|---------|---------|---------|
| Female | 287 | 344 | 501 | 469 | 525 | 366 | 635 |
| Joint Female & Male | 1 | 32 | 94 | 39 | 20 | 7 | 5 |
| Male | 211 | 200 | 278 | 266 | 300 | 406 | 352 |
| Prefer Not To Say | 0 | 0 | 0 | 0 | 0 | 42 | 0 |
| Not Recorded | 206 | 202 | 129 | 115 | 139 | 184 | 79 |

Table 6 – Gender of complainants



2.3 Learning from Complaints to Improve Resident Satisfaction

Learning about the root causes of complaints is vital for the continuous improvement of Council services and improvement of the customer experience. As part of the future Customer Experience Strategy, a refreshed Customer Charter will set out the Council's experiential 'promise' to residents and establish a series of mechanisms by which to measure the effectiveness of this. Enabling an ongoing cycle of learning and improvement, including through the centralisation of complaints gathering.

Currently, specific actions are undertaken as a result of individual complaints. Where the complaint investigation has identified underlying issues then broader actions have been undertaken to prevent further incidents. In general terms these have included:

- Colleague training
- Service and process reviews
- Improved team working
- Reallocation of resources
- Better and more accessible information about services
- Management of client expectations

The following section gives a more detailed breakdown taken from the annual complaints report for Childrens, Adults and Place. For CST, there is currently no data recorded other than that from Call Derbyshire which forms part of the detail in the below reports.

The Council's aim, with the continued implementation of the CRM across the wider Council, would be to standardise, where feasible, how complaints and compliments are recorded and reported. This would apply to all areas where a resident has submitted feedback as part of the aforementioned Customer Experience Strategy development and Customer Charter refresh.

2.4 Children's Services

The below document is a link to the Children's annual complaints report for 22/23



QA_Children's
Services Annual Com

2.5 Adult Social Care & Health

The Adult Social Care and Health department (ASCH) has seen a further 4% increase in complaints from 2022/2023. This is a change from the previous two years (2020/2021 and 2021/2022), where there was 17% and 14% increase of ASCH complaints received. The maintained level of complaints received reflects the national ongoing pressure and demand in adult social care, and challenges associated with this as a department.

In 2022/2023 two consultations were completed, where the closure of seven Derbyshire County Council Residential homes and eight Day Care Services were closed, which is reflected in the increased feedback received, with 30% of complaints being around the theme 'service decision'.

There has been a 21.9% improvement responding within agreed timescales; however, ASCH department are looking to improve the compliance in 2023/2024. Additionally, they will be looking to embed learning and develop their current systems within the Quality Team, which oversees complaints, compliments and enquiries and develop a feedback policy which demonstrates the departments intentions to improve systems.

Examples of lessons learnt:

Standard of service: The person found it difficult to raise concerns with Derbyshire County Council following an assessment and did not agree with all the content within the assessment. The ASCH department sourced additional training around good written skills, which is mandatory for all operational practitioners.

Speed of service – A relative raised a concern around their relatives delay in receiving an Adult Care Assessment. It was recognised there was a need to improve education around this and there were specific sessions around this subject for operational practitioners and communication was shared to all ASCH colleagues using the internal Practice Bulletin.

Communication – It was highlighted all communication/documents were not always shared with the LPOA or POA. There have been practitioner sessions to improve practice in this area and improve communication.

Please note all graphs include Public Health data within Adult Social Care.

2.6 Place

There has been a reduction in the number of Place complaints compared with the previous year. This can be partly attributed to the department embedding a more focused, holistic, and empathetic approach to dealing with complaints and ensuring the difference between service enquiries and complaints is recognised. By doing this, issues are being resolved or rectified, before having to be escalated to a formal complaint. Out of the 15 complaints referred to the LGSO during the period, 4 were upheld, 7 closed after the LGO initial enquiry and 4 returned to the complainant, in order to seek local resolution.

The area most impacted with complaints was Highways, due to issues relating to external and sometimes unforeseen factors such as weather, the condition of roads and road works, often created by external agencies and/or services. These are being closely monitored, in order to identify any service improvements required which will be incorporated as part of the Derbyshire Highways Programme.

3. Consultation

3.1 Executive Directors, through CMT, and departments, through the DCC Governance Group, have been engaged in the production of this report.

4. Alternative Options Considered

4.1 N/a.

5. Implications

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

6. Background Papers

6.1 Not applicable.

7. Appendices

7.1 Appendix 1 – Implications.

7.2 Appendix 2 – Type of complaint descriptors

8. Recommendation(s)

That Committee:

Notes the content of the report and the latest data.

9. Reasons for Recommendation(s)

9.1 To keep the committee informed of information relating to Complaints and Compliments in accordance with the Committee's Terms of Reference.

Report Author:

Chris Burton, Assistant Director of Communications & Customers
Chris.Burton@derbyshire.gov.uk

Contact details:

Appendix 1

Implications

Financial

1.1 No financial implications.

Legal

2.1 In accordance with the Terms of Reference, the Governance, Ethics and Standards Committee is required to receive regular reports on the performance of the Corporate Complaints process.

Human Resources

3.1 None identified.

Information Technology

4.1 The ongoing development of the Granicus system will have a positive impact on the processes in this report.

Equalities Impact

5.1 Not applicable.

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.

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

7.1 None.

Appendix 2

Type of complaint descriptors

Access to service - Difficulties in finding services, problems with access to buildings, website not working, complex or difficult forms.

Communications - Information difficult to find or understand, delays in communication

Driving incident - Discourteous or dangerous driving.

Officer behaviour/attitude – Inappropriate, impolite, discourteous, unhelpful or rude behaviour.

Service decision - Disagreement with a decision to provide, withdraw or limit a service. Disagreement with the process leading to decisions being made.

Service policy - Service delivered in accordance with any policy but where there is disagreement with the policy, or it is felt it disadvantages or discriminates against an individual.

Speed of service - Service outside of published target dates, missed deadlines or outside reasonable client expectation.

Standard of service - Not following service standards or policies, products or workmanship not up to reasonable expectations.

Use or storage of data - Incorrect client information, information not readily available or lost, not complying with established policies, procedures and Regulations in relation to managing information



FOR PUBLICATION

DERBYSHIRE COUNTY COUNCIL

GOVERNANCE, ETHICS AND STANDARDS COMMITTEE

THURSDAY, 26 OCTOBER 2023

Report of the Director - Legal and Democratic Services

Review of the Councillors' Code of Conduct and arrangements for dealing with complaints made under the Code of Conduct.

1. Purpose

- 1.1 To seek approval to set up a working group to review the Councillors' Code of Conduct and arrangements for dealing with complaints made under the Code of Conduct.

2. Information and Analysis

- 2.1 Following the findings of the report of the Committee on Standards in Public Life on Local Government Ethical Standards which were reported to the Governance, Ethics and Standards Committee together with the new model Code of Conduct published by the LGA in January 2021, the Governance, Ethics and Standards Committee set up two working groups in July 2021 to consider and revise the standards regime at Derbyshire County Council.
- 2.2 The review resulted in the Council adopting a new Code of Conduct on 1st April 2022 and revised arrangements for dealing with complaints made against member under the Code of Conduct were approved by the Governance, Ethics and Standards Committee on 18th January 2022. A copy of the Code of Conduct which can be found at Appendix 10 of the Constitution and the Arrangements for Dealing with Complaints are attached at Appendices 2 and 3 respectively.

2.3 As the new Code and arrangements for dealing with complaints have now been in place for more than 12 months, it is appropriate to review them and consider any revisions required to enhance the regime and ensure that the best practice identified by the Committee for Standards on Public Life is being put into practice.

2.4 In order to undertake this review, it is proposed that a working group be established. It is also requested that the Committee identifies the composition of the working group with a view to meetings being arranged to commence the review as soon as possible.

2.4 The outcome of the review conducted by the working group will be reported to a future Governance, Ethics and Standards Committee for consideration and approval.

3. Consultation

3.1 Not applicable.

4. Alternative Options Considered

4.1 Not to review the new regime. However, this is not recommended as it does not give an assurance that the regime is fit for purpose or provide the opportunity to amend the procedure in light of any lesson learned over the last year.

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 – Derbyshire County Council’s Code of Conduct for Councillors

7.3 Appendix 3 – Derbyshire County Council’s Arrangements for dealing with complaints that members have breached the Code of Conduct.

8. Recommendation(s)

That Committee:

- a) agrees to set up a working group to review the current Code of Conduct for Councillors and the arrangements for dealing with complaints made against Elected Member for breaching the Code of Conduct; and
- b) agrees the composition of the working group.

9. Reasons for Recommendation(s)

- 9.1 To ensure that the Code of Conduct and arrangements for dealing with complaints brought under the Code of Conduct is working in practice and remains fit for purpose.

Report Author: Elizabeth Wild

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

Implications

Financial

1.1 None.

Legal

2.1 The Localism Act 2011 sets out the statutory framework for ethical standards and the Council must be satisfied that current arrangements comply with those statutory requirements.

2.2 The report of the Committee on Standards in Public Life set out guidance for best practice in respect of the standards regime in local authorities and it would be appropriate for the Council to ensure that these are taken into account within its current regime.

Human Resources

3.1 None directly arising out of this report.

Information Technology

4.1 None directly arising out of this report

Equalities Impact

5.1 None directly arising out of this report.

Corporate objectives and priorities for change

6.1 None directly arising out of this report.

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

7.1 None directly arising out of this report.

Appendix 11 – Code of Conduct for Members

Derbyshire County Council’s Code of Conduct for Elected Members (based on the Local Government Association Model 2020/2021)

Statement

The role of councillor across all tiers of local government is a vital part of our country’s system of democracy. It is important that as councillors we can be held accountable and all adopt the behaviours and responsibilities associated with the role. Our conduct as an individual councillor affects the reputation of all councillors. We want the role of councillor to be one that people aspire to. We also want individuals from a range of backgrounds and circumstances to be putting themselves forward to become councillors.

As councillors, we represent local residents, work to develop better services and deliver local change. The public have high expectations of us and entrust us to represent our local area, taking decisions fairly, openly, and transparently. We have both an individual and collective responsibility to meet these expectations by maintaining high standards and demonstrating good conduct, and by challenging behaviour which falls below expectations.

Importantly, we should be able to undertake our role as a councillor without being intimidated, abused, bullied, or threatened by anyone, including the general public.

This Code has been designed to protect our democratic role, encourage good conduct, and safeguard the public’s trust in local government.

Definitions

For the purposes of this Code of Conduct, a “councillor” means a member or co-opted member of a local authority or a directly elected mayor. A “co-opted member” is defined in the Localism Act 2011 Section 27(4) as “a person who is not a member of the authority but who;

- (a) is a member of any committee or sub-committee of the authority; or
- (b) is a member of, and represents the authority on, any joint committee or joint subcommittee of the authority; and

who is entitled to vote on any question that falls to be decided at any meeting of that committee or sub-committee”.

Purpose of the Code of Conduct

The purpose of this Code of Conduct is to assist you, as a councillor, in modelling the behaviour that is expected of you, to provide a personal check and balance, and to set out the type of conduct that could lead to action being taken against you. It is also to protect you, the public, fellow councillors, local authority officers and the reputation of local government. It sets out general principles of conduct expected of all councillors and your specific obligations in relation to standards of conduct. The use of support,

training and mediation prior to action being taken using the Code is encouraged. The fundamental aim of the Code is to create and maintain public confidence in the role of councillor and local government.

General Principles of Councillor Conduct

Everyone in public office at all levels; all who serve the public or deliver public services, including ministers, civil servants, councillors, and local authority officers; should uphold the [Seven Principles of Public Life](#), also known as the Nolan Principles.

- I act with integrity and honesty,
- I act lawfully,
- I treat all persons fairly and with respect; and
- I lead by example and act in a way that secures public confidence in the role of councillor.

Principles:

1. **Selflessness:** Holders of public office should act solely in the public interest. They should not do so in order to gain financial or other material benefits for the themselves, their family, or friends.
2. **Integrity:** Holders of public office should not place themselves under any financial or other obligation to outside individuals or organisations that might seek to influence them in the performance of their official duties;
3. **Objectivity:** In carrying out public business, including making public appointments, awarding contracts, or recommending individuals or rewards and benefits, holders of public office should make choices on merit.
4. **Accountability:** Holders of public office are accountable for their decisions and actions to the public and must submit themselves to whatever scrutiny is appropriate to their office.
5. **Openness:** Holders of public office should be as open as possible about all the decisions and actions they take. They should give reasons for their decisions and restrict information only when the wider public interest clearly demands.
6. **Honesty:** Holders of public office have a duty to declare any private interests relating to their public duties and to take steps to resolve any conflicts arising in a way that protects the public interests.
7. **Leadership:** Holders of public office should promote and support these principles by leadership and example.

In undertaking my role:

- I impartially exercise my responsibilities in the interests of the local community,
- I do not improperly seek to confer an advantage, or disadvantage, on any person,
- I avoid conflicts of interest,

- I exercise reasonable care and diligence; and
- I ensure that public resources are used prudently in accordance with Derbyshire County Council's requirements and in the public interest.

Obligations on Councillors

As a Member of Derbyshire County Council, your conduct should, in particular, address the statutory principles in the Code by:

1. Championing the needs of residents, including the whole community and, in a special way, your constituents, including those who did not vote for you, and putting their interests first.
2. Dealing with representations or enquiries from residents, members of the community and visitors fairly, appropriately and impartially.
3. Not allowing other pressures, including the financial interests of yourself or others connected to you, to deter you from pursuing constituents' case work, the interests of Derbyshire County Council or the good governance of Derbyshire County Council in a proper manner.
4. Exercising independent judgement and not compromising your position by placing yourself under obligations to outside individuals or organisations who might seek to influence the way you perform your duties as a Member of Derbyshire County Council.
5. Listening to the interests of all parties, including relevant advice from statutory and other professional officers, taking all relevant information into consideration, remaining objective and making decisions on merit.
6. Being accountable for your decisions and co-operating when scrutinised internally and externally, including by local residents.
7. Contributing to making Derbyshire County Council's decision-making processes as open and transparent as possible to enable residents to understand the reasoning behind those decisions and to be informed when holding you and other Members to account, but restricting access to information when the wider public interest or the law requires it.
8. Respecting the confidentiality of information which you receive as a member by:
 - (a) Not disclosing confidential information to third parties unless required by law to do so or where there is a clear and overriding public interest in doing so; and
 - (b) Not obstructing third parties' legal rights of access to information.
9. Behaving in accordance with all of Derbyshire County Council's legal obligations, with particular regard to:

- (a) The Data Protection Act 2018.
 - (b) The Freedom of Information Act 2000.
 - (c) The Bribery Act 2010.
 - (d) The Equality Act 2010.
10. Having regard to the principles of Derbyshire County Council's policies, protocols and procedures, including those relating to the use of Derbyshire County Council's resources (which must not be used improperly for political purposes including party political purposes).
 11. Valuing other Members and officers and engaging with them in an appropriate manner and in a manner which underpins the mutual respect between individuals that is essential to good local government and respecting and not bullying any person.
 12. Always treating people with respect, including the organisations and public you engage with and those you work alongside.
 13. Providing leadership through behaving in accordance with these principles when championing the interests of the community with other organisations as well as within the Council.

Application of the Code of Conduct

This Code of Conduct applies to you as soon as you sign your declaration of acceptance of the office of councillor or attend your first meeting as a co-opted member and continues to apply to you until you cease to be a councillor.

This Code of Conduct applies to you when you are acting in your capacity as a councillor which may include when:

- you misuse your position as a councillor.
- your actions would give the impression to a reasonable member of the public with knowledge of all the facts that you are acting as a councillor.

The Code applies to all forms of communication and interaction, including:

- at face-to-face meetings.
- at online or telephone meetings.
- in written communication.
- in verbal communication.
- in non-verbal communication.
- in electronic and social media communication, posts, statements, and comments.

You are also expected to uphold high standards of conduct and show leadership at all times when acting as a councillor.

Your Monitoring Officer has statutory responsibility for the implementation of the Code of Conduct, and you are encouraged to seek advice from your Monitoring Officer on any matters that may relate to the Code of Conduct.

Standards of Councillor Conduct

This section sets out your obligations, which are the minimum standards of conduct required of you as a councillor. Should your conduct fall short of these standards, a complaint may be made against you, which may result in action being taken.

Guidance is included to help explain the reasons for the obligations and how they should be followed.

General Conduct

1. Respect

As a councillor:

- 1.1 I treat other councillors and members of the public with respect.**
- 1.2 I treat Council employees, employees and representatives of partner organisations and those volunteering for the Council with respect and respect the role they play.**

Respect means politeness and courtesy in behaviour, speech, and in the written word. Debate and having different views are all part of a healthy democracy. As a councillor, you can express, challenge, criticise and disagree with views, ideas, opinions, and policies in a robust but civil manner. You should not, however, subject individuals, groups of people or organisations to personal attack.

In your contact with the public, you should treat them politely and courteously. Rude and offensive behaviour lowers the public's expectations and confidence in councillors.

In return, you have a right to expect respectful behaviour from the public. If members of the public are being abusive, intimidatory or threatening you are entitled to stop any conversation or interaction in person or online and report them to the local authority, the relevant social media provider, or the police. This also applies to fellow councillors, where action could then be taken under the Councillor Code of Conduct, and local authority employees, where concerns should be raised in line with Derbyshire County Council's Member and Officers' Relationship Protocol.

2. Bullying, Harassment and Discrimination

As a councillor:

- 2.1 I do not bully any person.**
- 2.2 I do not harass any person.**
- 2.3 I promote equalities and do not discriminate unlawfully against any person.**

The Advisory, Conciliation and Arbitration Service (ACAS) characterises bullying as offensive, intimidating, malicious or insulting behaviour, an abuse or misuse of power through means that undermine, humiliate, denigrate, or injure the recipient. Bullying might be a regular pattern of behaviour or a one-off incident, happen face-to-face, on social media, in emails or phone calls, happen in the workplace or at work social events and may not always be obvious or noticed by others.

The Protection from Harassment Act 1997 defines harassment as conduct that causes alarm or distress or puts people in fear of violence and must involve such conduct on at least two occasions. It can include repeated attempts to impose unwanted communications and contact upon a person in a manner that could be expected to cause distress or fear in any reasonable person.

Unlawful discrimination is where someone is treated unfairly because of a protected characteristic. Protected characteristics are specific aspects of a person's identity defined by the Equality Act 2010. They are age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex, and sexual orientation.

The Equality Act 2010 places specific duties on local authorities. Councillors have a central role to play in ensuring that equality issues are integral to the local authority's performance and strategic aims, and that there is a strong vision and public commitment to equality across public services.

3. Impartiality of Officers of the Council

As a councillor:

- 3.1 I do not compromise, or attempt to compromise, the impartiality of anyone who works for, or on behalf of, the local authority.**
- 3.2 I take advice as necessary from professional officers in reaching decisions and ensure that all relevant information is taken into account to reach an objective decision based on merit, which is lawful and reached as a result of following a transparent process.**

Officers work for Derbyshire County Council as a whole and must be politically neutral (unless they are political assistants). They should not be coerced or persuaded to act in a way that would undermine their neutrality. You can question officers in order to understand, for example, their reasons for proposing to act in a particular way, or the content of a report that they have written. However, you must take professional advice, including legal advice into account when reaching your decision and you must not try and force officers to act differently, change their advice, or alter the content of that report, if doing so would prejudice their professional integrity and the lawfulness of the decision or the process.

4. Confidentiality and Access to Information

As a councillor:

4.1 I do not disclose information:

- (a) given to me in confidence by anyone,**
- (b) acquired by me which I believe, or ought reasonably to be aware, is of a confidential nature, unless;**
 - (i) I have received the consent of a person authorised to give it;**
 - (ii) I am required by law to do so;**
 - (iii) the disclosure is made to a third party for the purpose of obtaining professional legal advice provided that the third party agrees not to disclose the information to any other person; or**
 - (iv) the disclosure is:**
 - 1. reasonable and in the public interest; and**
 - 2. made in good faith and in compliance with the reasonable requirements of the local authority; and**
 - 3. I have consulted the Monitoring Officer prior to its release.**

4.2 I do not improperly use knowledge gained solely as a result of my role as a councillor for the advancement of myself, my friends, my family members, my employer, or my business interests.

4.3 I do not prevent anyone from getting information that they are entitled to by law.

Local authorities must work openly and transparently, and their proceedings and printed materials are open to the public, except in certain legally defined circumstances. You should work on this basis, but there will be times when it is required by law that discussions, documents, and other information relating to or held by the local authority must be treated in a confidential manner. Examples include personal data relating to individuals or information relating to ongoing negotiations.

5. Disrepute

As a councillor:

5.1 I do not bring my role or local authority into disrepute.

As a Councillor, you are trusted to make decisions on behalf of your community and your actions and behaviour are subject to greater scrutiny than that of ordinary members of the public. You should be aware that your actions might have an adverse impact on you, other councillors and/or your local authority and may lower the public's confidence in you or your Derbyshire County Council's ability to discharge your/its functions. For example, behaviour that is considered dishonest and/or deceitful can bring your local authority into disrepute.

You are able to hold Derbyshire County Council and fellow councillors to account and are able to constructively challenge and express concern about decisions and processes undertaken by the council whilst continuing to adhere to other aspects of this Code of Conduct.

6. Use of Position

As a councillor:

6.1 I do not use, or attempt to use, my position improperly to the advantage or disadvantage of myself or anyone else.

Your position as a member of the local authority provides you with certain opportunities, responsibilities, and privileges, and you make choices all the time that will impact others. However, you should not take advantage of these opportunities to further your own or others' private interests or to disadvantage anyone unfairly.

7. Use of Local Authority Resources and Facilities

As a councillor:

7.1 I do not misuse council resources.

7.2 I will, when using the resources of the local authority or authorising their use by others:

- (a) act in accordance with the local authority's requirements;
and**
- (b) ensure that such resources are not used for political purposes unless that use could reasonably be regarded as likely to facilitate, or be conducive to, the discharge of the functions of the local authority or of the office to which I have been elected or appointed.**

You may be provided with resources and facilities by the local authority to assist you in carrying out your duties as a councillor.

Examples include:

- office support
- stationery

- equipment such as phones, and computers
- transport
- access and use of local authority buildings and rooms

These are given to you to help you carry out your role as a councillor more effectively and are not to be used for business or personal gain. They should be used in accordance with the purpose for which they have been provided and Derbyshire County Council's policies regarding their use, including the Protocol for Use of ICT by Members/Use of Resources.

8. Complying with the Code of Conduct

As a councillor:

- 8.1 I undertake Code of Conduct training provided by my local authority.**
- 8.2 I cooperate with any Code of Conduct investigation and/or determination.**
- 8.3 I do not intimidate or attempt to intimidate any person who is likely to be involved with the administration of any investigation or proceedings.**
- 8.4 I comply with any sanction imposed on me following a finding that I have breached the Code of Conduct.**

It is extremely important for you as a councillor to demonstrate high standards, for you to have your actions open to scrutiny and for you not to undermine public trust in Derbyshire County Council or its governance. If you do not understand or are concerned about the local authority's processes in handling a complaint you should raise this with your Monitoring Officer.

Protecting your Reputation and the Reputation of the Local Authority

9. Interests

As a councillor:

- 9.1 I register and disclose my interests.**

Section 29 of the Localism Act 2011 requires the Monitoring Officer to establish and maintain a register of interests of members of the authority.

You need to register your interests so that the public, local authority employees and fellow councillors know which of your interests might give rise to a conflict of interest. The register is a public document that can be consulted when (or before) an issue arises. The register also protects you by allowing you to demonstrate openness and a willingness to be held accountable. You are personally responsible for deciding whether or not you should disclose an interest in a meeting, but it can be helpful for you to know early on if others think that a potential conflict might arise. It is also

important that the public know about any interest that might have to be disclosed by you or other councillors when making or taking part in decisions, so that decision making is seen by the public as open and honest. This helps to ensure that public confidence in the integrity of local governance is maintained. You should note that failure to register or disclose a disclosable pecuniary interest as set out in **Table 1**, is a criminal offence under the Localism Act 2011.

Appendix A sets out the detailed provisions on registering and disclosing interests. If in doubt, you should always seek advice from your Monitoring Officer.

10. Gifts and Hospitality

As a councillor:

- 10.1 I do not accept gifts or hospitality, irrespective of estimated value, which could give rise to real or substantive personal gain or a reasonable suspicion of influence on my part to show favour from persons seeking to acquire, develop or do business with the local authority or from persons who may apply to the local authority for any permission, licence or other significant advantage.**
- 10.2 I register with the Monitoring Officer any gift or hospitality with an estimated value of at least £50 within 28 days of its receipt.**
- 10.3 I register with the Monitoring Officer any significant gift or hospitality that I have been offered but have refused to accept.**

In order to protect your position and the reputation of Derbyshire County Council, you should exercise caution in accepting any gifts or hospitality which are (or which you reasonably believe to be) offered to you because you are a councillor. The presumption should always be not to accept significant gifts or hospitality. However, there may be times when such a refusal may be difficult if it is seen as rudeness in which case you could accept it but must ensure it is publicly registered. However, you do not need to register gifts and hospitality which are not related to your role as a councillor, such as Christmas gifts from your friends and family. It is also important to note that it is appropriate to accept normal expenses and hospitality associated with your duties as a councillor. If you are unsure, do contact your Monitoring Officer for guidance.

Appendices

Appendix A Registering Interests

Within 28 days of becoming a member or your re-election or re-appointment to office you must **register** with the Monitoring Officer the interests which fall within the categories set out in **Table 1 (Disclosable Pecuniary Interests)** which are as described in “The Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012”. You should also **register** details of your other personal interests which fall within the categories set out in **Table 2 (Other Registerable Interests)**.

“Disclosable Pecuniary Interest” means a pecuniary interest in any business of the Council of yourself, or of your partner if you are aware of your partner’s interest, within the descriptions set out in Table 1 below.

“Partner” means a spouse or civil partner, or a person with whom you are living as husband or wife, or a person with whom you are living as if you are civil partners.

1. You must ensure that your register of interests is kept up-to-date and within 28 days of becoming aware of any new interest, or of any change to a registered interest, notify the Monitoring Officer.
2. A ‘sensitive interest’ is as an interest which, if disclosed, could lead to the councillor, or a person connected with the councillor, being subject to violence or intimidation.
3. Where you have a ‘sensitive interest’ you must notify the Monitoring Officer with the reasons why you believe it is a sensitive interest. If the Monitoring Officer agrees they will withhold the interest from the public register.

Non-participation in Case of Disclosable Pecuniary Interest

4. Where a matter arises at a meeting which directly relates to one of your Disclosable Pecuniary Interests as set out in **Table 1**, you must disclose the interest, **not participate** in any discussion or vote on the matter and **must not remain in the room** unless you have been granted a dispensation. If it is a ‘sensitive interest’, you do not have to disclose the nature of the interest, just that you have an interest. Dispensation may be granted in limited circumstances, to enable you to participate and vote on a matter in which you have a disclosable pecuniary interest.
5. Where you have a disclosable pecuniary interest on a matter to be considered or is being considered by you as a Cabinet member in exercise of your executive function, you must notify the Monitoring Officer of the interest and must not take any steps or further steps in the matter apart from arranging for someone else to deal with it

Disclosure of Other Registerable Interests

6. Where a matter arises at a meeting which **directly relates** to the financial interest or wellbeing of one of your Other Registerable Interests (as set out in

Table 2), you must disclose the interest. You may speak on the matter only if members of the public are also allowed to speak at the meeting but otherwise must not take part in any discussion or vote on the matter and must not remain in the room unless you have been granted a dispensation. If it is a 'sensitive interest', you do not have to disclose the nature of the interest.

7. Where a matter arises at a meeting which **affects** the financial interest or wellbeing of one of your Other Registerable Interests (as set out in **Table 2**), you must disclose the interest.

In order to determine whether you can remain in the meeting after disclosing your interest the following test should be applied.

Where the matter **affects** the financial interest or well-being:

- (a) to a greater extent than it affects the financial interests of the majority of inhabitants of the ward affected by the decision and;
- (b) a reasonable member of the public knowing all the facts would believe that it would affect your view of the wider public interest.

You may speak on the matter only if members of the public are also allowed to speak at the meeting. Otherwise you must not take part in any discussion or vote on the matter and must not remain in the room unless you have been granted a dispensation.

If it is a 'sensitive interest', you do not have to disclose the nature of the interest.

Where you have an Other Registerable Interest on a matter to be considered or is being considered by you as a Cabinet member in exercise of your executive function, you must notify the Monitoring Officer of the interest and must not take any steps or further steps in the matter apart from arranging for someone else to deal with it.

Disclosure of Non-Registerable Interests

8. Where a matter arises at a meeting which **directly relates** to;
 - (a) your own financial interest or well-being (and is not a Disclosable Pecuniary Interest set out in Table 1); or
 - (b) a financial interest or well-being of a relative or close associate, you must disclose the interest.
 - (c) a financial interest or wellbeing of a body included under Other Registrable Interests as set out in **Table 2**.

You may speak on the matter only if members of the public are also allowed to speak at the meeting. Otherwise you must not take part in any discussion or vote on the matter and must not remain in the room unless you have been granted a dispensation. If it is a 'sensitive interest', you do not have to disclose the nature of the interest.

9. Where a matter arises at a meeting which **affects** –

- (a) your own financial interest or well-being (and is not a Disclosable Pecuniary Interest set out in Table 1); or
- (b) a financial interest or well-being of a relative or close associate;

you must disclose the interest. In order to determine whether you can remain in the meeting after disclosing your interest the following test should be applied.

10. Where a matter **affects** the financial interest or well-being:

- (a) to a greater extent than it affects the financial interests of the majority of inhabitants of the ward affected by the decision and;
- (b) a reasonable member of the public knowing all the facts would believe that it would affect your view of the wider public interest,

You may speak on the matter only if members of the public are also allowed to speak at the meeting. Otherwise you must not take part in any discussion or vote on the matter and must not remain in the room unless you have been granted a dispensation.

If it is a 'sensitive interest', you do not have to disclose the nature of the interest.

11. Where you have a Non-Registerable Interest on a matter to be considered or is being considered by you as a Cabinet member in exercise of your executive function, you must notify the Monitoring Officer of the interest and must not take any steps or further steps in the matter apart from arranging for someone else to deal with it. The [LGA guidance](#) relating to Cabinet confirms that; "A single councillor who is guilty of bias is enough to strike out the whole decision when challenged before the courts. This can cause huge cost and reputational damage for the local authority, yet is seldom due to actual corruption or even consciously favouring a personal interest over the public interest on the part of the councillor involved and may have no repercussions for them personally."

Table 1: Disclosable Pecuniary Interests

This table sets out the explanation of Disclosable Pecuniary Interests as set out in the [Relevant Authorities \(Disclosable Pecuniary Interests\) Regulations 2012](#).

| SUBJECT | DESCRIPTION |
|--|--|
| Employment, office, trade, profession or vocation | Any employment, office, trade, profession, or vocation carried on for profit or gain. |
| Sponsorship | <p>Any payment or provision of any other financial benefit (other than from the council) made to the councillor during the previous 12-month period for expenses incurred by him/her in carrying out his/her duties as a councillor, or towards his/her election expenses.</p> <p>This includes any payment or financial benefit from a trade union within the meaning of the Trade Union and Labour Relations (Consolidation) Act 1992.</p> |
| Contracts | <p>Any contract made between the councillor or his/her spouse or civil partner or the person with whom the councillor is living as if they were spouses/civil partners (or a firm in which such person is a partner, or an incorporated body of which such person is a director* or a body that such person has a beneficial interest in the securities of*) and the council:</p> <p>(a) under which goods or services are to be provided or works are to be executed; and</p> <p>(b) which has not been fully discharged.</p> |
| Land and Property | <p>Any beneficial interest in land which is within the area of the council.</p> <p>‘Land’ excludes an easement, servitude, interest or right in or over land which does not give the councillor or his/her spouse or civil partner or the person with whom the councillor is living as if they were spouses/ civil partners (alone or jointly with another) a right to occupy or to receive income.</p> |

| | |
|----------------------------|--|
| Licenses | Any licence (alone or jointly with others) to occupy land in the area of the council for a month or longer. |
| Corporate Tenancies | <p>Any tenancy where (to the councillor's knowledge):</p> <p>(a) the landlord is the council; and</p> <p>(b) the tenant is a body that the councillor, or his/her spouse or civil partner or the person with whom the councillor is living as if they were spouses/ civil partners is a partner of or a director* of or has a beneficial interest in the securities* of.</p> |
| Securities | <p>Any beneficial interest in securities* of a body where:</p> <p>(a) that body (to the councillor's knowledge) has a place of business or land in the area of the council; and</p> <p>(b) either:</p> <p>(i) the total nominal value of the securities* exceeds £25,000 or one hundredth of the total issued share capital of that body; or</p> <p>(ii) if the share capital of that body is of more than one class, the total nominal value of the shares of any one class in which the councillor, or his/her spouse or civil partner or the person with whom the councillor is living as if they were spouses/civil partners have a beneficial interest exceeds one hundredth of the total issued share capital of that class.</p> |

* 'director' includes a member of the committee of management of an industrial and provident society.

* 'securities' means shares, debentures, debenture stock, loan stock, bonds, units of a collective investment scheme within the meaning of the Financial Services and Markets Act 2000 and other securities of any description, other than money deposited with a building society.

Table 2: Other Registrable Interests

You must register as an Other Registerable Interest:

- (a) Any unpaid directorships.
- (b) Any body of which you are a member or are in a position of general control or management and to which you are nominated or appointed by your authority.
- (c) Any body;
 - (i) exercising functions of a public nature,
 - (ii) directed to charitable purposes; or
 - (iii) one of whose principal purposes includes the influence of public opinion or policy (including any political party or trade union) of which you are a member or in a position of general control or management.
- (d) Membership of other pressure groups, the Freemasons or other influential bodies of which you are a member.

And that interest is not a Disclosable Pecuniary Interest.

DERBYSHIRE COUNTY COUNCIL

PROCEDURE FOR CONSIDERING COMPLAINTS THAT MEMBERS HAVE BREACHED THE CODE OF CONDUCT

1. Introduction

These arrangements set out how Derbyshire County Council (the Council) will deal with allegations that an elected or co-opted member of the Council has breached the Code of Conduct.

The person making the complaint will be referred to as “the Complainant” and the person against whom the complaint is made will be referred to as “the Subject Member”.

2. The Code of Conduct

The Council has adopted a Code of Conduct for elected members. This is available for inspection on the Council’s website.

3. Making a Complaint

All complaints must be submitted in writing to:

The Monitoring Officer
Derbyshire County Council
County Hall
Matlock
Derbyshire DE4 3AG
Email: helen.barrington@derbyshire.gov.uk

The Council is committed to ensuring that its services are accessible to all and reasonable adjustments will be made to enable persons with protected characteristics to utilise this process.

The complaint must include;

- The Complainant’s name and contact details; If the Complainant seeks to make an anonymous referral they should detail what they consider to be the exceptional compelling reasons why an anonymous complaint could be accepted without detriment to the process and how the allegation can be evidenced without reference to the complainant

- the name of the member(s) the complainant believes has breached the Code of Conduct;
- What the Subject Member has allegedly done that the Complainant believes breaches the Code of Conduct; and
- If necessary, details of why the Complainant believes their name and/or the details of the complaint should be withheld.

In order to ensure that the Council has all the information to be able to process the complaint, a complaint form is available to complete on the Council's website. If the Complainant decides not to use the complaint form, they must still provide the Monitoring Officer with all the information set out above otherwise the Monitoring Officer will not be able to consider the complaint.

4. Data Protection

The complaint will be processed in accordance with the Data Protection Act 2018 and UK General Data Protection Regulation (GDPR). Personal data will be processed fairly and lawfully at every stage of the process. Reasonable expectations of privacy will be balanced against the public interest.

5. Conflict of Interest

Where the Monitoring Officer considers that he/she has a conflict of interests, for example, as a result of a close professional relationship with the Subject Member, the Monitoring Officer will pass the complaint to the Deputy Monitoring Officer to deal with. Where the Deputy Monitoring Officer similarly has a conflict of interest, arrangements may be made for a Monitoring Officer from another local authority in Derbyshire to deal with the complaint.

6. Criminal Conduct

If the complaint identifies criminal conduct or breach of other regulation by any person, the Monitoring Officer will refer the matter to the Police or another regulatory agency as appropriate.

7. Acknowledging the Complaint

The Monitoring Officer will acknowledge receipt of the complaint within five working days of receiving it.

The Monitoring Officer will write to the Subject Member with details of the allegations (subject to any representations from the Complainant that confidentiality or concerns that disclose of the complaint would prejudice any potential investigation) and notifying the Subject Member of their right to consult one of the Independent Persons

The Monitoring Officer will also write to one of the Independent Persons with details of the allegations.

The Subject Member will be requested to provide within 10 working days of the date of the letter, or such longer period as the Monitoring Officer may agree, any written representations in response to the complaint which the Monitoring Officer will take into account when deciding how the complaint will be dealt with.

8. Initial Filtering of Complaints

Code of Conduct complaints can only be accepted if they relate to a members' behaviour whilst that member is acting, or giving the impression that they are acting, in their official capacity and not a private matter. Complaints which clearly relate to a member acting in the private capacity or otherwise fall outside the scope of the Code of Conduct and can be rejected by the Monitoring Officer without notifying the Subject Member or seeking the views of the Independent Person.

If there is any doubt, as to whether the Subject Member was acting in their official capacity and not a private matter, the allegation should proceed to the second stage. For example, if it is unclear whether the councillor was acting 'in capacity' or not then the second stage of assessment criteria should be used. On rejecting a complaint for this reason, the Monitoring Officer will inform the Complainant and the Subject Member of the decision and the reasons for that decision in writing.

9. Additional Information

If the Complainant does not submit sufficient information to enable the Monitoring Officer to reach a decision, the Monitoring Officer may ask the Complainant for such information and may request additional information from the Subject Member.

The Monitoring Officer may also carry out pre-assessment enquiries, which will not amount to an investigation. This may include obtaining documentation, such as minutes of meetings.

10. Confidentiality

As a matter of fairness and natural justice, the Subject Member should be told who has complained about them. There may be occasions where the Complainant requests that their identity is withheld. Such a request may be granted in circumstances that the Monitoring Officer considers to be exceptional, for example;

- (a) the Complainant has reasonable grounds for believing that they will be at real risk of intimidation, victimisation, or physical harm if their identity is disclosed;
- (b) the Complainant is an officer who works closely with the Subject Member and they are afraid of the consequences to their employment if their identity is disclosed; or
- (c) the Complainant suffers from a serious health condition which might be adversely affected if their identity is disclosed.

If the Monitoring Officer decides to refuse a request by the Complainant for confidentiality the Monitoring Officer will offer the Complainant, the option to withdraw the complaint rather than proceed with disclosure of the Complainant's identity.

As a matter of fairness and natural justice, the Subject Member should also be informed of the nature of the complaint. If, however, the Monitoring Officer considers that disclosure of details of the complaint to the Subject Member might prejudice the investigation, the Monitoring Officer can agree to delay notifying the Subject Member until consideration of the complaint has progressed sufficiently.

It is important to preserve the integrity of the complaints process and to minimise any negative effect of the complaint on all the people affected by it, that information relating to the complaint is treated as confidential. The assessment of complaints will therefore be conducted by the Monitoring Officer in private. The parties to a complaint are expected to maintain confidentiality as well. Parties are not prohibited from discussing the complaint to seek advice and support; however, it should not be discussed in the public domain.

11.. Initial Assessment of Complaint

The Monitoring Officer will review the complaint together with any representations received from the Subject Member and, after consultation with the Independent Person, take a decision as to whether this complaint merits formal investigation or whether it should be dealt with informally or rejected.

This decision will normally be taken within 20 working days of receipt of the complaint or within 10 days of the Subject Member's written representations, whichever is the later. The Monitoring Officer shall have discretion to amend the timetable as appropriate.

The Monitoring Officer will inform the Complainant, the Subject Member of the decision on initial assessment and the reasons for that decision in writing.

The decision of the Monitoring Officer will also be reported to the Standards Committee for information. Where the Monitoring Officer has determined that if the complaint is proven, there would potentially be a breach of the Code of Conduct and recommended an informal resolution, it is in the public interest for the Subject Member to be named. However, where the Monitoring Officer has made a finding of no breach, the Subject Member will not be identified.

Each complaint will be assessed to determine whether it is one the Monitoring Officer can and should investigate.

The Monitoring Officer will consider the following in deciding whether the complaint can be investigated;

- (a) is the complaint about the conduct of a named, elected, or co-opted member of the County Council?
- (b) Does the complaint relate to matters where the councillor was acting as a councillor or representative of the authority and it is not a private matter ;was the Code of Conduct in force at the time the alleged misconduct took place?
- (c) if the complaint is proven, would there potentially be a breach of the Code under which the Subject Member was operating at the time of the alleged misconduct?

If the complaint fails one or more of these threshold tests, it will be rejected.

The Monitoring Officer will then consider the following in deciding whether the complaint should be investigated, dealt with informally or rejected;

1. the complaint appears to be trivial, vexatious, malicious, politically motivated or tit for tat;
2. the complaint is anonymous. The Monitoring Officer will not usually investigate anonymous complaints unless there is a clear public interest in doing so;
3. the Complainant has not provided any evidence that supports the complaint. The Monitoring Officer will not usually investigate where a Complainant has simply made an allegation that the Councillor has failed to act in way that is required by the Code;
4. a significant period of time has elapsed since the events, which are the subject of the complaint. This could be because, where a matter is serious, it would be reasonable to expect the Complainant to make a complaint promptly, or because the passage of time may make it more difficult to obtain documentary evidence and reliable witness evidence. The Monitoring Officer will normally reject a complaint where the last event complained of took place more than six months prior to the date of the complaint. The Monitoring Officer will however consider any reason why there had been a delay in making the complaint;
5. the complaint is such that it is unlikely that an investigation will be able to come to a firm conclusion on the matter. This could be where the matter is such that there is unlikely to be any firm evidence on the matter. An example of this could be a telephone conversation where there were conflicting accounts of what was said in the call was no independent verification of the contents of the telephone call.
6. the complaint or a substantially similar allegation has previously been the subject of an investigation and there is nothing more to be gained by further action being taken;
7. a complaint suggests that there is a wider problem throughout the authority, and this will be considered differently and as part of that wider resolution;
8. the complaint discloses a potential breach of the Code, but the Subject Member has remedied or made reasonable endeavours to remedy the issue to which the complaint relates and the complaint does not disclose sufficiently serious potential breaches of the Code of Conduct to merit further consideration;
9. the complaint discloses a potential breach of the Code, but the complaint is not serious enough to merit an investigation in circumstances where the resources needed to investigate are wholly disproportionate to the allegations and there is no overriding public interest in carrying out an investigation. Public interest is regarded as something which is of serious concern and benefit to the public.

12. Informal Resolution

In appropriate cases, the Monitoring Officer may seek to resolve the complaint informally, without the need for a formal investigation. Such informal resolution may involve the Subject Member accepting that his/her conduct was unacceptable and

- offering an apology;
- agreeing to attend a training course;
- agreeing to engage in the process of conciliation/mediation; or
- the Council introducing some other remedial action (such as changing procedures)

Where the Subject Member makes a reasonable offer of informal resolution, but the Complainant is not willing to accept that offer, the Monitoring Officer will take account of this in deciding whether the complaint merits formal investigation.

Where the Monitoring Officer recommends informal resolution, but the Subject Member is not willing to accept that his/her conduct was unacceptable or is not willing to accept the informal resolution proposed, the Monitoring Officer will take account of this in deciding whether the complaint merits formal investigation.

The Local Government Association Guidance 2021¹ provides the below examples of matters which may be suitable for informal resolution:

- the same particular breach of the Code by many members, indicating poor understanding of the Code and the authority's procedures;
- a general breakdown of relationships, including those between members and officers, as evidenced by a pattern of allegations of minor disrespect, harassment or bullying to such an extent that it becomes difficult to conduct the business of the authority;
- misunderstanding of procedures or protocols;
- misleading, unclear or misunderstood advice from officers;
- lack of experience or training;
- interpersonal conflict;
- allegations and retaliatory allegations from the same members;
- allegations about how formal meetings are conducted;
- allegations that may be symptomatic of governance problems within the authority, which are more significant than the allegations in themselves.

If the Monitoring Officer considers a complaint can be dealt with through informal resolution they should consult with the Independent Person and they should inform the Subject Member and the Complainant and give them the opportunity to comment before making a final decision.

¹ [Guidance on Member Model Code of Conduct Complaints Handling | Local Government Association](#)

13. Investigation

If the Monitoring Officer decides that the complaint merits formal investigation, he/she will appoint an Investigating Officer, who may be another senior officer of the authority, an officer of another authority or an external investigator. The Investigating Officer will decide whether he/she needs to meet or speak to the Complainant to understand the nature of the complaint.

The Investigating Officer would normally write to the Subject Member and provide the Subject Member with a copy of the complaint, and ask the Subject Member to provide his/her explanation of events and to identify what documents the Investigating Officer needs to see and who she/he needs to interview. In exceptional cases, where it is appropriate to keep the Complainant's identity confidential or the Monitoring Officer considers that disclosure of details of the complaint to the Subject Member might prejudice the investigation, the Investigating Officer can delete the Complainant's name and address from the papers given to the Subject Member, or delay notifying the Subject Member of the actual complaint until the investigation has progressed sufficiently.

At the end of the end of the investigation, the Investigating Officer will produce a draft report and send copies of that draft report, in confidence, to the Complainant and to the Subject Member concerned to give them both an opportunity to identify any matter in that draft report which they disagree with or which they consider requires more consideration. Both parties will be given ten working days to make representations or, in exceptional circumstances, such other period as the Investigating Officer consider reasonable.

Having received and taken account of any comments on the draft report, the Investigating Officer will send his/her final report to the Monitoring Officer.

14. Investigating Officer Concludes that there is No Evidence of a Breach of the Code of Conduct

The Monitoring Officer will review the Investigating Officer's report and, if he/she is satisfied that the Investigating Officer's report is sufficient, will send to the Complainant and the Subject Member a copy of the Investigating Officer's final report and confirm the finding of no breach of the Code of Conduct. If the Monitoring Officer is not satisfied that the investigation has been conducted properly, he/she may ask the Investigating Officer to reconsider his/her report.

Investigating Officer concludes that there is evidence of a breach of the Code of Conduct the Monitoring Officer will review the Investigating Officer's report and will then either send the matter for a hearing before the Hearing Panel (the Panel) or after consulting the Independent Person, seek local resolution.

a) Local Resolution

The Monitoring Officer may consider that the matter can reasonably be resolved without the need for a hearing. In such a case, the Monitoring Officer will consult with the Independent Person and the Complainant and seek to agree what the Complainant considers to be a fair resolution which also helps to ensure higher standards of conduct for the future. Such informal resolution may involve the Subject Member accepting that his/her conduct was unacceptable; and

- offering an apology;
- agreeing to attend a training course;
- agreeing to engage in a process of conciliation; or
- the council introducing some other remedial action (such as changing procedures)

If the Subject Member complies with the suggested resolution, the Monitoring Officer will issue a Decision Notice. The Decision Notice will include a brief statement of facts, the provisions of the Code of Conduct engaged by the allegations, the views of the Independent Person, the reasons for the decision and any sanctions applied. A copy of the Decision Notice will be sent to the Complainant, to the Subject Member and published on the Council's website and reported to the next convenient meeting of the Standards Committee.

However, if the Complainant tells the Monitoring Officer that any suggested resolution would be not be adequate or the Subject Member refuses to accept the resolution the Monitoring Officer will refer the matter for a local hearing.

b) Hearing

If the Monitoring Officer considers that local resolution is not appropriate, or the Complainant is not satisfied by the proposed resolution, or the Subject Member is not prepared to undertake any proposed remedial action then the Monitoring Officer will report the Investigating Officer's report to the Hearing Panel which will conduct a Hearing before deciding whether the Subject Member has failed to comply with the Code of Conduct and, if so, whether to take any action.

The Monitoring Officer will conduct a pre-hearing process, requiring the Subject Member to give his/her response to the Investigating Officer's report in writing in order to identify what is likely to be agreed and what is likely to be in contention at the hearing. The Chairman of the Panel may issue directions as to the manner in which the Hearing will be conducted. The Local Government Association Guidance 2021 details areas where preliminary consideration and direction would be of assistance.

The role of the panel is to decide factual evidence on the balance of probabilities

At the hearing, the Investigating Officer will present his/her report, call such witnesses as he/she considers necessary and make representations to

substantiate his/her conclusion that the Subject Member has failed to comply with the Code of Conduct. For this purpose, the Investigating Officer may ask the Complainant to attend and give evidence to the Panel. The Subject Member will then have an opportunity to give his/her evidence, to call witnesses and to make representations to the Panel as to why he/she considers that he/she did not fail to comply with the Code of Conduct. The Panel can allow witnesses to be questioned and cross examined by the Subject Member, the Monitoring Officer, the Investigating Officer (or their representative, including a Solicitor or Barrister), directly or through the Chairman. The Panel can also question witnesses.

The Independent Person will be invited to attend to observe but will not participate in the hearing. The Panel will seek the views of the Independent Person and take those views into account before making its decision.

The Panel may conclude that the Subject Member did not breach the Code of Conduct, and if so, will dismiss the complaint.

If the Panel concludes that the Subject Member did breach the Code of Conduct, the Chairman will inform the Subject Member of this finding and the Panel will then consider what action, if any, the Panel should take as a result of the Subject Member's failure to comply with the Code of Conduct. In doing this, the Panel will give the Subject Member an opportunity to make representations to the Panel and seek the views of the Independent Person and take those into account before making its decision.

15. Sanctions

The Council have delegated to the Panel powers to take action in respect of individual members as maybe necessary to promote and maintain high standards of conduct. The Local Government Association Guidance 2021 provides that when deciding on a sanction, the panel should ensure that it is reasonable, proportionate and relevant to the subject member's behaviour. Examples of factors which the panel may wish to consider are detailed within the above guidance. Accordingly, the Panel may do one or a combination of the following;

- (a) Send a formal letter to the Subject Member;
- (b) Issue a formal censure in writing.
- (c) Publish its findings in respect of the Subject Member's conduct;
- (d) Report its findings to the Council for information;
- (e) Recommend to the Subject Member's Group Leader (or in the case of ungrouped members, recommend to the Council or to Committees) that the Subject Member be removed from any or all committees or sub-committees of the Council;
- (f) Recommend to the Leader of the Council that the Subject Member may be removed from the Cabinet or removed from particular portfolio responsibilities;
- (g) Instruct the Monitoring Officer to arrange training for the Subject Member;

- (h) Recommend to the Subject Member's Group Leader that the Subject Member is removed from all outside appointments to which he/she has been appointed or nominated by the authority;
- (i) In the case of a co-opted member, recommend to the Council that he/she be removed from the Council or any of its committees, sub-committees or working groups;
- (j) Withdraw facilities provided to the Subject Member by the Council (such as a computer, website and/or email and internet access) for a specified period; or
- (k) Exclude the Subject Member from the Council's offices or other premises for a specified period with the exception of meeting rooms as necessary for attending Council committee and sub-committee meetings.

The Hearings Panel has no power to suspend or disqualify the Subject Member or to withdraw members or special responsibility allowances. It also has no power to impose a sanction which would fetter the otherwise appropriate activities of a democratically elected representative.

16. What Happens at the end of the Hearing?

At the end of the Hearing the Chairman will state the decision of the Panel as to whether the Subject Member has breached the Code of Conduct and as to any actions which the Panel resolves to take.

As soon as reasonably practicable thereafter, the Monitoring Officer shall prepare a Formal Decision Notice in consultation with the Chairman of the Panel. The Decision Notice will include a brief statement of facts, the provisions of the Code of Conduct engaged by the allegations, the views of the Independent Person, the reasons for the decision and any sanctions applied. A copy of the Decision Notice will be sent to the Complainant, the Subject Member, published on the Council's website and reported to the next convenient meeting of the Standards Committee.

17. What is the Hearing Panel?

The Hearing Panel is a sub-committee of the Council's Governance Ethics and Standards Committee. The Panel will be comprised of three members drawn from the Governance, Ethics and Standards Committee who have undertaken appropriate training. The Panel will be politically balanced, and a Chairman of the Panel will be nominated and determined by the Panel at its first meeting.

The Independent Person is invited to attend all meetings of the Panel and his/her views will be sought by the Panel and taken into consideration by the Panel before the Panel takes any decision on whether the Subject Member's conduct constitutes a breach of the Code of Conduct and as to any action to be taken following a finding of a breach of the Code of Conduct.

However, the Independent Person is not a member of the Panel. Whilst his/her views will be taken into account by the Panel, the Independent Person will not take part in the making of a decision.

18. Who is the Independent Person?

The Independent Person is a person who has been appointed by the Council under Section 28 of the Localism Act 2011. The Localism Act requires that the Independent Person's views must be taken into account before a decision on an allegation can be made. The views of the Independent Person may also be sought by the Subject Member.

In accordance with legislation, the Monitoring Officer will consult the Independent Person as set out in these arrangements but has the discretion to consult the Independent Person on any other issues arising out of an allegation that a member has breached the Code of Conduct. The Council has appointed **two** Independent Persons.

19. Complaints relating to the Police and Crime Commissioner.

If a police and crime commissioner is a member or co-opted member of the Council an allegation against the commissioner should be referred to the police and crime panel for the commissioner's police area.

If, in response to an allegation referred to it the police and crime panel makes a report or recommendation to the police and crime commissioner under section 28(6) of the Police Reform and Social Responsibility Act 2011, the panel may also make a report or recommendation on the allegation to the Council .

The Council must take any such report or recommendation into account in determining— (a) whether the police and crime commissioner has failed to comply with the authority's code of conduct, (b) whether to take action in relation to the commissioner, and (c) what action to take.

20.. Revision of these Arrangements

The Governance, Ethics and Standards Committee has the power to amend these arrangements. The Panel and the Monitoring Officer has the right to depart from these arrangements where it considers that it is expedient to do so in order to secure the effective and fair consideration of any matters.

21. Appeals

There is no right of appeal against a decision of the Monitoring Officer or the Panel.

If the Complainant feels that the Council has failed to deal with a complaint properly, he/she may complain to the Local Government and Social Care Ombudsman.

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