

# Public Document Pack



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PUBLIC

To: Members of Governance, Ethics and Standards Committee

Wednesday, 10 January 2024

Dear Councillor,

Please attend a meeting of the **Governance, Ethics and Standards Committee** to be held at **2.00 pm** on **Thursday, 18 January 2024** 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 - 4)

To confirm the non-exempt minutes of the meeting of the Governance, Ethics and Standards Committee held on 26 October 2023.

4. Review of the Code of Conduct for Elected Members (Pages 5 - 40)
5. Revisions to the Constitution: Terms of Reference of the Audit Committee (Pages 41 - 60)
6. Annual Report of the Independent Remuneration Panel (Pages 61 - 92)

PUBLIC

**MINUTES** of a meeting of **GOVERNANCE, ETHICS AND STANDARDS COMMITTEE** held on Thursday, 26 October 2023 at Committee Room 1, County Hall, Matlock, Derbyshire, DE4 3AG.

## **PRESENT**

Councillor S Swann (in the Chair)

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

Also in attendance was H Barrington, D Cohen, D Desay, J Skila, I Little, D Massey, G Poulter, and E Wild.

Apologies for absence were submitted for I Orford (Independent Member).

### **17/23 DECLARATIONS OF INTEREST**

There were no declarations of interest.

### **18/23 MINUTES**

**RESOLVED** that the minutes of the meeting of the Governance, Ethics and Standards Committee held on 13 July 2023 be confirmed as a correct record.

### **19/23 ANNUAL REVIEW LETTER OF THE LOCAL GOVERNMENT AND SOCIAL CARE OMBUDSMAN**

The Director of Legal and Democratic Services H Barrington introduced a report, informing the Committee that Cabinet, at its meeting on 19 October 2023, considered a report of the Local Government and Social Care Ombudsman's Annual Review Letter for the year ended 31 March 2023.

**RESOLVED** to

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

### **20/23 REGISTER OF GIFTS AND HOSPITALITY 1 APRIL 2022 - 31 MARCH 2023**

The Director of Legal and Democratic Services H Barrington introduced a report, informing the Committee of gifts and hospitality offered during 2022-2023 (1 April 2022 - 31 March 2023).

**RESOLVED to**

1) Note the Annual Gifts & Hospitality register for 2022-2023.

**21/23 COMPLAINTS RECEIVED AGAINST COUNCILLORS PURSUANT TO THE CODE OF CONDUCT FOR ELECTED MEMBERS FOR THE PERIOD 1ST MARCH TO 30TH SEPTEMBER 2023**

Principal Solicitor E Wild introduced a report, informing the Committee of Code of Conduct complaints against Councillors received during the period of 1st March to 6th October 2023.

**RESOLVED to**

1) Note the complaints received by the Monitoring Officer between 1 March 2023 and 6 October 2023 alleging that Members had breached the Code of Conduct.

**22/23 CUSTOMER FEEDBACK: COMPLIMENTS AND COMPLAINTS 2022/23**

Director of Organisation Resilience People & Communications J Skila and Head of Customer Service D Desay, introduced a report, providing an end of year update on complaints and compliments reported to the Council. From 1st April 2022 to 31st March 2023.

**RESOLVED to**

1) Note the content of the report and the latest data.

**23/23 REVIEW OF THE COUNCILLORS' CODE OF CONDUCT AND ARRANGEMENTS FOR DEALING WITH COMPLAINTS MADE UNDER THE CODE OF CONDUCT.**

Principal Solicitor E Wild introduced a report, seeking 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.

**RESOLVED to**

1) Agree 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 Members for breaching the Code of Conduct; and

2) Agree the composition of the working group be made up of Councillors S Swann, R Flatley and a representative of the Labour Group, to be confirmed.



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**FOR PUBLICATION**

**DERBYSHIRE COUNTY COUNCIL**

**GOVERNANCE, ETHICS AND STANDARDS COMMITTEE**

**THURSDAY, 18 JANUARY 2024**

**Report of the Director - Legal and Democratic Services**

**Review of the Code of Conduct for Elected Members and arrangements  
for dealing with complaints made under the Code of Conduct**

**1. Purpose**

- 1.1 A review of the current Code of Conduct for Members and procedure for considering complaints that Members have breached the Code of Conduct has been undertaken by the Working Group nominated by this Committee and the purpose of this report is to inform the Committee of the outcome of the review and make recommendations for amendments.

**2. Information and Analysis**

- 2.1 At its meeting in October 2023, the Governance, Ethics and Standards Committee agreed that a Working Group should be established to review the current Code of Conduct for Members and procedure for considering complaints that Members have breached the Code of Conduct. The Working Group, comprising Councillors Swann, Flatley and C Dale met on 28<sup>th</sup> November to undertake the review.
- 2.2 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.

- 2.3 The review resulted in the Council adopting a new Code of Conduct in April 2022 and procedure for considering complaints that Members have breached the Code of Conduct in January 2022. The documents were based on the model Code of Conduct and guidance produced by the Local Government Association.
- 2.4 The new Code and procedure for dealing with complaints have now been in place for more than 12 months. One of the recommendations from the Committee for Standards in Public Life was that principal authorities should review their Code of Conduct each year and regularly seek where possible, the views of the public, community organisations and neighbouring authorities. The LGA model code also includes the following *“the LGA will undertake an annual review of this Code to ensure it continues to be fit for purpose, incorporating advances in technology, social media and changes in legislation”*. Therefore, it was appropriate to review both documents 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.
- 2.5 In considering complaints made against Members, the Council receives very few complaints. In the municipal year 2021- 2022 only one complaint was received; 7 complaints were received in 2022 – 2023, but one of those was withdrawn; and only one complaint has been received so far in 2023 – 2024. No increase has been noted since the adoption of the new Procedure and the new Code. The Monitoring Officer has not determined that any complaints received require further investigation, and no complaints have progressed to hearing.
- 2.6 At the time of developing the procedure for dealing with complaints, consideration was given to the timescales involved in dealing with complaints and the timescales are now generally adhered to with complaints being dealt with in a timely manner and no issues being raised by the Monitoring Officer when dealing with complaints in accordance with the procedure.
- 2.7 Therefore, in general terms, the Working Group was satisfied that the implementation of the Code of Conduct and procedure for dealing with complaints appear to have been successful and is working well.
- 2.8 However, the Working Group did consider that there were two specific amendments which needed to be made. The first was an omission from the Procedure for Considering Complaints. The Working Group identified



that whilst the list of sanctions at section 15 of the Procedure for dealing with complaints includes removal of members from any or all committees of the Council or Cabinet, there is no similar sanction to remove the Leader. This was included in the previous version of the Code of Conduct and the LGA guidance on complaints handling, but was omitted erroneously in preparing the current version. The Working Group was therefore of the view that this sanction should be re-instated. Members should be aware that although this was missing from the procedure for considering complaints, the list is not exhaustive and therefore such a sanction would have been available to a Hearing Panel should that have been necessary.. A copy of the amended procedure for considering complaints including this sanction is attached at Appendix 2 for approval.

- 2.9 The Working Group also considered that it would be appropriate to make a change to the presentation of the Code on page 2. The LGA model Code says:

*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.*

*Building on these principles, the following general principles have been developed specifically for the role of councillor.*

*In accordance with the public trust placed in me, on all occasions:*

- 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.*

*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 my local authority's requirements and in the public interest.*

The Derbyshire Code omits the highlighted section and splits the two sets of bullet points around the Nolan principles. Therefore, the working group were of the view that it would be appropriate to add in the highlighted section and to list the principles after the Nolan

Principles. A copy of the amended Code of Conduct is attached at Appendix 3 for agreement and referral to Council for approval.

- 2.10 The Working Group also considered the need for regular review of the procedure for considering complaints against Members and the Code of Conduct. One of the recommendations from the Committee for Standards in Public Life was that principal authorities should review their Code of Conduct each year and regularly seek where possible, the views of the public, community organisations and neighbouring authorities. The LGA model code also includes the following *“the LGA will undertake an annual review of this Code to ensure it continues to be fit for purpose, incorporating advances in technology, social media and changes in legislation”*.
- 2.11 However, the Working Group also noted that these are recommendations and advice, rather than a requirement. Therefore, in light of the small number of complaints received by the authority, the fact that the current arrangements are working well, and that only minor amendments are required to the Code of Conduct to correct a previous error and in terms of presentation, the Working Group was of the view that it was not necessary to review the arrangements annually as this was disproportionate in terms of officer and Member time. The Group suggested that a review once every two years would be more appropriate and proportionate.
- 2.12 The need for additional training for Members was also considered by the Working Group. It was noted that significant training had been offered to Members on the adoption of the new Code of Conduct which had been successful. However, it was also noted that the declaration of interests regime is significantly different to previously and the Working Group felt that Members would find it useful to have refresher training focussing on scenarios and practical examples of interests which needed to be declared.

### **3. Consultation**

- 3.1 Not applicable.

### **4. Alternative Options Considered**

- 4.1 Not to amend the current Code of Conduct and procedure for considering complaints as recommended. However, this is not recommended as the review has identified appropriate amendments

and to not make those amendments would not ensure that the regime is fit for purpose.

## **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 Arrangements for dealing with complaints that members have breached the Code of Conduct with suggested amendments highlighted.
- 7.3 Appendix 3 - Derbyshire County Council’s Code of Conduct for Councillors with suggested amendments highlighted.

## **8. Recommendation(s)**

That Committee:

- a) supports the proposal to include the additional sanction and approves the revised Procedure for Considering Complaints that Members have breached the Code of Conduct at Appendix 2;
- b) agrees the proposed amendment regarding presentation outlined at paragraph 2.9 and included in the revised Code of Conduct at Appendix 3 and refers these amendments to Council for approval and inclusion within the Constitution;
- d) agrees that there should be a review of the procedure for considering complaints against Members and the Code of Conduct for Members once every two years with the next review being scheduled for October 2025; and
- e) requests officers to implement further training in respect of the requirements for declaring interests.

## **9. Reasons for Recommendation(s)**

- 9.1 To ensure that the Code of Conduct and arrangements for dealing with complaints against elected members remains up to date and fit for

purpose and to ensure that appropriate training is available to all members.

**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.
- 2.3 The Governance, Ethics and Standards Committee has the authority to design, implement, monitor, approve and review the standards of ethics and probity of the Council, both for Elected Members and Officers and is therefore able to approve amendments to the procedure for considering complaints. However the adoption and revisions to the Members' Code of Conduct is reserved to the Council.
- 2.4 The Committee is also responsible for overseeing and managing programmes of guidance, advice and training on ethics, standards and probity for Elected Members on the Members Code of Conduct.

### **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.

**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](mailto: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 2021<sup>1</sup> 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.

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<sup>1</sup> [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 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.

If the 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) Recommend to the Council that, if the Subject Member is the Leader of the Council, that the Subject Member be removed as Leader and from the Cabinet;
- (h) Instruct the Monitoring Officer to arrange training for the Subject Member;
- (i) 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;
- (j) 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;
- (k) 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
- (l) 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.

# 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.

### **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:

*Building on these principles, the following general principles have been developed specifically for the role of councillor.*

*In accordance with the public trust placed in me, on all occasions:*

- *I act with integrity and honesty,*
- *I act lawfully,*

- *I treat all persons fairly and with respect,*
- *I lead by example and act in a way that secures public confidence in the role of councillor,*
- 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 your 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](#).

<b>SUBJECT</b>	<b>DESCRIPTION</b>
<b>Employment, office, trade, profession or vocation</b>	Any employment, office, trade, profession, or vocation carried on for profit or gain.
<b>Sponsorship</b>	<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>
<b>Contracts</b>	<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>
<b>Land and Property</b>	<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>
<b>Licenses</b>	Any licence (alone or jointly with others) to occupy land in the area of the council for a month or longer.



<p><b>Corporate Tenancies</b></p>	<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>
<p><b>Securities</b></p>	<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.



**FOR PUBLICATION**

**DERBYSHIRE COUNTY COUNCIL**

**GOVERNANCE ETHICS AND STANDARDS COMMITTEE**

**18 January 2024**

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

**Revisions to the Constitution: Terms of Reference of the Audit Committee**

**1. Purpose**

- 1.1 To agree an amendment to the terms of reference of the Audit Committee in the Constitution to include two co-opted independent members and refer the amendment to full Council for approval.

**2. Information and Analysis**

- 2.1 The terms of reference of the Governance, Ethics and Standards Committee includes a requirements “to advise the County Council on the monitoring, amendments to and overall operation of the Constitution.”
- 2.2 The Audit Committee considered a request at the meeting on 5 December 2023 to appoint two co-opted independent members to the Committee. This recommendation received the support of the Committee and it was recommended that the Governance, Ethics and Standards be invited to consider recommending a change to Article 10 of the Constitution in relation to the composition of the Audit Committee.
- 2.3 Article 10 of the Constitution currently provides that “The Audit Committee will comprise at least six Councillors, but shall not include in its membership any member of the Cabinet.” The report approved by the Audit Committee on 5 December 2023 invited the Governance, Standards and Ethics Committee to recommend a constitutional change

to the Committee's composition to include two co-opted independent members. A copy of the report setting out the rationale for the introduction of the two co-opted independent members and the process for recruitment and appointment is attached at Annex 2 and a summary of the key points is set out below.

- 2.4 CIPFA's Audit Committees: Practical Guidance for Local Authorities and Police 2022 highlights the following potential benefits of introducing co-opted independent members:
- Enhancement of knowledge and experience in specific areas such as audit or financial reporting.
  - To provide continuity outside of the political cycle, this is particularly important where membership of the committee changes routinely.
  - To achieve a non-political focus on governance, risk and control matters.
  - Increased resilience and continuity of the committee, particularly where the two co-opted independent members have complementary skill sets.
  - Shows a commitment to supporting and investing in the committee.
- 2.5 An Audit Committee workshop held 31 January 2023, hosted by the Assistant Director of Finance (Audit) outlined the content of CIPFA's Position Statement and Practical Guidance for Local Authorities and Police 2022, alongside completion of the associated Self-Assessment of Good Practice for Audit Committees.
- 2.6 The self-assessment exercise was designed to consider the Audit Committee's performance against CIPFA's four key principles. The percentage of the possible maximum scores awarded during the self-assessment exercise have been included for information:
- Audit Committee Purpose and Governance (36%)
  - Functions of the Committee (78%)
  - Membership and Support (47%)
  - Effectiveness of the Committee (50%)
- 2.7 The lack of 'lay' or co-opted independent members was specifically highlighted as an area of weakness within the 'Membership and Support' category as Committee members expressed a desire for more specialist and technical backing. An increased level of discussion and challenge, anticipated through the introduction of co-opted independent members will also assist in further developing qualities which underpin the overall 'Effectiveness of the Committee'.
- 2.8 A detailed Role and Person Profile for Co-opted Independent Audit Committee Members has been developed utilising guidance offered by CIPFA's Audit Committees: Practical guidance for local authorities and

the police. A copy of the proposed Role and Person Profile was considered and supported by the Audit Committee on 5 December 2023.

### **3. Consultation**

3.1 Not applicable.

### **4. Alternative Options Considered**

4.1 Not to recommend the amendment of the Constitution. This would prevent the appointment of the two co-opted independent members which has been recommended by the Audit Committee and is in accordance with CIPFA's Good Practice for Audit Committees.

### **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 Annex 1 – Implications

7.2 Annex 2 - The report and appendices presented to the Audit Committee on 5 December 2023

### **8. Recommendation(s)**

That Committee agrees that Article 10 of the Constitution be amended to change the composition of the Audit Committee to include two co-opted independent members and refers the amendment to full Council for approval.

### **9. Reasons for Recommendation(s)**

9.1 To ensure compliance with the recommendation to appoint at least two co-opted independent audit committee members as per CIPFA Position Statement: Audit Committees in Local Authorities and Police 2022.

9.2 To optimise the performance of the Audit Committee and enhance the technical skills and expertise within the membership, through the addition of two formally appointed co-opted independent members.

**Report Author:** Jane Lakin  
**Contact Details** jane.lakin@derbyshire.gov.uk

## **Implications**

### **Financial**

- 1.1 It is usual practice for co-opted independent members to receive payment and reimbursement of expenses incurred when attending meetings. The Independent Remuneration Panel has considered the allowance payable in relation to this role and the recommendations of the Panel are reported separately to the Governance, Ethics and Standards Committee.

### **Legal**

- 2.1 Under sections 101 and 102 of the Local Government Act 1972, Council is responsible for approving the composition and appointment to committees. Therefore, in order to change the composition of the Audit Committee as detailed in Article 10 of the Derbyshire County Council Constitution approval will be required from Full Council.
- 2.2 The Council has the power to appoint co-opted independent members to committees, other than a committee for regulating and controlling the finances of the Council, under section 102(3) of the 1972 Act.
- 2.3 Article 22 of the Constitution makes it clear that changes to the Constitution will only be approved by the full Council after consideration of the proposal by the Governance Ethics and Standards Committee. This report discharges that constitutional requirement.
- 2.4 The Council is required to prepare and keep up to date its Constitution as set out in Section 9P of the Local Government Act 2000 as amended. Approval by full Council of the recommendations in this report will enable the compliance with this duty.

### **Human Resources**

- 3.1 A person specification for the role has been prepared for consideration. Remuneration for the role will be considered in accordance with Council procedures and policies.

### **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.





**FOR PUBLICATION**

**DERBYSHIRE COUNTY COUNCIL**

**AUDIT COMMITTEE**

**5 December 2023**

**Report of the Assistant Director of Finance (Audit)**

**Co-opted Independent Audit Committee Members**

**1. Purpose**

- 1.1 To seek approval to appoint two co-opted independent members to the Audit Committee.

**2. Information and Analysis**

- 2.1 The Audit Committee is a key component of an Authority's governance framework. The Committee's core functions include high-level assurance and objective oversight of the governance, risk and control arrangements, financial and governance reporting, and establishment of audit and assurance processes across the full range of the Authority's operations and collaborations.
- 2.2 Independent of both executive decision making and scrutiny functions, the Audit Committee oversees the Council's arrangements for internal and external audit and assists in ensuring that efficient and effective assurance arrangements are in place. The Committee's constitution, role, function and responsibilities are defined within the Council's Constitution.

**CIPFA's Position Statement: Audit Committees in Local Authorities and Police 2022**

- 2.3 The level of influence exerted by the Audit Committee is underpinned by the knowledge, experience and aptitude of its members. CIPFA's

Position Statement: Audit Committees in Local Authorities and Police 2022 (endorsed by the Department for Levelling Up, Housing and Communities and the Home Office), outlines the following recommended characteristics of audit committee memberships, highlighting the importance of cultivating an independent and unbiased approach:

- A membership that is trained to fulfil their role so that members are objective, have an inquiring and independent attitude, and are knowledgeable.
- A membership that promotes good governance principles, identifying ways that better governance arrangement can help achieve the organisation's objectives.
- A strong, independently minded chair, displaying a depth of knowledge, skills, and interest.
- Willingness to operate in an apolitical manner.
- Unbiased attitudes – treating auditors, the executive and management fairly.
- The ability to challenge the executive and senior managers when required.
- Knowledge, expertise and interest in the work of the committee.

2.4 The Position Statement recommends that the skills and experience of elected members should be supplemented by inclusion of at least two co-opted independent members to provide appropriate technical expertise.

### **Definition of an 'Co-opted Independent Member'**

2.5 Co-opted independent members are not elected representatives. These individuals are instead recruited to join the committee, specifically to supplement the knowledge and skills available and to reinforce the committee's independence.

2.6 Although there is no statutory definition of 'co-opted independent' audit committee members for local authorities in England, Scotland or Northern Ireland, it is recommended that co-opted independent members should be appointed in accordance with the following:

- Not a member, co-opted member or officer of the authority.
- Not a member, co-opted member or officer of a parish, district or borough council in the area of the principal authority.
- Not a relative or close friend of one of the above.
- Not a member, co-opted member or officer of the authority or parish council in the last five years.

## **Role of a Co-opted Independent Member**

- 2.7 The role undertaken by co-opted independent committee members is largely the same as elected members, the only substantial difference arises where the committee has delegated decision-making responsibilities. In such circumstances, co-opted independent members cannot vote on council policy, however they should be encouraged to contribute to discussions prior to a formal decision being made. An annual allowance is normally payable to each co-opted independent member, which will need to be determined.
- 2.8 The addition of two co-opted independent members will increase the Committee's current composition, as defined within the Constitution, from six members to eight.
- 2.9 A detailed Role and Person Profile for Co-opted Independent Audit Committee Members has been developed utilising guidance offered by CIPFA's Audit Committees: Practical guidance for local authorities and the police. A copy of the proposed Role and Person Profile has been included at Appendix 2.

## **Considerations When Appointing Co-opted Independent Members**

- 2.10 CIPFA's Audit Committees: Practical Guidance for Local Authorities and Police 2022 highlights the following potential benefits of introducing co-opted independent members:
- Enhancement of knowledge and experience in specific areas such as audit or financial reporting.
  - To provide continuity outside of the political cycle, this is particularly important where membership of the committee changes routinely.
  - To achieve a non-political focus on governance, risk and control matters.
  - Increased resilience and continuity of the committee, particularly where the two co-opted independent members have complementary skill sets.
  - Shows a commitment to supporting and investing in the committee.
- 2.11 To make best use of co-opted independent members, care should be taken to avoid over-reliance on these individuals and ensure engagement throughout the committee's membership remains high.
- 2.12 Potential barriers to a co-opted independent member's performance such as lack of organisational knowledge or 'context' and absence of working relationships should be considered prior to appointment and

actively addressed from the outset through formal completion of a comprehensive Member induction.

- 2.13 To maximise the impact and efficacy of co-opted independent members, care should be taken to evaluate the knowledge and experience currently available to the Committee and ensure that the expertise of any co-opted independent members appointed, both complements and enhances the skill set of existing members.
- 2.14 Although a number of authorities were utilising co-opted independent members previously, recent publication of the Position Statement and associated recommendations has brought about a sudden increase in recruitment exercises of this type. This should be considered when determining the remuneration values for these posts as county councils of a similar size and nature to Derbyshire have advertised allowances from £1,000 to £2,500, plus expenses. The £759 determined by Derbyshire's current Members Allowance Scheme appears more broadly on par with the offerings of district and borough councils.
- 2.15 The arrangements for recruitment will be delegated to the Chair of the Committee, in consultation with the Monitoring Officer. A cross party panel of three Committee members and a Lead Officer will be appointed to the selection panel to interview candidates and recommend a candidate for approval, initially to the Committee and then to full Council.

### **CIPFA's Self-Assessment of Good Practice for Audit Committees**

- 2.16 An Audit Committee workshop held 31 January 2023, hosted by the Assistant Director of Finance (Audit) outlined the content of CIPFA's Position Statement and Practical Guidance for Local Authorities and Police 2022, alongside completion of the associated Self-Assessment of Good Practice for Audit Committees.
- 2.17 The self-assessment exercise was designed to consider the Audit Committee's performance against CIPFA's four key principles. The percentage of the possible maximum scores awarded during the self-assessment exercise have been included for information:
- Audit Committee Purpose and Governance (36%).
  - Functions of the Committee (78%).
  - Membership and Support (47%).
  - Effectiveness of the Committee (50%).
- 2.18 The lack of 'lay' or co-opted independent members was specifically highlighted as an area of weakness within the 'Membership and

Support' category as Committee members expressed a desire for more specialist and technical backing. An increased level of discussion and challenge, anticipated through the introduction of co-opted independent members will also assist in further developing qualities which underpin the overall 'Effectiveness of the Committee'.

### **3. Implications**

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

### **4. Background Papers**

4.1 Background papers held by the Assistant Director of Finance (Audit):

- CIPFA's Position Statement and Practical Guidance for Local Authorities and Police 2022.
- CIPFA's Audit Committees: Practical Guidance for Local Authorities and Police 2022.
- Completed Self-Assessment of Good Practice for Audit Committees.

### **5. Appendices**

5.1 Appendix 1 – Implications.  
Appendix 2 – Role & Person Profile of Co-opted Independent Member.

### **6. Recommendation(s)**

That Committee:

- a) Note the proposal to appoint two co-opted independent members to the Audit Committee in line with the recommendations of the CIPFA Position Statement: Audit Committees in Local Authorities and Police 2022, and support referral of the proposal to full Council for approval.
- b) Note the Role and Person Profile for the co-opted independent members as included at Appendix 2.
- c) Approves that the proposal is referred to the Governance, Ethics and Standards Committee and thereafter full Council, to seek a constitutional change to the Committee's composition to reflect the introduction of two co-opted independent members.
- d) Agrees that subject to full Council approval, a recruitment process should be commenced to appoint two co-opted independent persons

and authorises the Monitoring Officer to commence the recruitment process and make arrangements for a cross-party, politically balanced recruitment panel of three members drawn from the Audit Committee, and one Lead Officer to interview candidates and recommend a candidate for approval, initially to the Committee and then to full Council.

## **7. Reasons for Recommendation(s)**

- 7.1 To ensure compliance with the recommendation to appoint at least two co-opted independent audit committee members as per CIPFA Position Statement: Audit Committees in Local Authorities and Police 2022.
- 7.2 To optimise the performance of the Audit Committee and enhance the technical skills and expertise within the membership, through the addition of two formally appointed co-opted independent members.

### **Report**

**Author:** Mark Lunn

### **Contact**

**Details:** [mark.lunn@dersbyhire.gov.uk](mailto:mark.lunn@dersbyhire.gov.uk)

## **Implications**

### **Financial**

- 1.1 It is usual practice for co-opted independent members to receive payment and reimbursement of expenses incurred when attending meetings. The Independent Remuneration Panel is scheduled to discuss the allowance payments on 5 December 2023.
- 1.2 The source of funding for the recruitment and appointment the two co-opted independent committee members is still to be determined.

### **Legal**

- 2.1 Constitutional change to the Committee's composition to reflect the introduction of two co-opted independent members.

### **Human Resources**

- 3.1 Recruitment to two co-opted independent member posts, roles to be graded and resourced in line with Council policies.

### **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

### **Role and Person Profile of Co-opted Independent Audit Committee Member**

#### **Purpose of the Role**

The Co-opted Independent Member will support the Audit Committee in its role to provide independent assurance to the members of the Council, and its wider citizens and stakeholders, on the adequacy of risk management arrangements, governance processes and internal control frameworks.

#### **Duties and Responsibilities of the Role**

The Co-opted Independent Member will be required to:

1. Actively participate in meetings of the Audit Committee, demonstrating independence, integrity, objectivity and impartiality in their approach.
2. Consider the issues before the Audit Committee, taking into account a full range of relevant factors, including legislation, regulation and professional guidance.
3. Promote effective risk management and internal control throughout the organisation, and to champion the work of the Internal Audit, External Audit and Risk Management functions.
4. Consider and offer constructive comment and challenge on reports presented to the Committee.
5. Participate fully in the discharge of all Audit Committee functions, as set out in the Committee's Terms of Reference and the Constitution.
6. To participate in periodic review of the overall effectiveness of the Audit Committee and of its Terms of Reference.
7. Comment on the Council's arrangements for anti-fraud and anti-corruption.
8. Assist in the review and monitoring of the effectiveness of the Council's arrangements for financial and treasury management.
9. To comment on Council policies and regulations relating to financial and treasury management, procurement and whistleblowing arrangements.



10. Adhere to all relevant Council policies and procedures including the Members Code of Conduct, declarations of interest etc.

## Person Profile

	<b>Essential</b>	<b>Desirable</b>	<b>Evidence</b>
<b>Experience</b>	<p>A working knowledge of the general or financial management of large organisations in the public, private or not-for-profit sector.</p> <p>Knowledge of, and experience in systems of internal control, governance arrangements and risk management.</p> <p>Knowledge and experience in matters of an audit nature.</p>	<p>Experience of participation in Committee or Board Meetings.</p>	A, I, T
<b>Skills and Knowledge</b>	<p>Good working knowledge of the general or financial management of large organisations in the public, private or not-for-profit sector.</p> <p>Ability to analyse complex evidence and reach rational conclusions and make reasoned decisions.</p> <p>Strong strategic awareness and ability to identify emerging factors which may impact upon strategy, implementation</p>	<p>An understanding of the objectives, key activities, initiatives and significant issues relating to the Council.</p> <p>An understanding of the Council's structures and responsibilities, including key relationships with partners, businesses and organisations.</p> <p>Understanding of the complexity of issues surrounding audit</p>	A, I, T

	<p>of plans, or reputation with key stakeholders.</p> <p>Excellent communication and interpersonal skills, able to both empower and challenge supportively.</p>	<p>and risk management in local government.</p> <p>Understanding of committee procedures.</p>	
<b>Personal Effectiveness</b>	<p>An ability to understand complex issues and the importance of accountability and integrity in public life.</p> <p>An ability to demonstrate integrity and discretion.</p> <p>Be able to maintain strictest confidentiality of sensitive information.</p> <p>Able and willing to devote the necessary time to the role.</p> <p>Working to high behavioural standards, demonstrating honesty, objectivity, probity and the highest level of integrity in conduct.</p>	<p>An understanding of the local government environment.</p>	A, I
<b>Qualifications</b>	<p>A suitable professional or management qualification in accountancy, internal audit, risk management or other relevant discipline.</p>		A, I, D

Assessed by: A = Application form I = Interview T = Test D = Documentary Evidence

### **Restrictions on Eligibility**

Individuals cannot be considered for appointment if they are:

- A Member, Co-opted Member, employee or consultant to the Council in any capacity, or have been an employee or Elected Member in the last five years.
- A Member, co-opted Member or officer of a parish, district or borough council in the area of the Council, or have been an employee or Elected Member in the last five years.
- Are aware of any potential conflict of interest that could arise in this role, including if you are closely related to, or are a close friend of, any Councillor or senior officer of the Council, or have a close connection to a Council supplier.
- Disqualified from holding office as a Member of the Council. Accordingly, any person who is recommended for appointment will be required to confirm that he/she is not disqualified.

Due to the non-political nature of the role and the requirement to work with elected representatives, it is preferred that candidates are not political party members.

### **Remuneration and Expenses**

Successful candidates will receive an annual remuneration and expense payments in line with the Council's approved Members Allowance Scheme.

### **Commitment**

Co-opted independent members will be appointed for an initial four-year period with the potential for this to be extended for a further four years.

Successful candidates will be expected to attend approximately six Committee meetings per year, which take place at County Hall, Matlock, Derbyshire DE4 3AG. They will also need to commit sufficient time to read Committee papers in advance of these meetings, liaise with the Chair and to undertake training alongside the other Committee members where required.



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**FOR PUBLICATION**

**DERBYSHIRE COUNTY COUNCIL**

**GOVERNANCE, ETHICS AND STANDARDS COMMITTEE**

**18 January 2024**

**Report of the Director of Legal and Democratic Services**

**Annual Report of the Independent Remuneration Panel**

**1. Purpose**

- 1.1 To inform the Committee of the latest report from the Council's Independent Remuneration Panel (IRP), relating to member remuneration for 2024/25 in order to make recommendations to Council.

**2. Information and Analysis**

- 2.1 The Council is required to adopt and publish a Members' Allowances Scheme and to consider recommendations from the IRP. Attached for consideration at Appendix 2, is the report of the Independent Remuneration Panel dated December 2023. The Panel met in order to prepare their report and a summary of the work carried out is included in the Panel's report at section three.
- 2.2 The findings of the Panel are set out in section four of their report with the recommendations in full provided at section five.
- 2.3 The Committee will recall that earlier this year the Panel recommended Members Allowances for 2023/24 were left unchanged but uplifted by any increase in the pay award due to employees covered by the NJC Pay Rates for Local Government Services as of 1st April. The Panel recognised that a similar situation to 2022/23 may arise where a flat rate increase might be agreed rather than a percentage increase and if this was the case for 2023/24, they would wish to convene again to discuss the matter further. Since Council approved the Panel's

recommendations, Local Government Employers agreed the pay award for 2023/24 for staff covered by standard terms and conditions of employment. The agreement provided:

- Staff on grades 1 to 13: an increase of £1,925 (pro rata for part-time employees)
- Staff on grades 14 to 16: an increase of 3.88%
- Chief Officers and Chief Executives: an increase of 3.50%

2.4 In line with the recommendations approved at its last meeting, the Panel has reconsidered the pay award for 2023/24 in light of members allowances as it was not a straightforward percentage increase.

2.5 With reference to the 2023/24 year, the Panel is recommending that the basic allowance is increased by 5.1% in line with the average pay award for all staff covered by standard terms and conditions. For Special Responsibility Allowances, the Panel is recommending an increase of 3.50% which is in line with the pay award for chief officers covered by JNC Pay Rates. Such payments to be backdated to 1<sup>st</sup> April 2023.

2.6 The IRP have also considered the allowances payable in the next financial year beginning 1st April 2024. In summary the Panel is recommending that no changes to allowances are made, but that they are uplifted by any increase in the pay award due to employees covered by standard terms and conditions as of 1st April 2024. The Panel has recognised that the pay award has not been a straightforward percentage increase for all staff for the past two years so where that is the case has taken the decision to recommend that the Basic Allowance is uplifted in line with the average pay award for staff covered by standard terms and conditions and that any Special Responsibility Allowances are uplifted in line with the pay award for Chief Officers covered by the JNC Pay Rates.

2.7 The Panel has is also recommending two further changes to the Scheme. Firstly, the addition of an additional allowance for the newly created position of co-opted independent member of the Audit Committee, subject to the approval of Council. And secondly, the Panel is recommending some changes to the wording of the Members' Allowance scheme to clarify matters around the claims process. These changes are discussed fully in the Panel's report.

### **3. Consultation**



3.1 It has not been necessary to carry out formal consultation in relation to this report, however, email correspondence was sent to all councillors on 24 November inviting comments or feedback for the Panel.

#### **4. Alternative Options Considered**

4.1 The Committee could decide not to support the recommendations made by the Panel and make their own alternative recommendations for presentation to Council, however the Committee must have regard to the recommendation made by the Panel.

#### **5. Implications**

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

#### **6. Background Papers**

6.1 None identified.

#### **7. Appendices**

7.1 Appendix 1 – Implications

7.2 Appendix 2 – Report of the Independent Remuneration Panel

#### **8. Recommendation(s)**

##### **That Council:**

- 1) Considers the report and recommendations of the Independent Remuneration Panel, as set out in Appendix Two to the report, and recommend them to Council for approval.

#### **9. Reasons for Recommendation(s)**

9.1 To ensure that the Council has an up to date and robust scheme for the payment of allowances to members.

**Report Author:** Alec Dubberley      **Contact details:** [alec.dubberley@derbyshire.gov.uk](mailto:alec.dubberley@derbyshire.gov.uk)  
Tel: 01629 539035

## **Implications**

### **Financial**

- 1.1 The total costs for the proposed increases will be £0.059m. For 2023-24 budget purposes a sum of £0.045m was set aside for increases in Members Allowances. The proposed increase leaves the Council with a shortfall of £0.014m in 2023-24 and an ongoing pressure of that amount in each subsequent year. To resolve this, the base budget position will be aligned as part of the 2024-25 budget setting process.

### **Legal**

- 2.1 The Local Authorities (Members' Allowances) (England) Regulations 2003 (as amended) set out that local authorities must establish a panel to review and advise on the level of allowances payable to members. The Council must have regard to the recommendation made by the Panel.
- 2.2 The Council has the power to amend its Members' Allowances Scheme at any time during the year under regulation 10(3) of the 2003 Regulations.
- 2.3 Adopting the Members' Allowances Scheme and approval of amendments to the Constitution are both matters which are reserved to Full Council. However, under its terms of reference at Article 11 of the Constitution, the Governance, Ethics and Standards Committee is required to advise the Council on any matters in connection with the Members' Allowance Scheme, taking into account the recommendations of the Independent Remuneration Panel.

### **Human Resources**

- 3.1 None

### **Information Technology**

- 4.1 None

### **Equalities Impact**

- 5.1 None

### **Corporate objectives and priorities for change**

6.1 Not applicable

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

7.1 None.

**Report of the Independent Remuneration Panel  
Derbyshire County Council  
December 2023**

## **Table of Contents:**

1. Background
2. Terms of Reference
3. Process of the Review
4. Results of the Review
5. Recommendations
6. Work Programme for 2024-2025

### **Annex A**

Recommended Amounts Payable to Members under the Members' Allowances Scheme 2023-2024

### **Annex B**

Recommended Amounts Payable to Members under the Members' Allowances Scheme 2024-2025

### **Annex C**

Amended Members' Allowances Scheme 2024-2025

## 1. Background

- 1.1 The Independent Remuneration Panel is established under the Local Authorities (Members' Allowances) (England) Regulations 2003 (as amended) to provide advice and recommendations to the Council on its Members' Allowances Scheme and amounts to be paid under it.
- 1.2 Relevant guidance was issued by the Office of the Deputy Prime Minister "EIM65960 - Local Government Councillors and civic dignitaries in England: ODPM guidance: Part One: members' allowances.
- 1.3 Panel members are appointed for a period of four years and no member may serve for more than two terms of office of four years.
- 1.4 Panel members are recruited by public advertisement and should be of good standing in the community either as a resident and/or a stakeholder in the County. Ideally members should have sound knowledge of employment and financial matters with an understanding of the operations of a local authority. To maintain independence political appointments, and appointments which are made through friendship or any other personal association of any members of the council must be avoided.
- 1.5 The Council has successfully recruited three new members to the Panel who have been in place since December 2022 and contributed to this report.
- 1.5 The current Derbyshire County Council Independent Remuneration Panel comprises five members, none of whom are members of the Council or any of its committees, nor an employee of the Council. The members are:
  - a) **Peter Clay - elected by the panel as Chair** Retired Senior Banker, Retired Magistrate, former Non-Executive Director and Audit Chair of various Public Bodies including four NHS appointments, former Chair of Lincolnshire IRP, presently Chair of City of Lincoln IRP. Member since December 2021.
  - b) **Peter Clifford** - Retired Magistrate having served 17 years (including 6 years as a Chair). Former Pensions Manager at Coalite Group and Rolls-Royce. Bachelor of Law degree from the University of London. Member since December 2021.
  - c) **Matthew Holden** - Currently a serving Police Officer and former local authority officer and a Member of the IRP at South Holland District Council. Member since December 2022.

- d) **Gemma Shepherd-Etchells** - Magistrate and Senior Lecturer. Independent Member of the Cheshire Police and Crime Panel. Member since December 2022
- e) **Robin Morrision** - Former local authority Chief Executive before retirement and currently serving as Chair of Worcestershire Children First an arm's length company owned by Worcestershire County Council delivering Education and Children's Social Services to the Council. Member since December 2022.

1.6 The Panel is advisory in nature and the recommendations it makes are not binding on the authority. However, the Local Authorities (Members' Allowances) (England) Regulations 2003 (as amended) requires Council to "have regard" to the Panel's recommendations when setting its allowances.

## 2. **Terms of Reference**

The purpose of the Independent Remuneration Panel is as follows:

- a) To make recommendations to the authority as to the amount of basic allowance that should be payable to its elected members.
- b) To make recommendations to the authority about the responsibilities or duties which should lead to the payment of a special responsibility allowance and as to the amount of such an award.
- c) To make recommendations to the authority about the duties for which a travelling and subsistence allowance can be paid and as to the amount of this allowance.
- d) To make recommendations as to the amount of co-optees' allowance.
- e) To make recommendations as to whether the authority's allowances scheme should include an allowance in respect of the expenses of arranging for the care of children and dependents and if it does make such a recommendation, the amount of this allowance and the means by which it is determined.
- f) To make recommendations on whether any allowance should be backdated to the beginning of a financial year in the event of the scheme being amended.
- g) To make recommendations as to whether annual adjustments of allowance levels may be made by reference to an index, and if so, for how long such a measure should run.

- h) The IRP will make its recommendations in the form of a report to Council.

### 3. **Process of the Review**

The Panel met in in December once the pay award for local government staff had been agreed at the end of November.

#### Allowances for 2023/24

The Panel was first asked to re-consider the issue of Members' Allowances for the 2023/24 year in light of the agreed pay award for local authority staff. In its 2022 and 2023 report, the Panel recommended, and Council subsequently agreed, that that any allowances payable to members should be "uplifted by any increase in the pay award due to employees covered by the NJC Pay Rates for Local Government Services as of 1st April each year".

In common with the previous year's pay award, it was explained that the matter of increasing the allowances in line with the national pay award was not straightforward as the final agreement on pay saw different groups of staff receiving different percentage increases or a flat rate depending on salary. The agreement also increased some staff allowances, such as payments for sleep in work and laboratory technicians, by 3.88%.

The Panel then discussed various options on how to implement the pay award. Alternatives discussed were:

- Applying an average percentage rise across all pay scales (equivalent to 5.1%)
- Applying an average percentage rise across Chief Officer Grades (equivalent to 3.50%)
- Applying the rate at which staff allowances were increased (equivalent to 3.88%)

In making their recommendations, the Panel discussed and had regard for the following:

- It was felt that the Basic Allowance, which is universally paid to all Councillors unless they chose to forgo it, should be increased in line with the average employee's salary. The Panel felt that this would be fair when considering the cost-of-living pressures that both councillors and staff are currently experiencing.
- The option of aligning the increase to Chief Officer pay covered by JNC Pay Rates was not supported as Panellists considered this figure to be too low in light of the previous point.
- The option of increasing the allowances by the average percentage rise across all pay scales was supported. Panellist felt that Councillors should be treated in similar terms to the majority of staff. The Panel felt



that both staff and Councillors were public servants in the same way and that any increase to allowances should recognise this.

Following agreement to recommend an increase of 5.1% to the Basic Allowance, the Panel next considered the increase in relation to Special Responsibility Allowances.

The Panel observed that councillors in receipt of SRAs were normally experienced councillors often holding senior positions which could be compared to a senior management type role. The Panel noted that this year's pay award for staff gave a pay award of 3.50% to Chief Officers covered by JNC Pay Rates which was a different rate compared to the average across all staff (5.1%). Because of this, the Panel agreed that it was appropriate for SRAs to be aligned to any pay award given to Chief Officers rather than all staff. Therefore, it was agreed to recommend that SRAs should increase by 3.50% for the 2023/24 year.

#### Allowances Scheme for 2024/25

The Panel went on to consider the Members' Allowances Scheme for 2024/25. The following was discussed:

- The Audit Services Team had consulted the Panel on a new position for the scheme – an Independent Member of the Audit Committee. It was explained that this newly created position was industry best practice to establish independent oversight of the Council's Audit processes. It was intended that two independent Members would be recruited as co-opted members. A role profile and briefing note was shared with the Panel with a suggestion that the position should attract an allowance of around £1,000 per annum. Following discussion, the Panel felt that a figure of £1,000 was too low to attract the calibre of applicants that the role required. It was therefore decided to recommend that the SRA for a Co-opted Member of the Audit Committee is set at £2,000 per annum.
- Following a report from officers, a number of changes were proposed to the wording contained within the allowance scheme. The changes proposed were largely technical in nature and designed to clarify several points around allowances that members were entitled to claim. The changes also clarified that members must arrange overnight accommodation through the Council's Members support team when away from Derbyshire on Council business as well as removing ambiguity on the rates of reimbursement for mileage and dependent carers payments. Panel members agreed to recommend that the changes were recommended to Council for approval.
- In relation to the Staff Pay Award for 2024/25, the Panel was informed that unions had not yet submitted their pay claim to employers. It was therefore not possible to agree any specific recommendations in advance of the next financial year. However, the Panel were keen to avoid a repeat of the situation experienced over the last two years

where the staff pay award was not a universally applied percentage increase which resulted in delays and uncertainty in the payment of allowances to Members. The Panel did, however, express the view that linking staff pay awards to increases in Members' Allowances should continue as this was recognised as good practice and had worked well previously. In light of the discussions held around the pay award for 2023/24, the Panel agreed to recommend that 1) The Basic Allowance should be uplifted by any increase in pay due to employees and where that is not a single percentage increase which applies to all staff that the Basic Allowance is increased in line with the average pay award for all staff covered by both the NJC and JNC schemes and 2) That any Special Responsibility Allowances should be increased in line with the pay award for Chief Officers covered by JNC Pay Rates. This was agreed as the recommendation for the 2024/25 increase to members allowances as it would provide certainty going forward. No further changes to allowances paid were proposed.

#### 4. Results of the Review

##### 4.1 Basic Allowance for 2024/25

On the issue of the Basic Allowance, the Panel agreed that there should be no change to the allowance for 2024-2025 other than the addition of any increase in line with whatever the average pay award due to all employees is as of 1 April.

##### 4.2 Special Responsibility Allowances for 2024/25

On the issue of Special Responsibility Allowances, the Panel agreed that there should be no change to the allowance for 2024-2025 other than the addition of any increase in the pay award due to Chief Officers covered by the JNC Pay Rates as of 1 April.

##### 4.3 Staff Pay award 2023/24

a) On the issue of the pay award for 2023/24, The Panel agreed that the Basic Allowance for 2023-24 should be increased by 5.1% and back paid to 1 April 2023.

b) The Panel agreed that the pay award should be applied to Special Responsibility Allowances at the rate of 3.50% and also back dated to 1 April 2023.

4.4 A revised Members' Allowances Scheme incorporating the recommended amendments is attached at Annex A for 2023/24. A revised Members' Allowances Scheme for 2024/25 incorporating the recommended amendments is attached at Annex B.

##### 4.5 Other Changes

The Panel agreed that a new Special Responsibility Allowance should be paid to the newly created position of Co-opted Independent Member of the Audit Committee and that the amount of this allowance should be £2,000.

The Panel agreed to make a number of changes, detailed at Annex C to the report, to the text of the Members Allowances Scheme to clarify the procedure around the claiming of some allowances.

## **5. Recommendations**

The Panel therefore recommends to Council that:

- 5.1 There should be no change to the Basic Allowance for 2024-2025 other than the addition of any increase in the pay award due to employees covered by the NJC Pay Rates for Local Government Services as of 1 April 2024. In the event that a single percentage increase which applies to all such staff is not agreed, the percentage increase should be tied to the average rate of pay increase applied to all staff.
- 5.4 Special Responsibility Allowances payable to all Members from 1st April 2024 should remain at the 2023-2024 level uplifted by any percentage increase in the pay award due to Chief Officers covered by the JNC Pay Rates as of 1st April.
- 5.5 The Basic Allowance for 2023-24 should be increased by 5.1% and back paid to 1 April 2023.
- 5.6 Special Responsibility Allowances for 2023-24 should be increased by 3.50% and back paid to 1 April 2023.
- 5.6 The revised Members' Allowances Scheme for 2023-24 at Annex A is approved.
- 5.7 The revised Members' Allowances Scheme for 2024-25 at Annex B is approved.
- 5.8 From 1 April 2024, a new Special Responsibility Allowance to be paid to the newly created position of Co-opted Independent Member of the Audit Committee is approved and that the amount of this allowance should be £2,000.
- 5.9 From 1 April 2024, changes are made to the Members Allowances Scheme as detailed at Annex C to the report, are approved.

## **6. Work Programme for 2023-24**

- 6.1 The Panel intends to continue to keep under review all aspects of allowances paid. The Panel are particularly keen to review the scope and application of all Special Responsibility Allowances paid to elected members in advance of the next County Election in 2025. Specifically, the Panel intends to consider whether Members should be in receipt of more than one SRA at any one time. Again, an open invitation is extended to all Members of Council to ask questions or raise issues with the Panel at any time.

**Report Author**  
**Peter Clay**  
**Independent Chair**

**Derbyshire County Council Independent Remuneration Panel      Annex A**  
**Amounts Payable to Members under the Members Allowances Scheme      2023/24**

No Claim Required. These Allowances will be paid Automatically.

		Relative Responsibility %	Annual Amount 2023-24 £
<b>Special Responsibility Allowances</b>			
Council	Chairman	25	10,212
	Civic Chairman	25	10,212
	Civic Vice-Chairman	10	4,080
Cabinet	Leader	100	40,848
	Deputy Leader	75	30,636
	Cabinet Member	50	20,412
Leader of the Main Opposition Group		45	18,372
Leader of a Minority Opposition Group (with at least 10% of Council Members)		15	6,120
Cabinet Support Member		25	10,212
Improvement and Scrutiny Committee-Resources	Chairman	25	10,212
	Vice-Chairman	10	4,080
Improvement and Scrutiny Committee-Places			
Improvement and Scrutiny Committee-People			
Improvement and Scrutiny Committee-Health			
Improvement and Scrutiny Committee-Climate Change, Biodiversity and Carbon Reduction			
Planning Committee (Regulatory)			
Governance, Ethics and Standards Committee			
Audit Committee			
Pensions and Investments Committee			
Appointments and Conditions of Service Committee			
Basic Allowance			12,552
Co-optees Allowance			816
Fostering Panel			2,160

NB - A Member cannot be in receipt of more than two SRAs at any one time

**Derbyshire County Council Independent Remuneration Panel      Annex B**

**Amounts Payable to Members under the Members Allowances Scheme      2024/25**

Note: the figures in this table will be amended in line with whatever is determined regarding the application of the staff pay award for 2024/25, once it is agreed.

No Claim Required. These Allowances will be paid Automatically.

		Relative Responsibility %	Annual Amount 2024-25 £	
<b>Special Responsibility Allowances</b>				
Council	Chairman	25	10,212	
	Civic Chairman	25	10,212	
	Civic Vice-Chairman	10	4,080	
Cabinet	Leader	100	40,848	
	Deputy Leader	75	30,636	
	Cabinet Member	50	20,412	
Leader of the Main Opposition Group		45	18,372	
Leader of a Minority Opposition Group (with at least 10% of Council Members)		15	6,120	
Cabinet Support Member		25	10,212	
Improvement and Scrutiny Committee-Resources Improvement and Scrutiny Committee-Places Improvement and Scrutiny Committee-People Improvement and Scrutiny Committee-Health Improvement and Scrutiny Committee-Climate Change, Biodiversity and Carbon Reduction Planning Committee (Regulatory) Governance, Ethics and Standards Committee Audit Committee Pensions and Investments Committee Appointments and Conditions of Service Committee	Chairman	25	10,212	
	Vice-Chairman	10	4,080	
	Basic Allowance			12,552
	Co-opted Member of the Audit Committee			2,000
	Co-opted Member of Other Committees			816
	Fostering Panel			2,160

NB - A Member cannot be in receipt of more than two SRAs at any one time

**MEMBERS' ALLOWANCES SCHEME – 2024-25**

**LOCAL GOVERNMENT AND HOUSING ACT 1989**

**LOCAL GOVERNMENT ACT 2000**

**THE LOCAL AUTHORITIES (MEMBERS' ALLOWANCES) (ENGLAND)  
REGULATIONS 2003**

The Derbyshire County Council, in exercise of the powers conferred by the Local Authorities (Members' Allowances) (England) Regulations 2003, hereby makes the following scheme:

This scheme may be cited as the Derbyshire County Council Members' Allowances Scheme, and shall have effect for the period commencing on the 1<sup>st</sup> April 2024

Members are reminded of the need to keep detailed supporting information, such as a diary, about every attendance for which they claim. This information should be available for scrutiny by the County Council's Auditors or other relevant persons as and when required.

**1. Definitions**

- a) "Councillor" means a member of the Derbyshire County Council who is a Councillor.
- b) "year" means the 12 months ending with 31<sup>st</sup> March.
- c) "Schedule 1" sets out the annual equivalent amount and per activity rates payable to members with effect from the 1<sup>st</sup> April 2024. This schedule will be automatically updated annually in accordance with the methodology for year on year changes included as part of the scheme. Members will be informed annually of the rates for the forthcoming year.
- d) "NJC Pay Award" is the increase in the pay award due to employees covered by the NJC Pay Rates for Local Government Services as at the 1st April each year.
- d)e) "JNC Pay Award" is the increase in the pay award due to Chief Executives and Chief Officers as at the 1<sup>st</sup> April each year

e)f) Later sections of the Scheme mention liability to Tax and the insurance arrangements for Members and Co-optees of the County Council. These sections do not deal with entitlements under the Scheme and are only brief summaries for information. The County Council does not guarantee that they are necessarily accurate or appropriate for individual Members or Co-optees. It is for Members and Co-optees to satisfy themselves personally that their tax and insurance arrangements are in order and they should consult their own advisers, as they think fit, about these matters.

## 2. Basic Allowance

- a) Subject to paragraph 8, 9 and 10 for each year a flat rate basic allowance shall be paid to each Member. This allowance is designed to cover the time commitment of all Members in all meetings including those with officers and members of the public. It is also intended to cover incidental costs such as the use of home/ ~~and~~ private telephone and broadband facilities.
- b) The rate at which the Basic Allowance is paid is detailed in Schedule 1. The allowance will be increased in line with the JNC Pay Award with effect from the 1<sup>st</sup> April each year. In the event that a single percentage increase which applies to all such staff is not agreed, the percentage increase should be tied to the average rate of pay increase applied to all staff covered by the NJC Pay Award.

## 3. Special Responsibility Allowances

- a) Subject to paragraphs 8, 9 and 10 for each year a special responsibility allowance shall be paid to those Members who perform the special responsibilities in relation to the County Council that are specified in schedule 1 to this scheme.
- b) The allowance will be increased in line with the JNC Pay Award for Chief Officers with effect from the 1<sup>st</sup> April each year.

## 4. Carers of Dependents' Allowance

- a) Those councillors who incur expenditure for the care of children aged 16 or under, or dependent adults for whom documentary evidence of their care requirements has been provided are eligible to claim care costs for undertaking particular duties. These duties are specified in Schedule 2.



- b) ~~The rate at which the Carers of Dependents Allowance is set is detailed in Schedule 3.~~ The allowance will equate to the currently in force National Living Wage hourly rate, ~~and will be updated in line with any national alteration to this rate.~~
- c) In exceptional circumstances (e.g., where a dependent has a disability and specialised care is required) and with prior authorisation of the Director of Legal and Democratic Services, higher hourly rates than the ~~benchmark~~ National Living Wage hourly rate may be available.
- d) Only actual receipted expenditure will be reimbursed.
- e) If a household contains more than one Councillor, care costs may only be claimed once.
- f) The allowance cannot be claimed in respect of payments to other members of a Councillor's household.

## 5. Travel Allowances

- a) A Member may be reimbursed in respect of travel allowance, including an allowance in respect of travel by bicycle or by any other non-motorised form of transport, undertaken in connection with or relating to such duties as are specified in Schedule 2.
- b) ~~The rates at which members can be re-imbursed for travel are set down in Schedule 3~~ The car mileage rates are the same as those applicable to employees of the County Council under Single Status and shall be changed in line with changes made to the allowances paid to employees.
- c) The basis on which members travel will be reimbursed is detailed in Schedule ~~3~~ 4.

## 6. Subsistence Allowance

- a) Subsistence should not be claimed except in exceptional circumstances.
- ~~b) Where a Member is travelling out of county and required to be away overnight then the Corporate Services and Transformation Exchequer Division should, where possible, make advance provision for meals and accommodation when making travel arrangements.~~
- ~~c) Where a Member has been unable to arrange for the Council to organise accommodation and subsistence out of county then the maximum rates that can be claimed are shown in Schedule 4. These rates are the same~~

~~as those applicable to employees and will be updated when the employee rates are updated. Any claim for subsistence must be supported with receipts for actual expenditure incurred.~~

- b) Overnight hotel accommodation must be booked through Member Support who will ensure that accommodation is booked at the appropriate market rate. Higher rates of accommodation will only be booked where it is clearly in the County Council's interest and formal approval has been given by the Director of Legal and Democratic Services in advance. Any other reasonable and unavoidable costs related to overnight stays will be reimbursed on production of a receipt.
- c) The cost of meals purchased while undertaking Council business cannot be claimed for, except where the member is attending an event such as a conference and meals are not provided, or where the member is required to stay overnight.
- d) The Director of Legal and Democratic Services shall be authorised to allow claims to cover the actual cost of the meals up to a reasonable maximum (£10 for lunch, £15 for an evening meal) and upon production of a receipt.

## **7. Co-optees Allowance**

- a) An annual allowance may be paid in respect of attendance at conferences and meetings for a Member of a committee or sub-committee of the County Council who is not a Member of the County Council.
- b) Where a Co-opted Member is a Member of a committee by virtue of their employment with the County Council then they will be ineligible to receive the Co-optees allowance.
- c) The rate at which Co-optees allowance is paid is set down in Schedule 1. The rate is set at a fixed proportion of the Basic Allowance and as such will be increased annually to maintain that relative proportion.

## **8. Renunciation**

A Member may, by notice in writing given to the Director of Finance & ICT, elect to forego any part of his or her entitlement to an allowance under this scheme.

## **9. Part-year Entitlements**

- a) If an amendment to this scheme changes the amount to which a Member is entitled by way of a basic allowance or a special responsibility allowance, then in relation to each of the periods

1. (i) beginning with the year and ending with the day before that on which the first amendment in that year takes effect, or
2. (ii) beginning with the day on which an amendment takes effect and ending with the day before that on which the next amendment takes effect, or (if none) in that year,

the entitlement to such an allowance shall be to the payment of such part of the amount of the allowance under this scheme as it has effect during the relevant period as bears to the whole the same proportion as the number of the days in the period bears to the number of days in the year.

- b) An amendment to this scheme may change the duties specified in Schedule 2 to this scheme, or the amount payable by way of a Travelling, Subsistence or Dependent Carers Allowance. Where such an amendment takes place, entitlement to these Allowances shall be to the payment of the amount of the allowance under the Scheme as it has effect when the duty is carried out.
- c) The term of office of a Member may begin or end otherwise than at the beginning or end of a year. The entitlement of that Member to a basic allowance shall be to the payment to such part of the basic allowance as bears to the whole the same proportion as the number of days during which his or her term of office subsists bears to the number of days in that year.
- d) Where this scheme is amended as mentioned in sub-paragraph (a), and the term of office of a Member does not subsist throughout the period mentioned in sub-paragraph (a)(i), the entitlement of any such Member to a basic allowance shall be to the payment of such part of the basic allowance referable to each such period (ascertained in accordance with that sub-paragraph) as bears to the whole the same proportion as the number of days during which his or her term of office as a Member subsists bears to the number of days in that period.
- e) Where a Member has during part of, but not throughout, a year such special responsibilities as entitle him or her to a special responsibility allowance, that Member's entitlement shall be to payment of such part of that allowance as bears to the whole the same proportion as the number of days during which he or she has such special responsibilities bears to the number of days in that year.
- f) Where this scheme is amended as mentioned in sub-paragraph (a), and a Member has during part, but does not have throughout the whole, of any

period mentioned in sub-paragraph (a)(i) of that paragraph any such special responsibilities as entitle him or her to a special responsibility allowance, that Member's entitlement shall be to payment of such part of the allowance referable to each such period (ascertained in accordance with that sub-paragraph) as bears to the whole the same proportion as the number of days in that period during which he or she has such special responsibilities bears to the number of days in that period.

## **10. Acting-up Arrangements**

There will be occasions when Members with significant Special Responsibilities may be unable to undertake their duties. In the instances of illness or personal incapacity of the Leader, Deputy Leader or Cabinet Member, for a continuous period of 4 weeks or an accumulated absence of 4 or more weeks per quarter, then acting-up arrangements may be instituted as follows, subject to Cabinet approval: -

- In the absence of the Leader, the Deputy Leader would undertake the 'acting-up' arrangements.
- In the absence of the Deputy Leader, a Cabinet Member may be nominated by the Leader to undertake the 'acting-up' arrangements.
- In the absence of a Cabinet Member, the Leader or Deputy Leader would undertake the portfolio responsibilities; or alternatively such responsibilities may be allocated to another Cabinet Member.
- Where acting-up arrangements have been formally agreed due to a Member's illness or personal incapacity, then the Member undertaking the role will be eligible for the higher SRA from the date the acting-up arrangements are agreed.
- Where acting-up arrangements are to apply due to a Member's absence, then the absent Member must provide medical certification for the absence. This will ensure that the absent Member continues to receive their SRA until they are able to resume their duties. If no medical certification is provided the SRA will cease from the date at which the acting-up arrangements have been commenced.
- The acting-up arrangements may only last for a maximum period of 6 months. This time period relates to the Member in the post concerned, not the Member in receipt of the additional SRA for acting up.

## **11. Withholding of Payments Made to Members**

- a) Where a Member is unavailable to undertake their duties for which they

receive a SRA, for any reason other than sickness, and that period exceeds four weeks within a three month period, then the Council can withhold any SRA due to the Member concerned for the period during which the absence occurred. The Cabinet will make any such decision based on a report from the Director of Legal Services and considering each case on its merits.

## **12. Recovery of Payments Made to Members**

Where a payment has been made to a Member that relates to a period where either the Member concerned: -

- a) or ceases to be a member of the County Council
- b) or is in any other way not entitled to receive the allowance in respect of that period

The County Council may require that such part of the allowance as relates to any such period be repaid to the County Council. The full Council will make any such decision.

## **13. Payment of Allowances**

- a) Claims for Carers of Dependents, and Travel allowances under this scheme shall be made in writing on a regular basis, preferably monthly. All claims must be made on the appropriate form.
- b) The payment of Basic, Special Responsibility and Co-optees allowance is made automatically and no claim is required.
- c) A claim for allowances shall include, or be accompanied by, a statement by the Member claiming the allowance that he or she is not entitled to receive remuneration in respect of the matter to which the claim relates otherwise than under the scheme.
- d) All payments to Members are made by using the Bankers Automated Clearing System on the 15th of each month or the nearest preceding working day if the 15th falls on the weekend or at a Bank Holiday.

## **14. Tax and Benefits**

### **Income Tax**

- a) Basic, Special Responsibility and Carers of Dependents' Allowances are subject to Income Tax as they are payments made in respect of the duties of an office.

- b) HMRC is notified of the names and addresses of all Members who claim taxable allowances. Tax is deducted at basic rate until the HMRC notifies the County Council of the appropriate tax code for each Member.
- c) Some expenses incurred by Members in the course of County Council duties as Members may be deductible against tax. Any Member who believes that some of his/her expenses as a Member may be tax deductible, should contact HMRC

### **National Insurance Contributions**

- a) Basic, Special Responsibility and Carers of Dependents' Allowance payments will attract National Insurance (NI) contributions at levels that vary depending on the total earnings of Members.
- b) Some Members may not be liable to any NI Contributions on Allowances if they are over the state retirement age; in accordance with prevailing legislation. See HMRC website for information.  
<http://www.hmrc.gov.uk/pensioners/paying-making.htm>
- c) Some Members, who are married women or widows who have elected to pay reduced rate contributions for NI, may also need to have their NI Contributions on allowances calculated at a reduced rate.
- d) Members who are self-employed may also be subject to different levels of NI Contributions.
- e) Members who believe that they fall into any of the above categories should contact the Director of Finance & ICT who will seek to obtain further information to assist with the query.

### **15. DWP Benefits**

- a) The receipt of allowances may affect Members who are receiving DWP Benefits. All allowances should be declared to the DWP who will be able to advise Members on any effect on their benefits.
- b) Members should note that failure to disclose any allowances to the DWP may result in prosecution.

### **16. Insurance for Members**

- a) The County Council provides insurance cover for Members when they are engaged on business that relates to their activities for the County Council.

The insurance does not cover Party Political activities.

b) The insurance covers certain risks in the following broad categories:

- Public Liability
- Officials' Indemnity
- Libel and Slander
- Employer's Liability
- Personal Accident Insurance
- Business Travel Insurance

For further details relating to the extent of this cover please contact:

Risk Management and Insurance Section

Finance & ICT Division

Corporate Services and Transformation

c) Please note that the County Council's motor insurance does not extend to Members' own vehicles, even if these vehicles are used on County Council business. Members should ensure that they have advised their own insurers and they are suitably covered if their own vehicles are to be used on County Council business.

## APPROVED DUTIES

The following are specified as approved duties for the purposes of Carers of Dependents and Travel Allowances, these require no further approval: -

- 1) the attendance at a meeting of the County Council, Cabinet or of any committee or sub-committee of the County Council, or of any other body to which the County Council makes appointments or nominations, or of any committee or sub-committee of such a body.
- 2) attendance as a representative of the County Council on approved Bodies at meetings relating to the body other than meetings of the body itself or Committees or Sub-Committees thereof.
- 3) the attendance at any other meeting, the holding of which is authorised by the County Council, Cabinet or a committee or sub-committee of the County Council, or a joint committee of the County Council and at least one other local County Council within the meaning of section 270(1) of the Local Government Act 1972, or a sub-committee of such a joint committee.
- 4) the attendance at a meeting of any association of County Councils of which the County Council is a member.
- 5) the performance of any duty in pursuance of any standing order made under section 135 of the Local Government Act 1972 requiring a Member or Members to be present while tender documents are opened.
- 6) the performance of any duty in connection with the discharge of any function of the County Council conferred by or under any enactment and empowering or requiring the County Council to inspect or authorise the inspection of premises.
- 7) duties carried out within the UK arising out of a Member holding an office to which a Special Responsibility Allowance applies, or such a duty carried out by their nominee.
- 8) attendance at County Hall for a meeting with either a Member in receipt of a SRA or an officer for the purposes of discussing matters relating to Council business which it is reasonable to expect the Member to have an interest.



- 9) attendance at training courses, the purpose of which is to assist Members to understand and carry out their duties more effectively, e.g. IT training courses, but are not directly related to the work of the County Council. All such activities to be arranged by the County Council.
- 10) attendance by a Member at a Cabinet, Committee or Sub-committee meeting of the County Council for the purpose of making a statement to the meeting where the Member is not a Member of that Committee or Sub-committee.
- 11) attendance at Cabinet ~~and relevant Cabco meeting~~ of Shadow Cabinet Members, nominated by the Leader of the principal Minority Group.
- 12) attendance at Parish Council meeting within your constituency to which you have been invited to attend to discuss Derbyshire County Council business

The Director of Legal and Democratic Services may approve the following duties. Any duty so approved will be reported to the next Cabinet meeting for information. Where the Director of Legal and Democratic Services is unsure of the suitability of such attendance then that decision must be referred to Cabinet. The items included are: -

- 1) duties carried out by any Member of a Committee or Sub-Committee, e.g. visits and inspections, in order to discharge the functions of the Committee or Sub-Committee.
- 2) attendance by Members at conferences, seminars, and other meetings at which it is necessary for the County Council to be represented. Any such attendance to have been approved by the relevant party leader or deputy leader before being agreed by the Director of Legal and Democratic Services.
- 3) organised official visits including deputations to government departments.
- 4) attendance at official openings of new premises by Members of the appropriate committee.
- 5) attendance of a Member in receipt of a Special Responsibility Allowance or nominees as guest speakers at conferences or meetings closely connected with the functions and activities of the Committee, subject to a claim being made by the Member to the conference organiser for travelling, subsistence and any fees to be repaid to the County Council.

- 6) official and courtesy visits of a civic nature within the United Kingdom and abroad (such as "twinning" arrangements with overseas local Authorities<sup>27</sup>).
- 7) attendance at interviewing panels.

Finally any other duty approved in advance by the Cabinet or relevant Cabinet Member, as appropriate, may qualify for Carers of Dependents and Travel allowances.

**Schedule 3**

<b>Mileage rate</b>	<b>April 2013</b>
Per mile first 8,500	45.0p
Per mile after 8,500	12.2p
Passenger rate per mile	0.5p
Bicycle rate per mile	20.0p

**'Carers of Dependents Allowance'** maximum per hour £10.42  
From 1<sup>st</sup> April 2023 (Maximum of £64.38 per day)

### Travel Claims

The County Council will meet reasonable travel costs incurred on authorised official business.

All arrangements must be made through the ~~Exchequer Division, Corporate Services and Transformation Members' Support Office and organised by Members support services.~~ Working with their Corporate Partners, they will determine the most cost-effective way of undertaking the assignment.

In determining this they will consider all costs including public transport, mileage, parking, accommodation, and subsistence.

For example:

- It may be more cost effective to use air transport if doing so removes the need for an additional overnight stay.
- Whilst rail travel will usually be Standard Class, there may be occasions where the cheapest option available is a first-class ticket on an earlier train.

Please note there is a cancellation fee if a ticket is ordered but not used.

Members may request, via Member Support Services, a quote for alternative grade/type of transport (eg first class rail). If they wish to take up this option then the incremental cost is at the members own expense and will not be reimbursed by the Council, even if the additional cost is met by the member from their personal funds, will be disclosed in any Freedom of Information or other such request.

In very exceptional circumstances, where there is not time to order tickets in advance then members may purchase their own ticket and claim through the expenses process, receipts must be attached.

Taxis should only be used where reasonable alternatives are not available or the following are applicable

- There is a significant saving in official time,
- ~~You~~ A Member has ~~ve~~ to transport heavy luggage and/or equipment,
- Where Members/Officers are travelling together, and it is the cheaper option,
- Some form of physical impairment prevents use of other forms of transport.

Other exemptions may be acceptable, and all should be agreed in advance with Member Support. Taxi receipts should be attached to your claim form.

## **Mileage Allowances**

Rates are paid at a rate per mile and at the rate prevailing at the time of travel.

You must hold a current driving licence.

All vehicles used on County Council business should be taxed, have a valid MOT certificate (if older than 3 years) and current insurance policy. The insurance policy must cover you for business use and indemnify the employer against all third party claims (including those concerning passengers) when the vehicle is used on official business.

If your insurance covers 'Social and Domestic Pleasure only' your whole policy will be invalid if you use your car for County Council business.

Mileage claimable must be calculated on the basis of the most reasonable route possible for the journey. Where it is reasonable to use Public Transport then Members will be expected to do so. If a Member decides to travel by car when it is reasonable to use public transport, then the Member will only be reimbursed up to the lower of the car mileage amount or the cost of public transport. If a Member is in any doubt, they should seek the advice of the Director of Finance & ICT.

HMRC has ruled that mileage payments in excess of approved mileage allowance payment (AMAP) are subject to payment of National Insurance. This will be deducted at source.

## **Overseas Travel**

Overseas travel is classed as any journey outside the United Kingdom. Any journey, which incorporates travel overseas, must have prior authorisation from the relevant Committee. Claims should be made on the basis of any available tourist or cheap rate fares. The County Council will not reimburse the cost of obtaining a passport.

## **Other Costs**

Any parking, toll or similar fee necessarily incurred on official business can be reclaimed from the County Council. Please attach receipts to your claim.

Parking fines or similar charges will not be paid by the County Council.

~~Subsistence Claims valid from 1<sup>st</sup> January 2017  
(Rates not updated since above date)~~

~~Ordinary Subsistence Rates~~

<del>Breakfast</del>	<del>£7.12</del>
<del>Lunch</del>	<del>£9.83</del>
<del>Tea</del>	<del>£3.87</del>
<del>Evening Meal</del>	<del>£12.20</del>
<del>Bed and Breakfast</del>	<del>£49.65 (£63.39 in London)</del>

~~Absence of 24 hours or more~~

<del>Per day or part thereof</del>	<del>£33.00 (£63.39 in London)</del>
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~~For clarification, should an officer be booked into a hotel on an accommodation only basis, then the maximum allowance for meals would be £33.00 total daily allowance (this is not in addition to any other allowances for individual meals).~~

~~Under normal circumstances, any overnight accommodation booked would be inclusive of all necessary meals and these should be invoiced directly to the Council for authorisation and payment in the normal way. This allows the Council to recover any VAT due.~~