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PUBLIC

To: Members of Governance, Ethics and Standards Committee

Tuesday, 12 October 2021

Dear Councillor,

Please attend a meeting of the **Governance, Ethics and Standards Committee** to be held at **10.00 am** on **Wednesday, 20 October 2021** in Members Room, 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 01 July 2021.

4. Whistleblowing Policy (Pages 5 - 26)
5. Annual Review Letter of The Local Government and Social Care Ombudsman (Pages 27 - 50)
6. Complaints Received against Councillors pursuant to the Code of Conduct for Elected Members for the Period 1st January 2021 - 30th September 2021 (Pages 51 - 60)
7. Revisions to Council Constitution (Pages 61 - 106)
8. Chairman's Report (Pages 107 - 116)
9. Complaints and Compliments 2020/21 (Pages 117 - 128)
10. Update regarding the Code of Conduct and Process for Investigating Alleged Breaches of the Code of Conduct (Pages 129 - 150)

PUBLIC

MINUTES of a meeting of the **GOVERNANCE, ETHICS AND STANDARDS COMMITTEE** held on 01 July 2021 at County Hall, Matlock

PRESENT

Councillor R Flatley (in the Chair)

Councillors D Allen, C Cupit, W Major, D Muller, S Swann, and M Yates.

Apologies for absence were received from Councillor K Gillott, and B Woods.

10/21 **MINUTES RESOLVED** that the minutes of the meeting of the Governance, Ethics and Standards Committee held on 04 March 2021 be confirmed as a correct record and signed by the Chairman.

11/21 **REPORT OF THE LOCAL GOVERNMENT & SOCIAL CARE OMBUDSMAN – INVESTIGATION INTO COMPLAINT NO 18/000/932 AGAINST DERBYSHIRE COUNTY COUNCIL**

If an individual is dissatisfied with the service provided by the Council he/she may complain under the Council's Corporate Complaints Procedure. If a complainant remains dissatisfied they are able to refer the complaint to the Local Government and Social Care Ombudsman. If the LGSCO decides to investigate a complaint he will determine whether, in his opinion, the Council had been guilty of "maladministration" and if so whether the complainant has sustained "injustice" in consequence.

Section 5A of the Local Government and Housing Act 1989 imposed a duty upon the Monitoring Officer to prepare a report to the Executive if at any time it appeared to her that there had been maladministration in the exercise of its functions. This duty had arisen in respect of this finding of maladministration by the LGSCO because the LGSCO had conducted an investigation. The Monitoring Officer's report was considered by Cabinet on 17 June 2021 and a copy of the report had been provided to each member of the Council in accordance with statutory requirements.

The Council's Constitution provided that one of the roles and function of the Governance, Ethics and Standards Committee was 'To receive regular reports on the of the Corporate Complaints process, Local Government Ombudsman referrals and to recommend revisions to related policies and procedures as appropriate'.

Members of the Committee would note that from the report to Cabinet that the Council had accepted the LGSCO's findings and agreed to the recommendations. The Council had already apologised fully to Ms X for the faults identified and paid Ms X on behalf of herself and Z, £1,000. In addition, it

was important to recognise that significant change had taken place within the SEN assessment team to address the matters that had arisen in the history of this complaint. It was therefore proposed that no further revisions to the Council's policies and procedures were recommended at this stage.

RESOLVED that the Committee (1) note the findings of the Local Government and Social Care Ombudsman set out in the report and the actions which had been taken by the Council in response to that report and more generally to prevent further escalations of complaints; (2) note that the report was considered by Cabinet on 17 June 2021 and circulated to all members of the Council; and (3) confirmed that no revisions to the Council's policies and procedures were recommended following consideration of the report.

12/21 REVIEW OF STANDARDS REGIME The Localism Act 2011 made fundamental changes to the system of regulation of standards of conduct for elected and co-opted Councillors. The Act repealed certain provisions of the Local Government Act 2000, which provided the basis for the previous statutory standards regime, abolished standards for England and required the Council to introduce a new regime.

The Derbyshire County Council standards regime was underpinned by:

- A Code of Conduct
- Arrangements for dealing with complaints
- 3 Independent Person positions

The regime approved in 2012 had continued unchanged and it was now prudent to review it to confirm that it remained fit for purpose.

On 19 January 2021, this Committee was informed of a new Model Code of Conduct published by the LGA in response to the Committee on Standards in Public Life report on Local Government Ethical Standards. The Committee agreed to establish a working group to review the current Code in accordance with the best practice recommendations of the CSPL and to consider whether the new model Code should be adopted by the Council.

It had been proposed that an additional working group was set up to review the following aspects of the current regime and report back to Standards Committee:

- Standards Committee/Hearing Sub-Committee
- Arrangements for dealing with complaints
- Independent Persons

It had also been proposed that the existing working group was asked to review the position regarding dispensations.

The Committee had identified the composition of both working groups and the clerk would contact Elected Members directly to arrange dates to commence the reviews as soon as possible.

Officers would provide a briefing note and information pack in advance of the first working group meeting. The outcome of the reviews conducted by the working groups would be reported to a future Governance, Ethics and Standards Committee for consideration and approval.

RESOLVED that the Committee (1) agreed the composition of the working group to review the Code of Conduct identified at the previous meeting of this Committee and agreed to include a review of the position relating dispensations within its remit; and (2) agreed to set up an additional working group to review various aspects of the current standards regime as set out in the report and approved the composition of the group.

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FOR PUBLICATION

DERBYSHIRE COUNTY COUNCIL

GOVERNANCE, ETHICS AND STANDARDS COMMITTEE

21 October 2021

**Report of the Director of Legal & Democratic Services and Assistant
Director of Finance (Audit)**

WHISTLEBLOWING POLICY

1. Purpose

- 1.1 To consider the draft Whistleblowing Policy and refer it to Cabinet for formal approval.

2. Information and Analysis

- 2.1 'Whistleblowing' means the confidential reporting by an individual of any concerns relating to a perceived wrongdoing involving any aspect of the Council's work or those who work for the Council. This includes reporting of suspected wrongdoing, malpractice or illegality within the Council.
- 2.2 The Council currently has in place the Confidential Reporting Code which was approved in November 2016. It has been reviewed to ensure that it is up to date and fit for purpose. When conducting the review, the Guidance for Employers and Code of Practice issued by the Department for Business Innovation & Skills has been taken into account. The guidance makes it clear there is no one-size-fits-all whistleblowing policy, however provides some tips about what a policy should include. It recognises policies will vary depending on the size and nature of the organisation, but should be clear, simple and easily understood.

- 2.3 In light of the guidance, the Confidential Reporting Code has been renamed Whistleblowing Policy as it is considered the purpose of the document will be more clearly understood. The document has also been re-drafted so that it is easier to read.
- 2.4 The draft Policy sets out how the Council will handle and respond to any whistleblowing allegations and seeks to:
- a) encourage employees and members of the public and/or their representatives to feel confident in raising concerns or allegations in the public interest about suspected serious wrongdoing in the Council and its services without fear of reprisals or victimisation even where the concern or allegations are not subsequently confirmed by the investigation;
 - b) give a clear message that allegations of serious wrongdoing or impropriety are taken seriously;
 - c) ensure that where the disclosure proves to be well founded, the individuals responsible for such serious wrongdoing will be held accountable for their actions;
 - d) set out what employees and members of the public can expect by way of confidentiality and protection when making a whistleblowing disclosure; and
 - e) identify independent support for employees who wish to make a whistleblowing disclosure.
- 2.5 It is proposed that Governance, Ethics and Standards Committee considers the draft Policy, makes comments and refers it to Cabinet for formal approval.
- 2.6 Once the Policy is approved, the Council will ensure it is publicised via the intranet and the employee newsletter and training is provided. It will also be published on the internet. This will ensure that individuals are aware of the policy and how to make a disclosure.
- 2.7 Once the Policy is approved, it will be necessary to remove references to the Confidential Reporting Code and replace with Whistleblowing Policy in the Constitution, specifically the Code of Conduct for Officers, Financial Regulations and role and function of the Governance, Ethics and Standards Committee. This will be addressed through separate reports to Governance, Ethics and Standards Committee and Council.

3. Alternative Options Considered

- 3.1 Governance, Ethics and Standards Committee could choose not to consider the draft Policy.

4. Implications

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

5. Consultation

- 5.1 Cabinet will formally approve the Whistleblowing Policy, however it is presented to Governance, Ethics and Standards Committee for comment in recognition of the Committee's responsibility for the overview of the Confidential Reporting Code. Audit Committee has also been given the opportunity to comment in recognition of the Committee's role in providing independent assurance on the Council's arrangements for governance, risk management and internal control.

6. Background Papers

- 6.1 Department for Business, Innovation & Skills Whistleblowing Guidance for Employers and Code of Practice

7. Appendices

- 7.1 Appendix 1 – Implications
- 7.2 Appendix 2 – Current Confidential Reporting Code
- 7.3 Appendix 3 – draft Whistleblowing Policy

8. Recommendation

That Committee provides comment on the draft Whistleblowing Policy at Appendix 3 and refers it to Cabinet for formal approval.

9. Reasons for Recommendation(s)

- 9.1 To ensure that Governance, Ethics and Standards Committee is given the opportunity to comment on the draft Whistleblowing Policy prior to formal approval by Cabinet.

Report Author: Helen Barrington

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

Implications

Financial

- 1.1 None directly arising from this report.

Legal

- 2.1 The law relating to whistleblowing is set out in the Employment Rights Act 1996 (as amended by the Public Interest Disclosure Act 1998). It provides the right for a worker to take a case to an employment tribunal if they have been victimised at work or they have lost their job because they have 'blown the whistle'.
- 2.2 The legislation does not require the Council to have a whistleblowing policy in place, however the existence of a whistleblowing policy shows the Council's commitment to listen to the concerns of employees and how it will respond to those concerns.

Human Resources

- 3.1 As set out in the legal implications section.

Information Technology

- 4.1 None directly arising from this report.

Equalities Impact

- 5.1 The Whistleblowing Policy is aimed at ensuring the highest standard of ethical and honest behaviour. It is intended to give confidence to those who wish to raise an allegation of wrongdoing and should not disadvantage any individual that has one or more protected characteristic. An Equality Impact Assessment will be prepared for consideration by Cabinet in due course.

Corporate objectives and priorities for change

- 6.1 None directly arising from this report.

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

- 7.1 Having a robust Whistleblowing Policy in place that encourages employees to report wrongdoing is an important way to manage risks to the Council.

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WHISTLEBLOWING

THE CONFIDENTIAL REPORTING CODE



Version history			
Version	Date	Detail	Author
1.00	02/11/2015	Revised the code	Liz Wild

Derbyshire County Council

Confidential Reporting Code

1 Introduction

- 1.1** Confidential reporting is the disclosure or communication of information about possible malpractice by individuals or organisations. Disclosure can be either internal within the organisation or external to an outside authority.
- 1.2** This confidential reporting code is intended to enable individuals or organizations to disclose information about malpractice internally and to provide them with protection from subsequent victimisation, discrimination or disadvantage. This will assist in detecting and deterring malpractice and, by demonstrating the Council's accountability, maintain public confidence and the Council's good reputation.

2 Purpose

- 2.1** Employees are often the first to realise that there may be evidence of malpractice within the Council. However, they may not express their concerns because they feel that speaking up would be disloyal to their colleagues or to the Council. They may also fear harassment or victimisation.
- 2.2** In line with the Council's commitment to high standards of openness, integrity and accountability, the Council expects employees who have a reasonable belief that malpractice is taking place within the Council to come forward and voice those concerns internally. This may be an awareness of suspected irregularity, wrongdoing or a failure of standards. This code provides the means for employees to make such disclosures.
- 2.3** An employee's concerns about malpractice may include a reasonable belief that one or more of the following has occurred or is likely to occur:
- Conduct which is an offence or a breach of law,
 - Miscarriages of justice,
 - Health and safety risks, including risks to the public as well as other employees,
 - Damage to the environment,
 - The unauthorised use of public funds,
 - Fraud and corruption,
 - Sexual or physical abuse of clients,
 - Other unethical conduct.

- 2.4** Under this code employees should make disclosures about possible malpractice with:
- a) Their line manager
 - b) Where (a) is inappropriate, their Strategic Director, Director or senior manager in their department.
 - c) Where (a) and (b) are inappropriate, you should approach the Director of Legal Services, or,
 - d) if the concern is regarding financial irregularities or fraud then you should contact the Assistant Director of Finance (Audit).

It is recognised that most cases will have to proceed on a confidential basis.

- 2.5** It is in the interests of all parties that disclosures are dealt with properly, quickly and discreetly. The overriding consideration for the Council and the employee is that it would be in the public interest for any malpractice found to be corrected and, where appropriate, sanctions applied.
- 2.6** The code provides employees with a procedure to make disclosures of suspected irregularity or wrongdoing without fear of adverse treatment as a result. The Council will not tolerate any harassment or victimisation of employees making disclosures (including informal pressures) and will take action to protect employees when they make a disclosure that they reasonably believe is in the public interest.
- 2.7** The code addresses major concerns that fall outside the scope of other procedures and where the interests of others or of the Council are at risk. It has been developed within the following legislative and policy framework:
- It takes into account the requirements of the Public Interest Disclosure Act 1998.
 - It is complementary to the Council's Code of Conduct which makes clear the standards of propriety and good practice expected of employees.
 - It is complementary to the Council's Discipline, Grievance and Harassment Procedures. Together they form a framework which allows employees to be disciplined, to seek personal redress, to raise personal complaint and to disclose malpractice where appropriate.
 - The code is in addition to the Council's complaints procedures and other reporting procedures applying to some departments, for example child protection procedures.

3 Scope

- 3.1** This code applies to all employees, including those employees within the Children's Services Department for whom the Local Education Authority is the relevant body but excluding teachers. It is also applicable to:

- a) contractors working for the Council on Council premises, for example, agency staff, builders, drivers.
- b) suppliers and those providing services under a contract with the Council in their own premises, for example care homes.

4 Procedure for Making A Disclosure

4.1 Introduction

4.1.1 This code provides you with a procedure for making disclosures internally about suspected wrongdoing, irregularity or a failure of standards within the Council. Its aims are:

1. To encourage you to feel confident in raising serious concerns and to question and act upon concerns about possible malpractice within the Council.
2. To provide a means for you to disclose those concerns and receive feedback on any action taken.
3. To ensure that you receive a response to your concerns and that you are aware of how to pursue them further if you are not satisfied.
4. To reassure you that you will be protected from possible reprisals or victimisation and from subsequent discrimination or disadvantage.

4.1.2 Any serious concerns that you have about an aspect of service provision or the conduct of officers or Members of the Council or others acting on behalf of the Council can be reported under this code. This may be about something that:

- a) makes you feel uncomfortable in terms of known standards, your experience or the standards you believe the Council subscribes to.
- b) is against the Council's Standing Orders and policies.
- c) falls below established standards of practice.
- d) amounts to improper conduct.

Examples of these are given in paragraph 2.3.

4.2 Confidentiality

4.2.1 All disclosures will be treated in confidence and wherever possible, every effort will be made not to reveal your identity. However, you may need to come forward as a witness and you will be given every support from management at that time.

4.3 Anonymous Disclosures

4.3.1 You should put your name to your disclosure whenever possible. Disclosures made anonymously will still be considered at the discretion of the Council.

However, it is helpful to have your name in case further information is required.

4.3.2 In exercising its discretion, the Council will take into account the:

- a) seriousness of the issues raised.
- b) credibility of the disclosure.
- c) likelihood of confirming what is alleged from attributable sources.

4.4 Untrue Disclosures

4.4.1 If you make a disclosure that you reasonably believe is in the public interest, but it is not confirmed by the investigation, no action will be taken against you. If however, your allegation is frivolous, malicious or for personal gain, you may be subject to disciplinary action.

4.5 Employee Action

4.5.1 As a first step, you should normally raise your concerns with your immediate line manager. If you believe your line manager is involved, you should approach your Strategic Director or another senior manager in your department. This depends however, on the seriousness and sensitivity of the issues involved and who is suspected of the malpractice. If you believe that senior management is involved, you should approach the Director of Legal Services, or, if the concern is regarding financial irregularities or fraud then you should contact the Assistant Director of Finance (Audit).

4.5.2 You may raise your concern either verbally or in writing. The earlier you express the concern, the easier it is to take action. You should provide:

- a) details of your concerns, including the nature, dates and location of any relevant incidents.
- b) reasons why you feel concerned about the situation.

4.5.3 Although you are not expected to prove beyond doubt the truth of an allegation, you will need to demonstrate to the person contacted that there are reasonable grounds for your concern.

4.5.4 You may wish to consider discussing your concern with a colleague first and you may find it easier to raise the matter if there are two (or more) of you who have had the same experience or concerns. You may also discuss your concerns with your trade union representative.

4.5.5 You may invite your trade union or other representative to be present during any meetings or interviews in connection with the concerns you have raised.

4.5.6 The amount of contact between you and the officer considering the issues will depend on the nature of the matters raised, the potential difficulties

involved and the clarity of the information provided. If necessary, the Council will seek further information from you.

4.6 Action Taken by the Council

4.6.1 The Council will respond to your disclosure. Where appropriate, the matters raised may be:

- a) investigated by management, by Audit Services, or through the disciplinary process.
- b) referred to the Police.
- c) referred to the external auditor.
- d) the subject of an independent inquiry.

4.6.2 In order to protect individuals and those accused of possible malpractice, initial enquiries will be made to decide whether an investigation is appropriate and, if so, what form it should take. The over-riding principle the Council will have in mind is the public interest. Disclosures for which there are other specific procedures (for example, child protection or discrimination issues) will normally be referred for consideration under those procedures.

4.6.3 Some concerns may be resolved by agreed action without the need for investigation. If urgent action is required, this will be taken before any investigation is conducted.

4.6.4 Within 10 working days of a concern being raised, you will receive a response:

- a) acknowledging that the concern has been received.
- b) telling you what initial enquiries have been made.
- c) indicating how the matter is going to be dealt with.
- d) giving an estimate of how long it will take to provide a final response.
- e) supplying you with information on staff support mechanisms.
- f) telling you why if there is to be no further investigation.

4.6.5 The Council will take steps to minimise any difficulties you may experience as a result of making a disclosure. For instance, if you are required to give evidence in criminal or disciplinary proceedings the Council will arrange for you to receive advice about the procedure.

4.6.6 You will need to be assured that the matter has been properly addressed. Thus, subject to legal constraints, you will be informed of the outcomes of any investigation.

4.6.7 The Director of Legal Services has overall responsibility for the maintenance and operation of this code. A record of disclosures made and the outcomes is maintained (but in a form which does not endanger your confidentiality) and reports will be made as necessary to the Council.

4.7 How the Matter Can Be Taken Further

4.7.1 This code is intended to provide you with a route within the Council to make disclosures of malpractice. The Council hopes you will be satisfied with any action taken. If you are not, and you believe the information you have disclosed is substantially true, possible contact points are:

- Public Concern At Work
- The external auditor
- Your trade union
- Your local Citizens Advice Bureau
- Relevant professional bodies or regulatory organisations
- A relevant voluntary organisation
- The Police

4.7.2 If you do take the matter outside the Council, you should ensure that you do not disclose confidential information. Check with the officer dealing with your disclosure within the Council before divulging any information.

4.7.3 General advice and guidance on how matters of concern may be pursued can be obtained from the:

- a) Chief Executive,
- b) Director of Legal Services,
- c) Assistant Director of Finance (Audit).

John McElvaney
Director of Legal Services
Corporate Resources Department

November 2016

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Whistleblowing Policy

1. Introduction

1.1 Derbyshire County Council is committed to the highest possible standards of honesty, openness and accountability and will not tolerate wrongdoing, malpractice or illegality in the workplace.

1.2 The Council's Whistleblowing Policy is a vital element of our governance arrangements and is designed to allow those employed by the Council, members of the public or organisations to come forward and disclose serious allegations of wrongdoing, malpractice or illegality involving the actions of the Council's employees, its Councillors, contractors or any aspect of the Council's activities. The Council is committed to treat all disclosures fairly and consistently.

1.3 It is intended that this Whistleblowing Policy enables individuals or organisations to disclose information about wrongdoing, malpractice or illegality internally and to provide them with protection from subsequent victimisation, discrimination or disadvantage. This will assist in detecting and deterring malpractice and, by demonstrating the Council's accountability, maintain public confidence and the Council's good reputation.

1.4 This Whistleblowing Policy should be read in conjunction with the Anti-Fraud Anti-Corruption Strategy and Fraud Response Plan.

2. Aim of the Policy

2.1 The aims of this Policy are to:

- create a culture of zero tolerance toward fraud and corruption and deter wrongdoing;
- encourage employees and others with serious concerns about any aspect of the Council's work to feel confident to come forward and voice those concerns within the Council rather than ignoring a problem or 'blowing the whistle' outside;
- ensure concerns are raised at an early stage and in the right way ensuring that critical information gets to the people who need to know and who are able to take action so that the matter can be properly investigated;

- provide reassurance to those who raise concerns in the public interest and not maliciously or for personal gain, that they can do so without fear of reprisals or victimisation or disciplinary action, regardless of whether these are subsequently proven;
- ensure that a response is received when concerns are raised, and it is clear how to pursue the matter if not satisfied with the response.

3. Scope of the Policy

3.1 The Whistleblowing Policy seeks to cover all disclosures and allegations made by employees of Derbyshire County Council, including temporary and agency staff. For those employed in maintained schools, the school must have whistleblowing procedures in place and a model Whistleblowing Policy is available which can be adopted by governing boards of Derbyshire schools. The Secretary of State for Education is the prescribed person for matters relating to education for individuals who wish to raise concerns but not direct with their employer. This Policy also extends to any other individual who wants to raise an allegation of wrongdoing, malpractice or illegality. This could include consultants, contractors, sub-contractors who are engaged in work for the Council, volunteers, Councillors, anyone who uses the Council's services or a member of the public.

3.2 The Whistleblowing Policy is not intended to replace existing procedures and it should not be used where other more appropriate reporting procedures are available.

- a) If the concern relates to treatment as an employee, it should be raised under the existing Grievance or Harassment procedures;
- b) If the concern is about services provided, it should be raised under the Complaints Procedure;
- c) If the concern is regarding the behaviour of a County Councillor, it should be raised under the Code of Conduct complaints process.

4. What is Whistleblowing?

4.1 In this policy 'whistleblowing' means the confidential reporting by an individual of any concerns relating to a perceived wrongdoing involving any aspect of the Council's work or those who work for the Council. This includes reporting of suspected wrongdoing, malpractice or illegality within the Council.

4.2 The Public Interest Disclosure Act 1998 (PIDA 1998), known as the whistleblowing law is designed to encourage and enable employees to "speak out" and to report suspected wrongdoing at work. This is commonly known as "blowing the whistle". The PIDA protects employees (including those employed in schools maintained by the Council, temporary workers and

agency staff), from any detriment from their employer or colleagues that arises as a result of making a “protected disclosure” (a qualifying disclosure) in the public interest. This includes protection from harassment, victimisation or dismissal by their employer.

4.3 A qualifying disclosure means any disclosure which in the reasonable belief of the employee shows the following:

- that a criminal offence has been committed, is being committed or is likely to be committed;
- that a person has failed, is failing or likely to fail to comply with a legal obligation to which he/she is subject;
- that a miscarriage of justice has occurred, is occurring or likely to occur;
- that the health and safety of an individual has been, is being or is likely to be endangered;
- that the environment has been, is being or is likely to be damaged;
- that any of the above matters are being or likely to be deliberately concealed.

4.4 Personal grievances are not covered by this Policy and instead should be dealt with under the Council’s Grievance Procedure.

5. Whistleblowing by Employees

5.1 Who should concerns be raised with?

All employees should ensure that they remain aware of this Whistleblowing Policy and use it where they have concerns about wrongdoing, malpractice or illegality internally.

Under this Policy employees should raise their concerns with:

- a) their line manager;
- b) where this is inappropriate, (e.g. because it is believed the line manager is involved) their Executive Director, Director or other senior manager;
- c) where (a) and (b) are inappropriate (e.g. Members or it is believed senior management are involved), the Monitoring Officer; or
- d) if the concern is regarding financial irregularities or fraud, the Assistant Director of Finance (Audit).

5.2 Protection for Employees

5.2.1 Under the PIDA 1998, employees are protected when they make a qualifying disclosure. This applies where the employee:

- makes the disclosure in good faith;

- reasonably believes that the disclosure they are making is in the public interest; and
- reasonably believes that the information detailed and any allegation in it are substantially true.

5.2.2 The PIDA 1998 makes it unlawful for the Council to dismiss anyone or allow them to be victimised on the basis that they have made an appropriate lawful disclosure in accordance with the Act.

5.2.3 The Council recognises that the decision to report a concern can be a difficult one to make. If an employee honestly and reasonably believes what they are saying is true, they should have nothing to fear because they will be doing their duty to their employer, their colleagues and those for whom they are providing a service.

5.2.4 The Council will not tolerate any harassment or victimisation of a whistleblower (including informal pressures) and will take appropriate action to protect an employee when they raise a concern in good faith. Any harassment or victimisation of a whistleblower will be treated as a serious disciplinary offence which will be dealt with under the Disciplinary Procedure.

5.3. Support to Employees

5.3.1 An employee may wish to consider discussing their concerns confidentially with a colleague first and may find it easier to raise the matter if there are two (or more) employees who have had the same experience or concerns.

5.3.2 An employee may discuss their concerns confidentially with their trade union representative. They may also invite their trade union or other representative to be present during any meetings or interviews in connection with the concerns they have raised.

5.3.3 Any employee making a qualifying disclosure under this Policy:

- will be given full support from senior management, and
- the Council will do all it can to help them throughout the investigation. This may include consideration of temporary redeployment for the period of the investigation, if appropriate.

5.3.4 Any employee thinking about raising a concern can refer to the guidance from the Government or Acas for further information and obtain confidential advice from Protect (formerly Public Concern at Work).

6. Whistleblowing by Contractors, service users, members of the public etc.

6.1 Who should concerns be raised with?

Under this Policy consultants, contractors, sub-contractors who are engaged in work for the Council, volunteers, Councillors, anyone who uses the Council's services or a member of the public can still contact the Council to report any concerns or disclosures of wrongdoing. They should raise concerns with:

- a) the Monitoring Officer; or
- b) if the concern is regarding financial irregularities or fraud, the Assistant Director of Finance (Audit).

6.2 Protection and Support

The protection under the PIDA 1998 does not extend to disclosures made by those who are not County Council employees. For those who are not County Council employees, the Council will endeavour to provide appropriate advice and support wherever possible.

7. How to raise a concern

7.1 Concerns may be raised verbally or in writing, although it is better if it is provided in writing and an online form is available. The earlier a concern is raised, the easier it will be for the Council to take action. Any person reporting a concern should provide as much information as possible, including:

- their name and contact details;
- who the concerns relate to;
- full details on the nature of the alleged wrongdoing and why it is believed to be true; and
- evidence in support (including copies of any documents, dates and information relating to relevant events).

7.2 It is not expected that the individual proves their suspicions beyond doubt, however they will need to demonstrate that they have a genuine concern relating to suspected wrongdoing or malpractice within the Council and there are reasonable grounds for that concern.

8. Confidentiality

8.1 All concerns will be treated in confidence and every effort will be made not to reveal identity of the individual raising concerns, if that is their wish. However, it is recognised that if disciplinary or other proceedings follow the investigation, it may not be possible to take action without the individual who has raised concerns coming forward as a witness.

9. Anonymous Allegations

9.1 The Council recognises that there may be circumstances where individuals are worried about being identified when they report concerns, particularly where they are an employee. However, this Policy encourages individuals to put their name to an allegation wherever possible as we believe that open or confidential whistleblowing is the best means of addressing the concerns and protecting individuals. Where an individual does not provide their name, it will be much more difficult for the Council to support and protect their position or to give them feedback. It will also be more difficult for the individual to qualify for protection under the PIDA 1998. This is because there would be no documentary evidence linking them to the disclosure for the Employment Tribunal to consider.

9.2 In addition concerns expressed anonymously are more difficult to investigate, and harder to substantiate. Anonymous allegations will be considered at the discretion of the Monitoring Officer in conjunction with the Assistant Director of Finance (Audit) taking into account the following factors:

- the seriousness of the issues raised;
- the credibility of the concern;
- the same or similar concerns being received; and
- the likelihood of confirming the allegations from other credible sources.

9.3 Where anonymous allegations are investigated, the individual may seek feedback through a telephone appointment or by using an anonymised email address. A reference will be provided to the individual reporting concerns to ensure safeguards are in place to ensure feedback is given to them and not a third party.

10. Untrue Allegations

10.1 If an allegation is made which is frivolous, vexatious, malicious or for personal gain, the Council may take appropriate action that could include disciplinary action.

11. How the Council will respond

11.1 The Council will endeavour to respond to concerns raised as quickly as possible. If a name and contact details have been provided, the person with whom the concerns are raised will formally acknowledge receipt within 5 working days of the concerns being received.

11.2 In order to be fair to all employees, including those who may be wrongly or mistakenly accused, initial enquiries will be made to decide whether an investigation is appropriate and, if so, what form it should take. The over-riding principle for the Council will be the public interest.

11.3 Where appropriate, the concerns raised may be:

- investigated by management, by Audit Services, or through the disciplinary process;
- referred to the Police;
- referred to the external auditor;
- the subject of an independent inquiry;
- resolved by agreed action without the need for investigation; or
- deemed not to be sufficient to warrant an investigation.

11.4 Disclosures for which there are other specific procedures (for example, child protection, safeguarding or discrimination issues) will normally be referred for consideration under those procedures.

11.5 If a name and contact details have been provided, the person with whom the concerns are raised will within 10 working days of a concern being received, confirm in writing:

- what initial enquiries have been made;
- how the matter is going to be dealt with;
- an estimate of how long it will take to provide a final response;
- employee support mechanisms (where appropriate);
- why there is to be no further investigation, if appropriate.

11.6 It is recognised that the individual who raised concerns will need to be assured that the matter has been properly addressed. Therefore, subject to legal and data protection constraints, they will be informed of the outcome of any investigation.

12. How the Matter Can Be Taken Further

12.1 This Policy is intended to provide an avenue within the Council to raise concerns. The Council hopes any individuals who raise concerns will be satisfied with any action taken. If they are not, and they feel it is right to take the matter outside the Council, the following may be contacted:

- the Council's External Auditor;
- the trade union;
- the police;
- the Local Government and Social Care Ombudsman;
- the independent charity Protect (formerly Public Concern at Work);
- other relevant bodies prescribed by legislation.

12.2 If concerns are raised outside the Council it should be to one of these prescribed contacts. A public disclosure to anyone else could take an individual outside the protection of the PIDA 1998 and of this Policy.

12.3 Information that is confidential to the Council or to anyone else, such as a client or contractor of the Council, should only be shared with those included in the above list of prescribed contacts.

12.4 This Policy does not prevent an individual from taking their own independent legal advice.

13. The Responsible Officer

13.1 The Monitoring Officer has overall responsibility for the maintenance and operation of this Policy.

14. Corporate Recording and Monitoring

14.1 The Monitoring Officer will maintain a corporate register containing all concerns that are brought to his/her attention. All officers to whom concerns are raised under this Policy must notify the Monitoring Officer and provide sufficient details for the corporate register.

14.2 The Monitoring Officer will review the corporate register and produce an annual report for the Governance, Ethics and Standards Committee which is responsible for the overview of this Policy.



FOR PUBLICATION

DERBYSHIRE COUNTY COUNCIL

GOVERNANCE, ETHICS AND STANDARDS COMMITTEE

21 OCTOBER 2021

Report of the Director of Legal and Democratic Services

**Annual Review Letter Of The Local Government
And Social Care Ombudsman**

1. Purpose

- 1.1 To inform the Committee that Cabinet, at its meeting on 14 October 2021, considered a report of the Local Government and Social Care Ombudsman's (LGSCO) Annual Review Letter for the year ended 31 March 2021 (a copy of the report which was submitted to Cabinet is attached for the Committee's information – Appendix 4).

2. Information and Analysis

- 2.1 The terms of reference for the Governance, Ethics and Standards Committee include *"to receive regular reports on Local Government Ombudsman referrals"*. Therefore, the Committee is invited to receive the Annual Review Letter from the LGSCO, giving details of the total number of complaints for Derbyshire County Council for the year ending 31 March 2021. The letter is attached at Appendix 2 for consideration.
- 2.2 All of the Ombudsman's annual review letters are published on their website (www.lgo.org.uk) and copied to the Audit Commission.
- 2.3 The aim of the Annual Review Letter is to provide councils with information which will help them assess their performance in handling complaints.

2.4 For the period ending 31 March 2021

The Council received its annual review letter for 2020-2021 from the LGSCO in July 2021 (Appendix 2).

- 2.5 For the period ending 31 March 2021, the LGSCO received 81 complaints and enquiries relating to Derbyshire County Council. The 81 complaints compares to 122 complaints for Derbyshire in the period 2019/20 (a decrease of 34%). The decrease was in some part due to the Covid-19 pandemic; the LGSCO did not accept new complaints and stopped investigating existing cases between March and June 2020. This reduced the number of complaints the LGSCO received and made decisions on in the 2020/21 year and should be taken into consideration when comparing previous statistics.
- 2.6 Looking specifically at the decisions made by the LGSCO for the period ending 31 March 2021, there were 19 detailed investigations carried out, of which 6 were not upheld and 13 were upheld. This gives an upheld rate of 68%, against an average of 71% in similar authorities. By way of comparison in 2019/20 the LGSCO upheld 19 cases following investigation this represents a decrease in cases where there were findings against the Council of 31%.
- 2.7 The LGSCO's Annual Report also noted that there were 2 upheld cases (15%) where the Authority had provided a satisfactory response before the complaint reached the LGSCO. This compares to an average of 8% in similar authorities.
- 2.8 In respect of the 13 complaints upheld by the LGSCO in 2020/21 the LGSCO found fault and suggested a remedy in respect of each case and the remedies were acceptable to the Council. There was one formal investigation report issued against the Council concerning Children's Services which was reported separately to Cabinet on 17 June 2021 and to the Governance Ethics & Standards Committee on 1 July 2021.
- 2.9 In terms of the 13 complaints upheld by the LGSCO these can be identified in relation to the following County Council departments:

Department	Number of decisions against the Council
Adult Care	1
Children's Services	12

Details of the 13 complaints and the remedies are set out in Appendix 3.

- 2.10 In respect of compliance with the LGSCO's recommendations which is a relatively new statistic now recorded by the LGSCO, of the 13 complaints where compliance with the recommended remedy was recorded during the year, the Council complied with all the recommended remedies giving a compliance rate of 100%.

3. Alternative Options Considered

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

4. Implications

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

5. Consultation

- 5.1 Not applicable.

6. Background Papers

- 6.1 None identified.

7. Appendices

- 7.1 Appendix 1 – Implications.
7.2 Appendix 2 – Annual Review letter of the LGSCO.
7.3 Appendix 3 – Details of the 13 cases upheld by the LGSCO.
7.4 Appendix 4 – Report to Cabinet dated 14 October 2021.

8. Recommendations

That Committee notes the Annual Review Letter of the Local Government and Social Care Ombudsman for the year ending 31 March 2021 and notes that a report on this matter has already been considered by Cabinet on 14 October 2021.

9. Reasons for Recommendations

9.1 To ensure compliance with the Council's Constitution.

Report Author: Helen Barrington **Contact details:** helen.barrington@derbyshire.gov.uk

This report has been approved by the following officers:

On behalf of: Director of Legal Services and Monitoring Officer Director of Finance and ICT Managing Executive Director Executive Director(s)	
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Implications

Financial

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

Legal

- 2.1 The terms of reference for the Governance, Ethics and Standards Committee include *“to receive regular reports on Local Government Ombudsman referrals”*.
- 2.2 The Local Government and Social Care Ombudsman’s powers are defined by the Local Government Act 1974 as amended by the Local Government and Public Involvement in Health Act 2007.
- 2.3 The LGSCO cannot question whether a Council’s decisions are right or wrong simply because the complainant disagrees with them. He must consider whether there was fault in the way the decision was reached. (Local Government Act 1974, section 34(3)).
- 2.4 The LGSCO will generally only investigate a complaint where the complainant has exhausted the council’s corporate complaints process. It is therefore important that the council maintains a robust complaints procedure.
- 2.5 The LGSCO has the power to make recommendations to a public authority following a complaint, however the recommendations are not mandatory. Findings and recommendations are however published by the LGSCO.
- 2.6 Section 31 of the Local Government Act 1974 requires a report to be submitted to “the authority” when a report on maladministration is received from the Local Government and Social Care Ombudsman. The specific requirement is that the report to “the authority” is made to the “executive” i.e. Cabinet (s.25(4ZA) Local Government Act 1974) where the matter relates to executive functions and Council or a Committee where the matter relates to non-executive functions. A formal investigation report was issued in respect of one of the complaints referred to in the Annual Letter which was formally reported

to Cabinet by the Monitoring Officer in accordance with statutory obligations in s.5A Local Government and Housing Act 1989.

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.

Local Government & Social Care OMBUDSMAN

21 July 2021

By email

Ms Alexander
Executive Director
Derbyshire County Council

Dear Ms Alexander

Annual Review letter 2021

I write to you with our annual summary of statistics on the decisions made by the Local Government and Social Care Ombudsman about your authority for the year ending 31 March 2021. At the end of a challenging year, we maintain that good public administration is more important than ever and I hope this feedback provides you with both the opportunity to reflect on your Council's performance and plan for the future.

You will be aware that, at the end of March 2020 we took the unprecedented step of temporarily stopping our casework, in the wider public interest, to allow authorities to concentrate efforts on vital frontline services during the first wave of the Covid-19 outbreak. We restarted casework in late June 2020, after a three month pause.

We listened to your feedback and decided it was unnecessary to pause our casework again during further waves of the pandemic. Instead, we have encouraged authorities to talk to us on an individual basis about difficulties responding to any stage of an investigation, including implementing our recommendations. We continue this approach and urge you to maintain clear communication with us.

Complaint statistics

This year, we continue to focus on the outcomes of complaints and what can be learned from them. We want to provide you with the most insightful information we can and have focused statistics on three key areas:

Complaints upheld - We uphold complaints when we find some form of fault in an authority's actions, including where the authority accepted fault before we investigated.

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

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

Finally, we compare the three key annual statistics for your authority with similar types of authorities to work out an average level of performance. We do this for County Councils, District Councils, Metropolitan Boroughs, Unitary Councils, and London Boroughs.

Your annual data will be uploaded to our interactive map, [Your council's performance](#), along with a copy of this letter on 28 July 2021. This useful tool places all our data and information about councils in one place. You can find the decisions we have made about your Council, public reports we have issued, and the service improvements your Council has agreed to make as a result of our investigations, as well as previous annual review letters.

I would encourage you to share the resource with colleagues and elected members; the information can provide valuable insights into service areas, early warning signs of problems and is a key source of information for governance, audit, risk and scrutiny functions.

As you would expect, data has been impacted by the pause to casework in the first quarter of the year. This should be considered when making comparisons with previous year's data.

During the year, we issued a public report about your Council because of significant delays issuing a revised Education, Health and Care Plan for a child. The delayed review led to the child having to remain for an additional year in primary school instead of transferring to secondary school with his cohort. Our investigation also found fault in how you handled the original complaint, including a failure to acknowledge the full scope of delay and taking too long to respond to the complainant.

More positively, I am pleased to note that you accepted our findings and have agreed to our recommendations to remedy the personal injustice to the complainant and to make service improvements, which we hope will help prevent a re-occurrence of the faults we identified in your processes.

I would like to credit your Council for its completion of recommendations we made to remedy a complaint about the Council's failure to arrange suitable alternative education for a child out of school. I was pleased to see the Council carried out comprehensive reviews into its oversight of services for children and young people out of school to ensure alternative provision is provided, and to ensure prompt assessments are carried out for those who have been absent from school for more than 15 days. The Council's willingness to learn from this complaint is commendable; I hope the steps taken result in an improved service for other children and young people.

Supporting complaint and service improvement

I am increasingly concerned about the evidence I see of the erosion of effective complaint functions in local authorities. While no doubt the result of considerable and prolonged budget and demand pressures, the Covid-19 pandemic appears to have amplified the problems and my concerns. With much greater frequency, we find poor local complaint handling practices when investigating substantive service issues and see evidence of reductions in the overall capacity, status and visibility of local redress systems.

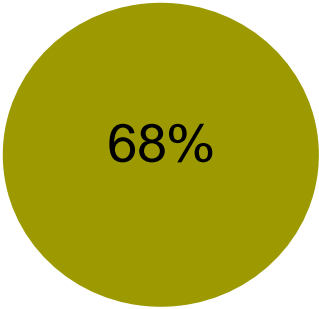
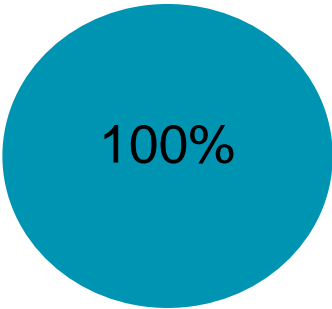
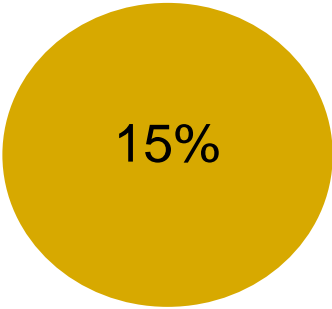
With this context in mind, we are developing a new programme of work that will utilise complaints to drive improvements in both local complaint systems and services. We want to use the rich evidence of our casework to better identify authorities that need support to improve their complaint handling and target specific support to them. We are at the start of this ambitious work and there will be opportunities for local authorities to shape it over the coming months and years.

An already established tool we have for supporting improvements in local complaint handling is our successful training programme. During the year, we successfully adapted our face-to-face courses for online delivery. We provided 79 online workshops during the year, reaching more than 1,100 people. To find out more visit www.lgo.org.uk/training.

Yours sincerely,

A handwritten signature in black ink, appearing to be 'MK' with a stylized flourish underneath.

Michael King
Local Government and Social Care Ombudsman
Chair, Commission for Local Administration in England

Complaints upheld		
	<p>68% of complaints we investigated were upheld.</p> <p>This compares to an average of 71% in similar authorities.</p>	<p>13 upheld decisions</p> <p>Statistics are based on a total of 19 detailed investigations for the period between 1 April 2020 to 31 March 2021</p>
Compliance with Ombudsman recommendations		
	<p>In 100% of cases we were satisfied the authority had successfully implemented our recommendations.</p> <p>This compares to an average of 100% in similar authorities.</p>	<p>Statistics are based on a total of 13 compliance outcomes for the period between 1 April 2020 to 31 March 2021</p>
<ul style="list-style-type: none"> Failure to comply with our recommendations is rare. An authority with a compliance rate below 100% should scrutinise those complaints where it failed to comply and identify any learning. 		
Satisfactory remedy provided by the authority		
	<p>In 15% of upheld cases we found the authority had provided a satisfactory remedy before the complaint reached the Ombudsman.</p> <p>This compares to an average of 8% in similar authorities.</p>	<p>2 satisfactory remedy decisions</p> <p>Statistics are based on a total of 19 detailed investigations for the period between 1 April 2020 to 31 March 2021</p>

NOTE: To allow authorities to respond to the Covid-19 pandemic, we did not accept new complaints and stopped investigating existing cases between March and June 2020. This reduced the number of complaints we received and decided in the 20-21 year. Please consider this when comparing data from previous years.

Complaint Reference	Details of complaint	Findings and Remedy
18/ 015 /573 CS	Mr Z who was represented by his mother complained of delay and other fault by the Council in meeting his special educational needs in 2017 and 2018, causing him to lose provision. The Council delayed issuing an EHC Plan in 2017 and failed to deal properly with his mother, Ms X's complaint.	The Ombudsman upheld the complaint and recommended that the Council should apologise to Ms X and Mr Z for the lost SEN provision for Mr Z between April and November 2017 as a result of the Council taking too long to complete the EHC transfer process; and pay a total of £700; (£250 to Ms X for her time and trouble in making the complaint and £450 to Mr Z for the loss of SEN provision.
19/016/781 CS	<p>The complainant, Miss X, complained of fault by the Council when it issued an Education Health and Care (EHC) Plan for her son Z. She said this related to:</p> <ul style="list-style-type: none"> a) Failing to obtain advice from a neuro-psychologist; b) The poor quality, content and advice in a report on Z's Special Educational Needs (SEN); c) Failing to include transport in the EHC Plan; d) The attitude of a Council officer in emails sent on 7 and 15 February 2019; e) Taking too long to issue the final EHC Plan; and f) Taking too long to deal with her complaint about this. 	<p>The Ombudsman upheld the complaint, he acknowledged that the Council had already apologised for some of the delay in issuing Z's EHC Plan, and for taking too long to deal with Miss X's complaint. However, to remedy the injustice caused by the fault he said the Council should also apologise to Miss X and Z for taking almost three months too long to issue the final EHC Plan; and pay Miss X £450, comprising £300 on Z's behalf for the unnecessary anxiety caused by the delayed issue of the EHC Plan and £150 for Miss X's time and trouble in pursuing her complaint.</p> <p>The Ombudsman did not investigate complaints a), b) and c) as they are matters for a SEND Tribunal.</p>

19/006/673 CS	<p>The complainant, Mrs C, was represented by her representative, Ms R. Ms R said the Council was at fault for a delay in providing information about the education, health and care plan (EHCP) the Council prepared for Mrs C's son, who I have called Mr X. She said the Council:</p> <p>a) Delayed in processing Mr X's application for direct payments for 19 months;</p> <p>b) Communicated poorly with Ms R and Mrs C by:</p> <ol style="list-style-type: none"> 1. Initially refusing to correspond with Ms R even though she had attended meetings with Mrs C; 2. Failed to answer to Ms R's first letter about Mr X's EHCP adequately; and 3. Delayed in responding to Ms R's second letter about the EHCP; and <p>2. Mrs C said this caused injustice because Mr X did not receive social care payments for 19 months and Mrs C and Ms R spent time pursuing the Council.</p> <p>5. She also said the Council paid for social care at too low a rate.</p>	<p>The Ombudsman upheld the complaint and recommended the Council should write to Mrs C and apologise to her for the fault found; and pay Mrs C £4,425,42.</p> <p>.</p>
19/007/198 CS	<p>The complainants referred to as Mr and Mrs X complained that the Council failed to:</p> <ul style="list-style-type: none"> • Properly assess their daughter Y's educational needs; • Issue an Education, Health and Care Plan (EHC Plan) within the statutory timescales; 	<p>The Ombudsman upheld the complaint and recommended that the Council should apologise to Mr and Mrs X and pay the costs of the independent reports commissioned by Mr and Mrs X to a total cost of £1,400 to gain information the Council should have gathered.</p>

	<ul style="list-style-type: none"> • Properly adhere to the Council’s complaints procedure by failing to respond to their complaints. <p>Mr and Mrs X said this delayed Y’s receipt of the educational provision and support she needed as set out in the EHC Plan. This has had an impact on Y’s educational progress. Mr and Mrs X said they had to commission reports and seek repayment for the costs of those reports.</p>	<p>The Council should also pay Mr and Mrs X £200 in recognition of the inconvenience and distress caused by the failures identified in this statement.</p> <p>Additionally, the Council should share with officers the view taken in this decision; and review guidance to staff, ensuring they consider carrying out a social care assessment if a child is not known to children’s social care services when gathering information for an EHC Plan.</p>
<p>20/002/690</p> <p>CS</p>	<p>Mrs B complained on behalf of her son, Mr C about the Council’s refusal of a Disabled Facilities Grant (DFG) for Mr C between 2012 and 2017. She also complained that the Council refused to take her complaint at stage two of the statutory complaint’s procedure.</p> <p>Mrs B said the grant refusal left the family without the correct facilities to meet Mr C’s needs.</p>	<p>The Ombudsman upheld the complaint and recommended that the Council should pay Mrs B £150 for her time and trouble pursuing her complaint. It should also appoint an Investigating Officer and Independent Person to investigate Mrs B’s complaint at stage two of the statutory complaint procedure.</p> <p>Further, the Council should remind all staff dealing with statutory complaints of the parts of the Children Act 1989 and associated legislation that can be subject to a statutory complaint and of the process of escalating a complaint through the statutory procedure, and the limited circumstances in which the Council is not required to investigate a complaint, or can refer a complaint early to the Ombudsman.</p>
<p>19 /003/ 959</p>	<p>Mrs X complained that the Council failed to provide her son, F, who had an Education,</p>	<p>The Ombudsman upheld the complaint and recommended the Council should pay Mrs X £5,900 to recognise the failure to deliver the</p>

<p>CS</p>	<p>Health and Care (EHC) Plan with a suitable education in line with his special educational needs (SEN) between 2016 and 2019.</p> <p>Mrs X said the Council identified fault in its stage 2 complaints investigation into the matter but did not adequately remedy the injustice.</p> <p>Mrs X said F had not achieved his academic potential as a result. She said the matter had caused F, her and the wider family significant distress, uncertainty and time and trouble.</p>	<p>provision set out in F's EHC Plan and the loss of a suitable education between April 2017 and March 2019. Mrs X should use the payment for F's educational benefit as she saw best.</p> <p>The Council should also pay Mrs X £1,000 to recognise the failure to deliver the provision set out in F's EHC Plan between April 2019 and November 2019 during the period Mrs X appealed to the SEND tribunal. Mrs X should use the payment for F's educational benefit as she saw best.</p> <p>The Council should further pay Mrs X £500 to recognise the distress, uncertainty and frustration caused by the Council's poor handling of F's education, its failure and delays to amend F's EHC Plan and the time and trouble spent pursuing her complaint.</p> <p>The Council also agreed to provide to the Ombudsman, within 3 months, evidence of how it had carried out the service improvements identified at the conclusion of its stage 2 investigation. This to include:</p> <ul style="list-style-type: none"> • how it will ensure going forward that referrals of young people to IPT are appropriate • ensuring how the SEN panel will consider all relevant information and assessments when considering alternative placements and amendments to EHC Plans.
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		<ul style="list-style-type: none"> • ensuring the SEN panel communicates with parents during and following the panel process about its decisions. • a review of how its IPT service ensures young people receive their entitlement to a full-time education. The review should include how it uses qualified teachers, how it will ensure young people receive provision in line with their EHC Plans and how it will monitor and mark work completed by the young person. <p>The Council has also agreed, within 6 months, to carry out an audit of 10% of all children with EHC Plans ensuring there has been an up to date review, or whether there are any significant delays in issuing a final amended EHC Plan. The sample must include a number of children with EHC Plans who are receiving alternative provision because of exclusion, illness or otherwise.</p>
19 /015/ 368 CS	Mr X complained that the Council took too long to reach a decision about a child protection investigation into unfounded claims against him. He also complained that he was not given an opportunity to comment. Mr X complained the matter affected his mental health and he lost out on earnings during the period he was suspended from work.	<p>The Ombudsman upheld the complaint and recommended that the Council should apologise to Mr X for the lack of review and monitoring of the investigations being conducted and for the inappropriate referral to a neighbouring council about the delay.</p> <p>The Council should also consider what steps it needed to take to ensure that LADO investigations were reviewed and monitored in future in accordance with the Derbyshire Safeguarding Board's policies.</p>

18/014/369 CS	The complainant, Mrs B complained that the Council had failed to provide an appropriate school place for her son, C since 2016. Mrs B had to give up her job to educate him and the situation had a significant adverse impact on the family finances.	The Ombudsman upheld the complaint and in recognition of the injustice caused to Mrs B by the delay in the complaints process, the Council agreed to pay her £150.
19/ 018 /918 CS	The complainant, Mrs C, said the Council was at fault for its refusal to fund transport to college for her daughter X. She said that she and X had suffered injustice as a result. Mrs C had to pay £45 per week transport fees and X had not gained the independence she would have done had she taken a bus to college.	<p>The Ombudsman upheld the complaint and recommended that the Council should write to Mrs C and X to apologise for the fault found.</p> <p>The Council agreed to hold a new appeal hearing. It agreed to first allow Mrs C the opportunity to provide any evidence it required, and to then consider:-</p> <ul style="list-style-type: none"> a) The Ombudsman's findings set out in this decision. b) The actual cost of the transport requested; c) Whether the Council was providing a reasonable opportunity to choose between the courses available; <i>and</i> d) X's specific needs and requirements, including reference to doctor's evidence about X's difficulty in taking public transport. <p>Should the Council decide X was eligible for transport, it agreed it would backdate any payment that it made as a result of the finding.</p> <p>Within a week of the appeal decision, the Council agreed that X would be eligible to join the ITT programme.</p>

		The Council agreed it would also reconsider its policy in the relevant area and report back to the Ombudsman. The Council also agreed to amend any affected online and other materials.
20/ 002 /545 CS	Mr X complained the Council failed to provide the speech and language therapy (SaLT) specified in his daughter, Miss D's, Education, Health and Care (EHC) Plan from 6 December 2019. Mr X says that as a result of this, the Council had disadvantaged an already vulnerable child during her GCSE years. In addition, Mr X said he had been caused distress, anxiety and unnecessary time and trouble dealing with this matter and having to come again to the Ombudsman. He believed the £2,000 already offered by the Council was insufficient.	The Ombudsman found fault which the Council accepted. It had provided a suitable remedy to address the injustice caused to Miss D and Mr X and said it would make service changes to prevent a reoccurrence in future.
20/ 002 /225 CS	Mr X complained that the Council failed to carry out his daughter, Miss D's, annual review in January 2020. As a result, he said this had caused the family uncertainty because they did not know if Miss D was receiving the support she needed. He said this uncertainty was compounded by the fact Miss D did not have an annual review in 2018 and her latest Education, Health and Care (EHC) Plan was based on information from 2018.	The Ombudsman found fault, but this did not cause an injustice. The Council had arranged for Miss D to have an annual review and she would be able to provide comments to ensure Section A is updated. It also said it had started the process to review the files of other young people to ensure they had not been refused an annual review because of similar circumstances.
20 000 611 CS	The complainant, Ms X complained the Council failed to: • carry out her son, Z's, annual review in line with the statutory timescales;	The Ombudsman found fault and issued a report against the Council which the Council considered at Cabinet on 17 June.

	<ul style="list-style-type: none"> • consult with secondary schools in a timely manner; • issue Z's final amended Education, Health and Care (EHC) Plan within the statutory timescales when he transitioned to secondary school; • ensure Z received a suitable education from September 2019 to June 2020 when she appealed to the Tribunal; • communicate appropriately with her; and • deal with her complaints in a timely manner. <p>As a result, Z had to remain at primary school for an additional school year and Ms Z says that during this time only received part of the Year 7 curriculum. Ms X said this led to a deterioration in Z's behaviour and feelings of low self-esteem and isolation.</p>	<p>The Council agreed to:</p> <ul style="list-style-type: none"> • apologise to Ms X; and • pay Ms X on behalf of herself and Z, £1,000 to acknowledge the distress Z experienced when he was unable to transfer to secondary school at the same time as his peers for a whole school year and for the unnecessary frustration, distress and time and trouble Ms X experienced because of the Council's faults. <p>The Council had also agreed to review its processes to ensure it is carrying out annual reviews, issuing decision notices and finalising amended Education, Health and Care Plans in line with the statutory guidelines.</p>
<p>19/021/063</p> <p>AC</p>	<p>Mr B complains about his uncle's (Mr C's) respite care provider. Mr B says Mr C was not properly fed and he had to purchase food for him, his care provider lost his clothes and says he was treated negatively by the manager of the home. Mr B says he has been to the home on four separate occasions to collect Mr C's belongings but has not been given them.</p>	<p>The Ombudsman was satisfied that an apology and offer of reimbursement for the cost of the additionally purchased clothing remedied the injustice caused by the fault.</p>



Agenda Item

FOR PUBLICATION

DERBYSHIRE COUNTY COUNCIL

CABINET

14 October 2021

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

Annual Review Letter of the Local Government & Social Care Ombudsman (LGSCO) 2020-21

(Corporate Services and Budget)

1. Divisions Affected

1.1 County Wide

2. Key Decision

2.1 This is not a key decision

3. Purpose

3.1 The purpose of this report is to inform Cabinet of the Local Government and Social Care Ombudsman's (LGSCO) Annual Review Letter for the year ended 31 March 2021.

4. Information and Analysis

4.1 The LGSCO's Annual Review Letter 2020/21, giving details of the total number of complaints for Derbyshire County Council for the year ending

31 March 2021, is attached as Appendix 2 for consideration. All of the LGSCO's annual review letters are published on their website.

- 4.2 The aim of the Annual Review Letter is to provide councils with information which will help them assess their performance in handling complaints.
- 4.3 For the period ending 31 March 2021, the LGSCO received 81 complaints and enquiries relating to Derbyshire County Council. The 81 complaints compares to 122 complaints for Derbyshire in the period 2019/20 (a decrease of 34%). The decrease was in some part due to the Covid-19 pandemic; the LGSCO did not accept new complaints and stopped investigating existing cases between March and June 2020. This reduced the number of complaints the LGSCO received and made decisions on in the 2020/21 year and should be taken into consideration when comparing previous statistics.
- 4.4 Looking specifically at the decisions made by the LGSCO for the period ending 31 March 2021, there were 19 detailed investigations carried out, of which 6 were not upheld and 13 were upheld. This gives an upheld rate of 68%, against an average of 71% in similar authorities. By way of comparison in 2019/20 the LGSCO upheld 19 cases following investigation this represents a decrease in cases where there were findings against the Council of 31%.
- 4.5 The LGSCO's Annual Report also noted that there were 2 upheld cases (15%) where the Authority had provided a satisfactory response before the complaint reached the LGSCO. This compares to an average of 8% in similar authorities.
- 4.6 In respect of the 13 complaints upheld by the LGSCO in 2020/21 the LGSCO found fault and suggested a remedy in respect of each case and the remedies were acceptable to the Council. There was one formal investigation report issued against the Council concerning Children's Services which was reported separately to Cabinet on 17 June 2021 and to the Governance Ethics & Standards Committee on 1 July 2021.
- 4.7 In terms of the 13 complaints upheld by the LGSCO these can be identified in relation to the following County Council departments:

Department	Number of decisions against the Council
Adult Care	1
Children's Services	12

Details of the 13 complaints and the remedies are set out in Appendix 3.

- 4.8 In respect of compliance with the LGSCO's recommendations which is a relatively new statistic now recorded by the LGSCO, of the 13 complaints where compliance with the recommended remedy was recorded during the year, the Council complied with all the recommended remedies giving a compliance rate of 100%.
- 4.9 The LGSCO is increasingly concerned about the evidence he sees of the erosion of effective complaint functions in local authorities. While no doubt the result of considerable and prolonged budget and demand pressures, the Covid-19 pandemic appears to have amplified the problems and his concerns. With much greater frequency, they find poor local complaint handling practices when investigating substantive service issues and see evidence of reductions in the overall capacity, status and visibility of local redress systems. With this context in mind, they are developing a new programme of work that will utilise complaints to drive improvements in both local complaint systems and services. He wants to use the rich evidence of our casework to better identify authorities that need support to improve their complaint handling and target specific support to them. They are at the start of this ambitious work and there will be opportunities for local authorities to shape it over the coming months and years. An already established tool they have for supporting improvements in local complaint handling is their successful training programme. During the year, they successfully adapted our face-to-face courses for online delivery. They provided 79 online workshops during the year, reaching more than 1,100 people. To find out more visit www.lgo.org.uk/training.

5. Consultation

- 5.1 No consultation is necessary.

6. Alternative Options Considered

- 6.1 Not to inform Cabinet of the LGSCO's Annual Review Letter for the period ending 31 March 2021; however considerate is considered important that the Executive are informed of the Annual letter to enable proper oversight of complaints..

7. Implications

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

8. Background Papers

8.1 None identified

9. Appendices

9.1 Appendix 1 – Implications

9.2 Appendix 2 – Annual Review Letter

9.3 Appendix 3 – Details of the 13 upheld cases

10. Recommendation(s)

10.1 That Cabinet notes the Annual Review Letter of the Local Government and Social Care Ombudsman for the year ending 31 March 2021.

11. Reasons for Recommendation(s)

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

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

No

Report Author: Paul Peat

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

Implications

Financial

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

Legal

- 2.1 The Local Government and Social Care Ombudsman's powers are defined by the Local Government Act 1974 as amended by the Local Government and Public Involvement in Health Act 2007.
- 2.2 The LGSCO cannot question whether a Council's decisions are right or wrong simply because the complainant disagrees with them. He must consider whether there was fault in the way the decision was reached. (Local Government Act 1974, section 34(3)).
- 2.3 The LGSCO will generally only investigate a complaint where the complainant has exhausted the council's corporate complaints process. It is therefore important that the council maintains a robust complaints procedure.
- 2.4 The LGSCO has the power to make recommendations to a public authority following a complaint, however the recommendations are not mandatory. Findings and recommendations are however published by the LGSCO.
- 2.5 Section 31 of the Local Government Act 1974 requires a report to be submitted to "the authority" when a report on maladministration is received from the Local Government and Social Care Ombudsman. The specific requirement is that the report to "the authority" is made to the "executive" i.e. Cabinet (s.25(4ZA) Local Government Act 1974) where the matter relates to executive functions and Council or a Committee where the matter relates to non-executive functions. A formal investigation report was issued in respect of one of the complaints referred to in the Annual Letter which was formally reported to Cabinet by the Monitoring Officer in accordance with statutory obligations in s.5A Local Government and Housing Act 1989.
- 2.5 The Council's Constitution provides that one of the roles and function of the Governance , Ethics and Standards Committee is '11.To receive

regular reports on the of the Corporate Complaints process, Local Government Ombudsman referrals and to recommend revisions to related policies and procedures as appropriate'. A report will therefore also be prepared for the Committee.

Human Resources

3.1 None directly arising from this report.

Information Technology

4.1 None directly arising from this report.

Equalities Impact

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

Corporate objectives and priorities for change

6.1 None directly arising from this report.

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

7.1 None directly arising from this report.



Agenda Item

FOR PUBLICATION

DERBYSHIRE COUNTY COUNCIL

GOVERNANCE, ETHICS AND STANDARDS COMMITTEE

20th October 2021

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

Complaints Received against Councillors pursuant to the Code of Conduct for Elected Members for the Period 1st January 2021 – 30th September 2021

1. Purpose

- 1.1 To inform the Committee of complaints against Councillors received during the period of 1st January 2021 to 30th September 2021.

2. Information and Analysis

- 2.1 The Council's Procedure for considering complaints that Councillors have breached the Code of Conduct which is attached at Appendix 2, provides that the Monitoring Officer, in consultation as appropriate with one of the Independent persons from the Standards Committee, decides how complaints should be dealt with. Decisions are made as to whether or not complaints should be investigated and whether or not they should be referred on to the Standards Committee for consideration.
- 2.2 In order to support the Monitoring Officer with the management of complaints, the Committee is kept informed of complaints received against Councillors on a bi-annual basis. The last report was presented to the Committee in March 2021.
- 2.3 During the period from 1st January 20021 to 30th September 2021, two complaints have been received, but neither have yet been determined and remain under consideration. Details will be provided in the next report.

- 2.4 Two complaints remained outstanding at the time of the previous report and have now been resolved. Both complaints were from members of the public.
- 2.5 The first complaint related to a failure or significant delay in responding to emails. This was resolved by way of an apology and the provision of a response to the email. It was determined that it was not sufficiently serious to merit further investigation.
- 2.6 The second was a complaint regarding a post on social media. It was found that the use of social media was appropriate, and other elements were found to fall outside the remit of the code.

3. Consultation

- 3.1 None required

4. Alternative Options Considered

- 4.1 This is a report provided for information in order to fulfil the requirements of the Terms of Reference for the Governance, Ethics and Standards Committee contained within the Constitution at Article 11.

5. Implications

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

6. Background Papers

- 6.1 Confidential files held by the Director of Legal and Democratic Services.

7. Appendices

- 7.1 Appendix 1 – Implications.
- 7.2 Appendix 2 – Procedure for Considering Complaints that Members have breached the Code of Conduct

8. Recommendation(s)

That Committee:

- a) is asked to note the complaints made that Members' have breached the Code of Conduct.

9. Reasons for Recommendation(s)

- 9.1 That the Committee be aware of complaints made under the Code of Conduct for Elected Members to support the Monitoring Officer in dealing with complaints against Elected Members and to promote a culture of openness, ready accountability and probity as required by the Terms of Reference for the Committee.

Report Author:

Elizabeth Wild
Principal Solicitor, Legal Services

Contact details:

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Implications

Financial

1.1

Legal

- 2.1 The Council is required to publish a Member Code of Conduct and a complaints procedure. In accordance with its terms of reference, the Governance, Ethics and Standards Committee supports the Monitoring Officer in taking any action required on the receipt, management and investigation of any Code of Conduct Complaint against an Elected Member.
- 2.2 The terms of Reference also require the Committee to promote a culture of openness, ready accountability and probity in order to ensure the highest standards of conduct of Councillors.
- 2.3 As the Committee will appreciate, the details of the individual Councillors against whom the complaints were made cannot be disclosed since this would be in breach of data protection legislation.

Human Resources

3.1 None

Information Technology

4.1 None

Equalities Impact

5.1 None

Corporate objectives and priorities for change

6.1 None

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

7.1 None

Derbyshire County Council

Procedure for Considering Complaints that Members have breached the Code of Conduct

1. The Monitoring Officer acknowledges receipt of the complaint within 5 working days of receipt.
2. The Monitoring Officer informs the subject matter of
 - a) The complaint, giving a summary of it and the name of the complainant
 - b) His right to consult one of the Independent Persons appointed by the Council, through the Monitoring Officer
3. The Monitoring Officer, in consultation with an Independent Person (other than one consulted by the subject member under paragraph 2 (b)), decides, within 20 working days of receipt of the complaint, that;
 - a) The complaint does not come within the remit of the Code of Conduct
 - b) The complaint is not sufficiently serious to warrant an investigation
 - c) That it is not in the public interest to investigate the complaint
 - d) He should seek to resolve the complaint without the need for an investigation (e.g. by way of an apology or training by the subject member)
 - e) The complaint should not be investigated because it is vexatious, malicious or obsessive
 - f) The complaint should not be investigated because it is broadly similar to a complaint against the same member about the same alleged incident
 - g) The complaint should not be investigated because there is a clear ulterior/political motive for it or it is just a tit for tat complaint
 - h) An investigation should take place

Before coming to his decision under paragraph 3 the Monitoring Officer may request further information and/or clarification from the complainant and/or the subject member and the time period shall be extended accordingly.

4. If the Monitoring Officer decides that the complaint should be investigated, or his attempts to resolve the complaint without an investigation do not succeed, then he will carry out an investigation or

appoint an investigator to carry out an investigation on his behalf.

5. The investigator appointed under paragraph 5 by the Monitoring Officer may be;
 - a) A senior officer of the Council
 - b) A senior officer of another council
 - c) An external investigator with relevant experience
6. A report into an investigation shall include the Investigator's findings on whether the Code has been breached.
7. Before finalising his report the Investigator shall send a copy of it to both the complainant and the subject member and give them at least 5 working days to comment on it.
8. If the Investigator's final report finds there has not been a breach of the Code the Monitoring Officer can, in consultation with an Independent Person, decide to;
 - a) Take no action
 - b) Refer the report to the Standards Committee for Information
9. If the Investigator's report finds there has been a breach of the Code then the Monitoring Officer must refer the matter to the Standards Committee.
10. When the matter has been referred to the Standards Committee by the Monitoring Officer, the Standards Committee (or a Hearing Sub Committee if this is considered by the Committee to be appropriate) will:
 - a) Allow the Investigator to present his report and call witnesses, including the complainant
 - b) Allow the subject member to make representations and call witnesses
 - c) Decide if the subject member has breached the Code of Conduct
 - d) Decide what sanction should be imposed if it is decided that the Code has been breached.
11. The sanctions the Standards Committee or Hearing Sub Committee can impose if a breach of the Code is found are;
 - a) Censuring the member

- b) Reporting its findings to the Council for information
 - c) Recommending to the member's Group Leader (or in the case of ungrouped members, recommending to the Council or to Committees) that he/she be removed from any or all Committees or Sub-Committees of the Council;
 - d) Recommending to Council that the member be replaced as Executive Leader of the Authority;
 - e) Recommending to the Leader of the Council that the member be removed from the Cabinet, or removed from particular portfolio responsibilities;
 - f) Recommending that the Monitoring Officer arrange training for the member;
 - g) Recommending to Council that the member be removed from all outside appointments to which he/she has been appointed or nominated by the authority
12. In reaching a decision as to whether there has been a breach of the Code and if so what sanction should be imposed the Standards Committee or Hearing Sub Committee will consult and take into account the views of the Independent Persons who attend such hearings and the Independent Persons' views will be recorded in writing.
13. Following any final decision by the Monitoring Officer or the Standards Committee or Hearing Sub Committee, at whatever stage, the Monitoring Officer shall inform the complainant and the subject member of the decision and the reasons for it within 10 working days.
14. Wherever there has been a decision that the subject member has breached the Code of Conduct that decision and the reasons for it shall be put on the Council's website in a prominent position.
15. Wherever there is a decision that the subject member has not breached the Code of Conduct that decision shall be put on the Council's website, in a prominent position if the subject member wishes it to be.
16. Any decision of the Monitoring Officer or the Standards Committee or Hearing Sub Committee shall be final and binding.
17. The Monitoring Officer will every 6 months present a report to the Standards Committee setting out:
- a) The number of complaints received and brief details
 - b) How they are progressing
 - c) What decisions have been made
 - d) What action has, where appropriate, been taken

18. The Monitoring Officer has delegated power, in consultation with an Independent Person and the Chairman of the Standards Committee, to approve a departure from these arrangements when he considers it is expedient to do so to secure the effective and fair consideration of any matter.
19. In all cases where the Monitoring Officer is unable to perform his role his deputy will do so.

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FOR PUBLICATION

DERBYSHIRE COUNTY COUNCIL

GOVERNANCE ETHICS AND STANDARDS COMMITTEE

20 October 2021

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

Revisions to Council Constitution

1. Purpose

- 1.1 To consider the proposed changes to the Council's Constitution set out in Appendix 2 and to refer these changes to full Council for approval.

2. Information and Analysis

- 2.1 It is a statutory duty under Section 9P of the Local Government Act 2000 for the Council to maintain and keep its Constitution up to date. A number of amendments are now required to the Constitution, the detail of which is set out in Appendix 2 to this report.
- 2.2 The amendments are required in deal with the following matters:
 - 2.2.1 To cover the new operating model approved by Council on 15 September 2021 under which a Managing Director (acting as Head of Paid Service) will be appointed and to re-title the Executive Director Communities Commissioning and Policy as Executive Director Corporate Services and Transformation. (Part A, Appendix 2.)
 - 2.2.2 To incorporate the delegation to the Managing Director of the responsibility to ensure that the Council's duties and obligations under

the Counter-Terrorism and Security Act 2015 are met as agreed at Cabinet on 9 September 2021. (Part A, Appendix 2.)

- 2.2.3 Subject to approval of the Whistleblowing Policy by Cabinet at its meeting on 18 November 2021, to replace references to 'Whistleblowing Confidential Reporting Code' with Whistleblowing Policy(Part B, Appendix 2).
- 2.2.4 To amend the Local Choice Functions in relation to agreements under Section 278 Highways Act 1980 and delegate the same to the Executive Director, Place to bring the delegation in line with a similar power regarding section 38 agreements and remove an unused delegation. (Part C, Appendix 2)
- 2.2.5 To clarify the delegation to the Monitoring Officer to make minor amendments and corrections to the Constitution. (Part D, Appendix 2)
- 2.2.6 To update the list of legislation providing for the authorisation of Trading Standards officers carrying out enforcement. (Part E, Appendix 2).
- 2.2.7 To amend the Petition Scheme, Call In Procedure and Financial Regulations as a result of the changes to Cabinet Member decision making procedure to bring it in line with the legislative requirements contained in the Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012. (Part F, Appendix 2). There is no requirement in the 2012 Regulations for decisions by individual Cabinet Members to be made at a formal meeting and indeed no reference to decisions being made in this way. The new process reflects the provisions of the Regulations and enables decisions to be made outside of a formal meeting. This supports swift and efficient decision making by the Cabinet member, enabling urgent decisions to be made by individual Cabinet members rather than by officers under delegated powers. In addition, the need for officers and the Cabinet member to travel to County Hall will not be necessary, which in turn supports modern ways of working, provides carbon reduction benefits and enables resources in Democratic Services to be utilised more effectively.
- 2.2.8 To include the Terms of Reference, including the Introduction and Context, Functions and Responsibilities, Procedural Rules and Information Procedure Rules for the Vision Derbyshire Joint Committee as approved by Cabinet on 9 September 2021 (Part G, Appendix 2).

3. Alternative Options Considered

3.1 Do nothing – this option is not appropriate as the Constitution will be out of date if these changes are not adopted.

3.2 Carry out a full scale review of the Constitution. This is not appropriate currently. The proposed amendments will ensure that the Constitution is up to date.

4. Implications

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

5. Consultation

5.1 Not applicable.

6. Background Papers

6.1 None identified.

7. Appendices

7.1 Appendix 1 – Implications.

7.2 Appendix 2 – Proposed changes to the Council's Constitution.

8. Recommendation(s)

That the Committee agrees the proposed changes to the Council's Constitution as set out in Appendix 2 to this report and refers them to full Council for approval.

9. Reasons for Recommendation(s)

9.1 To enable the Council's Constitution to be kept up to date and reflect the legislative, operational and policy changes set out in the report.

Report Author:

Mary Fairman

Contact details:

mary.fairman@derbyshire.gov.uk

This report has been approved by the following officers:

On behalf of: Director of Legal Services and Monitoring Officer Director of Finance and ICT Managing Executive Director Executive Director(s)	
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Implications

Financial

1.1 None

Legal

2.1 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 None

Information Technology

4.1 None

Equalities Impact

5.1 Not applicable

Corporate objectives and priorities for change

6.1 This report links to the Council Priority of High Performing Value for Money and Resident Focused Services. The changes proposed will enable efficient and up to date functioning of the Council as a corporate body.

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

7.1 None

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Appendix 2

Part A – Changes to Constitution arising from new operating model and duties arising under the Counter-Terrorism and Security Act 2015.

Section	Change
Article 7.3 (c)	Amend 'Strategic Director' to ' <u>Executive Director</u> '
Article 13.7	Add 'Managing Director and' before the words Executive Director
Article 20.1(b)	Amend numbering from 19 to 20 throughout Delete 'Managing Executive Director – Commissioning Communities and Policy' Add to the start of the list of bullet points: <ul style="list-style-type: none"> • <u>Managing Director</u> • <u>Executive Director Corporate Services and Transformation</u>
Article 20.1(c)	Head of Paid Service etc. Replace 'Managing Executive Director – Commissioning Communities and Policy' with ' <u>Managing Director</u> ' as Head of Paid Service in table.
Appendix 1 – Responsibility for functions	<p>Heading B. Principles of Delegation First paragraph, after Cabinet member delete 'and' and insert '<u>Managing Director</u>,' before 'Executive Director.'</p> <p>Heading C. Scheme of Delegation Under the heading 'Member Advantages', second paragraph final bullet point amend to read:</p> <ul style="list-style-type: none"> • Protection of personal positions and interests through collective responsibility in Council/Cabinet and support from <u>the Managing Director</u>, Executive Directors or Directors <p>Under the heading Member-Officer Relationships, amend second paragraph to read: 'However, to support the Scheme of Delegation and particularly where matters are delegated from Cabinet to Cabinet Member and the <u>Managing Director</u>, Executive Directors or Directors, it is suggested that..' Amend bullet points 3 and 4 to insert 'the Managing Director' before the words 'Executive Director'.</p> <p>Heading F. Local Choice Functions Amend table to read:</p>

	<p>Preparation of the Council's Statement of Accounts, Income and Expenditure and Balance Sheet,</p> <p>Audit Committee Full Council</p> <p>In consultation with the Director of Finance and ICT</p> <p>Including the preparation of the Annual Governance Statement</p> <p>In consultation with the Director Finance and ICT, Director of Legal and Democratic Services, Audit Manager, <u>Managing Director</u> and Executive Directors</p> <p>Heading H. Powers Delegated to Executive Directors in Consultation with Cabinet Members.</p> <p>In heading and paragraphs 1 and 3, insert 'Managing Executive Director,' before the words 'Executive Director'.</p> <p>Part A Heading A3 – Conditions</p> <p>Insert the words 'Managing Executive Director,' before the words Executive Director in paragraphs 3.1, 3.2 and 3.3.</p> <p>Part B</p> <p>Add the words 'the Managing Director,' before the words 'Executive Director' in paragraphs B1, B2, B3 and B6.</p> <p>Heading - Specific Powers Delegated to Executive Directors or Directors in the Discharge of the Functions of the County Council</p> <p>Amend heading to insert 'the Managing Director' before the words 'Executive Directors'.</p> <p>Part C – Index</p> <p>Amend list to read as follows:</p> <ul style="list-style-type: none"> - Managing Director - Executive Director Corporate Services and Transformation <p>Remainder of list to remain as before.</p> <p>Heading – Specific Delegations to Executive Directors</p> <p>Amend heading and first sentence to insert 'the Managing Director' before the words 'Executive Directors'.</p>
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	<p>Heading – Specific Delegations Amend sub heading to delete existing text and replace with ‘Managing Director’.</p> <p>Delete existing paragraph 2 and replace with the following:</p> <p>Where any Executive Director of the Council, the Monitoring Officer or the Chief Financial is absent from the workplace for a period of time that requires others to exercise delegated authority in that officer’s absence, the Managing Director shall undertake, allocate or re-allocate responsibility for exercising particular delegations to any officer of the council in the interests of effective corporate management as he or she thinks fit, save for that the Head of Paid Service cannot substitute for the Monitoring Officer, and can only substitute for the Chief Financial Officer if they are a fully qualified member of one of the six accountancy bodies that constitute the Consultative Council of Accountancy Bodies (CCAB).</p> <p>Insert new paragraph 3 To ensure that the Council discharges its functions and meets the obligations and requirements under the terms of the Counter Terrorism and Security Act 2015, including the duty to ensure that a Channel Panel is in place for the Derbyshire area, together with the making of appropriate arrangements for a designated chair and vice-chair”</p>
Appendix 2 – Petitions Scheme	<p>Heading – Officer Evidence In the list of Chief Officers that can be called to give evidence, delete reference to Managing Executive Director of Commissioning Communities and Policy. Replace first bullet point with:</p> <ul style="list-style-type: none"> • Managing Director • Executive Director Corporate Services and Transformation
Appendix 3 – Council Procedure Rules	<p>Paragraph 17.5 – Information Insert ‘the Managing Director’ before the words ‘Executive Director’.</p>
Appendix 5 – Improvement and Scrutiny Procedure Rules	<p>Paragraph 7 Insert ‘The Managing Director,’ before the words ‘Executive Directors.’</p>

Appendix 8B – Contract Standing Orders	<p>Paragraph 2.5.1 Insert ‘the Managing Director’ after the words ‘Cabinet Member’.</p> <p>Paragraph 2.8.1 A Add after the words ‘Executive Director’ the following: ‘or in the case of an Executive Director to the Managing Director’</p>
Appendix 12 – Officer Code of Conduct	<p>Paragraph 11.3 Replace second sentence with ‘Any such declaration by an Executive Director should be made in writing to the Managing Director.’</p> <p>Paragraph 14.4 First sentence, add after ‘Executive Director’ the words ‘or in the case of an Executive Director to the Managing Director’. Third sentence, add after ‘Executive Director’ the words ‘or in the case of an Executive Director to the Managing Director’.</p> <p>Paragraph 15.1 Final sentence, add after ‘Executive Director’ the words ‘or in the case of an Executive Director of the Managing Director’.</p> <p>Paragraph 15.2 Add after ‘Executive Director’ the words ‘(or in the case of an Executive Director to the Managing Director)’.</p> <p>Paragraph 16.2 First sentence, add after ‘Executive Director’ the words ‘or in the case of an Executive Director the Managing Director.’ Second sentence, add after ‘Executive Director’ the words ‘(or in the case of an Executive Director the Managing Director)’.</p>
Appendix 13 – Member and Officer Relationships Protocol	<p>Paragraph 2 – The Role of Members Fifth bullet point – amend as follows: ‘Respect the statutory roles of the Managing Director as Head of Paid Services, Executive Directors, the Director of Finance and ICT ...etc.’</p> <p>Paragraph 4 – Relationship between Members and Employees Second bullet point, after ‘Executive Director’ add ‘(or in the case of an Executive Director to the Managing Director)’.</p>
Appendix 16 – Senior	<p>Structure Chart Revised chart required with Managing Director above Executive Directors. Replace ‘Executive Director</p>

Management Structure	Commissioning, Communities and Policy' with 'Executive Director Corporate Services and Transformation'. Delete reference to 'Community Services Director'.
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Part B – Amendments required as a result of adoption of the Whistleblowing Policy

Replace the words 'Whistleblowing Confidential Reporting Code' with 'Whistleblowing Policy' in the following sections of the Constitution:

Article 11 Governance Ethics and Standards Committee	Paragraph 4.1
Appendix 8a – Financial Regulations	Paragraphs c6, c7 and c8 (e)
Appendix 11 – Officer Code of Conduct	Paragraph 12

Part C – Amendment to Local Choice Functions and additional delegation to Executive Director, Place re s38 Highways Act 1980 agreements, removal of unused delegation

Appendix 1– Scheme of Delegations	Heading G – Local Choice Functions In relation to 'The making of agreements under s278 Highways Act 1980 for the execution of highways works' replace 'Director of Legal Services' with Executive Director - Place
Appendix 1 – Scheme of Delegations	Heading – Specific Delegations – Executive Director – Place Paragraph 25 (e) – insert the words 'and Section 278' after the words 'Section 38' Paragraph 25 – insert after paragraph (g) new paragraph (gg) – Subject to paragraph (f) above to enter into agreements under Section 278 of the Highways Act 1980 for the execution of highways works'.

Appendix 1 – Scheme of Delegations	<p>Paragraph 3</p> <p>Delete entire paragraph: ‘To authorise the Peak District National Park Authority to discharge the County Council’s powers and functions under the Ancient Monuments and Archaeological Areas Act 1979 in respect of that part of the Peak District National Park which is within Derbyshire, without prejudice to the exercise concurrently by the County Council within that area of their powers under the Act.’</p>
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Part D – Delegation to Monitoring Officer to make minor amendments to the Constitution

Article 22 – Review and Revision of the Constitution	<p>Paragraph 21.2</p> <p>Replace “Both the Monitoring Officer and Chief Finance Officer are authorised to make legal or technical amendments to the constitution. Any such amendments must be reported retrospectively to the Governance, Ethics and Standards Committee and to Full Council.” with the following:</p> <p>The Monitoring Officer and Chief Finance Officer (in respect of Financial Regulations only) are authorised to make the following changes to the Constitution:</p> <ul style="list-style-type: none"> (a) A minor variation; (b) Legal or technical amendments that do not materially affect the Constitution; (c) Required to be made to remove any inconsistency, ambiguity or typographical error; (d) Required to be made so as to put into effect any decision of the Cabinet, Cabinet Member, Committee, sub-Committee or Officer exercising delegated powers; or (e) Required to reflect any changes to job or role titles. <p>Any such amendments must be reported retrospectively to the Governance, Ethics and Standards Committee and to Full Council for noting.</p>
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Part E – Trading Standards – Amendments to Scheme of Delegation

Delete the List of Legislation as at 31 October 2020 and replace with the following:

List of Legislation as at 30 June 2021

Part 1

Authorisation for officers enforcing legislation generally.

Agriculture (Miscellaneous Provisions) Act 1968

Air Quality (Domestic Solid Fuels Standards) (England) Regulations 2020

Animal Health Act 1981

Animal Welfare Act 2006

Animals Act 1971

Anti-social Behaviour Act 2003

Brucellosis (England) Order 2015

Cancer Act 1939

Children and Families Act 2014

Children and Young Persons (Protection from Tobacco) Act 1991

Children and Young Persons Act 1933

Clean Air Act 1993 – Motor Fuel (Composition and Content) Regs.

Companies Act 2006

Consumer Credit Act 1974

Consumer Protection Act 1987

Consumer Rights Act 2015

Copyright, Designs and Patents Act 1988

Criminal Justice Act 1988

Criminal Justice and Police Act 2001

Customs & Excise Management Act 1979

Education Reform Act 1988

Energy Efficiency (Private Rented Property) (England and Wales) Regulations 2015

Enterprise Act 2002

Environmental Protection (Microbeads)(England) Regulations 2017

Environmental Protection (Plastic Straws, Cotton Buds and Stirrers) (England) Regulations 2020

Estate Agents Act 1979

European Union (Withdrawal) Act 2018 as it continues to give effect to the following Regulations or Orders under which this local authority has an enforcement duty:

Advanced Television Services Regulations 2003

African Horse Sickness (England) Regulations 2012

Animal By-Products (Enforcement)(England) Regulations 2013

Avian influenza (Preventative Measures) (England) Regulations 2006

Avian Influenza (Vaccination)(England) Regulations 2006

Beef and Veal Labelling Regulations 2010

Biofuel Labelling Regulations 2004

Bluetongue Regulations 2008

Business Protection from Misleading Marketing Regulations 2008

Cat and Dog Fur (Control of Import, Export and Placing on the Market) Regulations 2008

Cattle Identification Regulations 2007

Construction Products Regulations 2013

Consumer Contracts (Information, Cancellation and Additional Charges) Regulations 2013 Consumer Protection from Unfair Trading Regulations 2008

Consumer Rights (Payment Surcharges) Regulations 2012

Cosmetic Products Enforcement Regulations 2013 and the EU Cosmetic Products Regulation 1223/2009

Crystal Glass (Descriptions) Regulations 1973

Detergents Regulations 2010

Diseases of Swine Regulations 2014

EC Fertilisers (England and Wales) Regulations 2006

Eggs and Chicks (England) Regulations 2009
Electrical Equipment (Safety) Regulations 2016
Electromagnetic Compatibility Regulations 2016
Energy Information Regulations 2011
Energy Performance of Buildings (England and Wales) Regulations 2012
Equine Identification (England) Regulations 2018
Financial Services (Distance Marketing) Regulations 2004
Fluorinated Greenhouse Gases Regulations 2015
Foot-and-Mouth Disease (Control of Vaccination) (England) Regulations 2006
Footwear (Indication of Composition) Labelling Regulations 1995
Gas Appliances (Enforcement) and Miscellaneous Amendments Regulations 2018
General Product Safety Regulations 2005
Package Travel and Linked Travel Arrangements Regulations 2018
Packaging (Essential Requirements) Regulations 2015
Passenger Car (Fuel Consumption and CO2 Emissions Information) Regulations 2001
Personal Protective Equipment (Enforcement) Regulations 2018
Pressure Equipment (Safety) Regulations 2016
Products of Animal Origin (Disease Control) (England) Regulations 2008
Pyrotechnic Articles (Safety) Regulations 2015
Quality Schemes (Agricultural Products and Foodstuffs) Regulations 2018
Radio Equipment Regulations 2017
REACH Enforcement Regulations 2008
Recreational Craft Regulations 2017
Registration of Establishments (Laying Hens)(England) Regulations 2003
Rights of Passengers in Bus and Coach Transport (Exemptions and Enforcement) Regulations 2013
Simple Pressure Vessels (Safety) Regulations 2016
Supply of Machinery (Safety) Regulations 2008

Textile Products (Labelling and Fibre Composition) Regulations 2012
Timeshare, Holiday Products, Resale and Exchange Contracts Regulations 2010
Tobacco and Related Products Regulations 2016
Toys (Safety) Regulations 2011
Trade in Animals and Related Products Regulations 2011
Transmissible Spongiform Encephalopathies (England) Regulations 2018
Veterinary Medicines Regulations 2013
Volatile Organic Compounds in Paints, Varnishes and Vehicle Refinishing Products Regulations 2012
Welfare of Animals at Time of Killing (England) Regulations 2015
Zoonoses (Monitoring) (England) Regulations 2007

Fireworks Act 2003
Fraud Act 2006
Hallmarking Act 1973
Health Act 2006
Knives Act 1997
Legal Services Act 2007
Licensing Act 2003
Medicines and Medical Devices Act 2021
Motor Cycle Noise Act 1987
Offensive Weapons Act 2019
Olympic Symbol etc. (Protection) Act 1995
Prices Act 1974
Protection of Animals Act 1911
Psychoactive Substances Act 2016
Registered Designs Act 1949
Road Traffic Acts 1988 and 1991
Road Traffic Regulation Act 1984

Single Use Carrier Bags Charges (England) Order 2015

Tenant Fees Act 2019 and the Housing and Planning Act 2016 as it relates to Client Money Protection Schemes

Theft Act 1968

Tobacco Advertising and Promotion Act 2002

Trade Descriptions Act 1968

Trade Marks Act 1994

Unsolicited Goods and Services Acts 1971 and 1975

Video Recordings Act 1984

Vehicles (Crime) Act 2001

Part 2

Additional List of Legislation for officers with qualification/competency in: Food Law

European Union (Withdrawal) Act 2018 as it continues to give effect to the following Regulations or Orders under which this local authority has an enforcement duty:

Animals and Animal Products (Examination for Residues and Maximum Residue Limits) (England and Scotland) Regulations 2015

Country of Origin of Certain Meats (England) Regulations 2015

Food for Specific Groups (Food for Special Medical Purposes for Infants, Infant Formula and Follow-on Formula) (Information and Compositional Requirements) (Amendment etc.) (England) Regulations 2020

Food for Specific Groups (Information and Compositional Requirements) (England) Regulations 2016

Food Information Regulations 2014

Food Safety and Hygiene (England) Regulations 2013

Genetically Modified Organisms (Traceability and Labelling) (England) Regulations 2004

Materials and Articles in Contact with Food (England) Regulations 2012

Novel Foods (England) Regulations 2018

Official Controls (Animals, Feed and Food, Plant Health Fees etc.) Regulations 2019 in so far as it relates to food law

Official Feed and Food Controls (England) Regulations 2009 in so far as it relates to food law

Olive Oil (Marketing Standards) Regulations 2014

Organic Products Regulations 2009

Poultrymeat (England) Regulations 2011

Quick-frozen Foodstuffs (England) Regulations 2007

Scotch Whisky Regulations 2009

Specified Products from China (Restrictions on First Placing on the Market) (England) Regulations 2008

Spirit Drinks Regulations 2008

Wine Regulations 2011

Food Act 1984

Food and Environment Protection Act 1985 [Note: Authorisation must be issued directly to the officer by the FSA.]

Food Safety Act 1990

Part 3

Additional List of Legislation for officers with qualification/competency in: Feed Law

Agriculture Act 1970

Animal Feed (Composition, Marketing and Use) (England) Regulations 2015

Animal Feed (Hygiene, Sampling etc. and Enforcement) (England) Regulations 2015

European Union (Withdrawal) Act 2018 as it continues to give effect to the following Regulations or Orders under which this local authority has an enforcement duty:

Animal Feed (Basic Safety Standards) (England) Regulations 2019

Genetically Modified Organisms (Traceability and Labelling) (England) Regulations 2004

Official Controls (Animals, Feed and Food, Plant Health Fees etc.) Regulations 2019 in so far as it relates to feed law

Official Feed and Food Controls (England) Regulations 2009 in so far as it relates to feed law

Part 4 Additional List of Legislation for officers with qualification in: Weights and Measures Law

European Union (Withdrawal) Act 2018 as it continues to give effect to the following Regulations or Orders under which this local authority has an enforcement duty:

Measuring Container Bottles (EEC Requirements) Regulations 1977

Measuring Instruments Regulations 2016

Non-automatic Weighing Instruments Regulations 2016

Weights & Measures (Packaged Goods) Regulations 2006

Weights and Measures Act 1985

Part 5

A separate authorisation is required under the Health and Safety at Work etc. Act 1974 referring to the following:

i) Sections 20, 21, 22 and 25 of the 1974 Act;

ii) The following Regulations made under the 1974 Act:

The Ammonium Nitrate Materials (High Nitrogen Content) Safety Regulations 2003

The Biocidal Products and Chemicals (Appointment of Authorities and Enforcement) Regulations 2013

The Chemicals (Hazard Information and Packaging for Supply) Regulations 2009

The Dangerous Substances and Explosive Atmospheres Regulations 2002,

The Explosives Regulations 2014,
The Petroleum (Consolidation) Regulations 2014; and

- iii) The provisions of the following Acts mentioned in Schedule 1 to the 1974 Act;

Explosives Act 1875

Public Health Acts 1936 and 1961

Part F – Amendments required as a result of changes to Cabinet Member decision making procedure.

Appendix 2 – Petitions Scheme	<p>Paragraph 5 Replace the paragraph commencing “Under normal circumstances” with the following: Under normal circumstances, a petition will be referred to the appropriate Cabinet Member. If you would like the opportunity to present your petition to the appropriate Cabinet Member, or would like your County Councillor or someone else to present it on your behalf, please contact Democratic Services at petitions@derbyshire.gov.uk who will arrange a meeting.</p> <p>Heading – How will the Council respond to petitions? Replace the second bullet point with the following:</p> <ul style="list-style-type: none"> • Referring the petition to the relevant Cabinet Member or Full Council for consideration.
Appendix 5 – Call in Procedure	<p>Paragraph 5 Replace paragraph 5 with the following: 5. The Scrutiny Officer will send copies of the call-in notice, minute of Cabinet/record of the Cabinet Member decision and any associated reports to members of the Committee with the agenda for the meeting.</p>
Appendix 8a – Financial Regulations	<p>Heading C (1) FINANCIAL REGULATION 1 - FINANCIAL MANAGEMENT & CONTROL Replace Paragraph 17 with the following: 17 All Executive Directors shall be responsible for ensuring that all employees of their Departments comply with financial regulations and any other financial instructions the Chief Financial Officer may issue from time to time. They also have delegated powers to take such actions deemed necessary and expedient in matters requiring urgent consideration and because of the timescale involved, or the need to safeguard</p>

	the interests of the Council, cannot be dealt with by submission to the next Council or Cabinet Meeting or the relevant Cabinet Member for consideration.
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Part G – Terms of Reference for the Vision Derbyshire Joint Committee

Article 18 - Insert the following Terms of Reference for the Vision Derbyshire Joint Committee:

PROPOSED GOVERNANCE ARRANGEMENTS FOR VISION DERBYSHIRE

ARTICLES

1. Context

- 1.1 Vision Derbyshire is a collaborative working model between local authorities across Derbyshire which seeks to improve outcomes for people and place through closer working between those authorities without formal, top-down reorganisation from central government.
- 1.2 These governance arrangements provide a framework to reach the intended outcome of a model that will enable local authorities in Derbyshire to work collaboratively to deliver efficient and effective services with improved economies as an alternative to a government led reorganisation of local government in the county.
- 1.3 A joint committee, to be known as the **Vision Derbyshire Joint Committee**, will:-
 - Provide collective leadership for Derbyshire
 - Progress shared ambitions for the area

- Work together to tackle the issues and challenges outlined in the case for change.
- Enable agile, timely and effective decision making

1.4 The Vision Derbyshire model allows local authorities to blend working at a hyper-local level with a large strategic level. Authorities will collaborate at three levels:

- regional/national
- county-wide or
- local place level,

depending on the nature of the outcome that the authorities are looking to improve. In adopting this way of working, Derbyshire can blend strategic, county-wide and local approaches to tackle outcomes in a multi-faceted way, and maintain focus on people and places, not organisational boundaries.

1.5 To enable the delivery of the above, the Joint Committee will act as the enabling body, through the political leadership of councillors from the participating authorities. Councils within Derbyshire may choose to appoint members to the Joint Committee, but not to delegate any functions. Should any council choose to do this, then they will still be required to agree to the Terms of Reference for the Committee and contribute towards the cost of funding the Committee.

1.6 The authorities in the Vision Derbyshire working model are committed to the provision of improved services. It is considered that this will, in certain instances, be best achieved by the joint provision of services, joint working and / or the development of common standards and protocols. All proposals for the setting up of any new services or the discharge of functions are in the first instance to be subject to an investigation into the suitability of

providing such services or discharging such functions, as a joint service for all participating Councils. All participating Councils agree to operate all reviews in an open and transparent manner to support the aims and objectives of Vision Derbyshire. This will include the sharing of all information.

2. Membership of the Joint Committee

- 2.1 *[named local authorities who are delegating functions]* shall appoint one of their Elected Members to be a member of the Joint Committee and one Member to be a substitute Member.
- 2.2 All other councils within Derbyshire, whether or not delegating functions to the Joint Committee, will be permitted to appoint one member to the Joint Committee and to nominate one member as a substitute.
- 2.3 A Substitute Member will have the same rights to receive meeting papers and to access information as the Member for whom s/he is a substitute.
- 2.4 All appointments as Members or Substitute Members of the Joint Committee shall be for a term of one year, but an individual may be re- appointed to serve as a Member or Substitute Member any number of times.
- 2.5 All councils shall be entitled at any time to terminate the appointment of a Member or Substitute Member appointed by it and to appoint another of its Elected Members in that person's place. Where a Council exercises this power it shall give written notice of the new appointment and the termination of the previous appointment to the Monitoring Officer responsible for the Joint Committee and the new appointment shall take effect and the previous appointment terminate at the end of one week from the date on which the notice

is given or such longer period not exceeding one month as is specified in the notice.

- 2.6 A Member or Substitute Member of the Joint Committee who ceases (for whatever reason) to be an Elected Member of the Council that appointed them shall immediately cease to be a Member or Substitute Member of the Joint Committee, and the relevant Council shall as soon as practicable give written notice of this to the Monitoring Officer responsible for the Joint Committee and appoint another of its Elected Members in that person's place.
- 2.7 A person may resign as a Member or Substitute Member of the Joint Committee by written notice served on the Proper Officer of the Council that appointed them and the resignation shall take effect on receipt of the notice by the Proper Officer. The relevant Council shall as soon as practicable give written notice of this to the Monitoring Officer responsible for the Joint Committee and appoint another of its Elected Members in that person's place.
- 2.8 Where an appointing Council operates executive arrangements (within the meaning of the Local Government Act 2000), the appointment, removal and replacement of Members and Substitute Members of the Joint Committee shall be decided in accordance with the constitutional requirements of that Council, but it is anticipated that all Members and Substitute Members appointed by it shall be Members of its executive and will include its executive leader or elected mayor.
- 2.9 All appointments, removals and replacements of Members and Substitute Members of the Joint Committee by Councils shall be made by notice in writing addressed to the Monitoring Officer responsible for the Joint Committee. Any such notice shall be deemed to have been given when received by the Monitoring Officer.

- 2.10 Any individual council that does not operate executive arrangements and which wishes to co-opt an additional member or members can only do so following consultation with and a majority vote of all voting members of the Joint Committee being supportive of that authority exercising powers of co-option. Such co-optees shall not be Members of the Joint Committee and shall have no voting rights. They shall, however, observe the Code of Conduct for Members set out from whichever authority they serve on. An individual's co-option shall terminate as soon as his/her involvement with the organisation that gave rise to the co-option ceases; and such co-option shall be endorsed annually by the Joint Committee and subsequently confirmed formally by the appointing authority.
- 2.11 All Members of the Joint Committee (including any Substitute Members acting in place of Members of the Joint Committee) will:-
- (a) (subject to the Joint Committee's voting arrangements) collectively be the ultimate policy makers of the Joint Committee;
 - (b) bring views of their communities into the Joint Committee's decision making process; and
 - (c) maintain the highest standards of conduct and ethics.
- 2.12 Members will at all times observe the Code of Conduct for Members which is in force in their own Council and any breaches will be reported to the Monitoring Officer of their own Council.
- 2.13 No remuneration shall be payable to Joint Committee Members other than allowances for travel and subsistence in accordance with the Members' Allowances Schemes in operation at the participating Councils and non-participating Councils. (It is acknowledged that a participating Council or a non-

participating Council may, in accordance with its own procedures, pay a special responsibility allowance to any Elected Member appointed by it to the Joint Committee in respect of duties and responsibilities undertaken as a Member or Substitute Member of the Joint Committee.)

3 Chairing the Joint Committee

- 3.1 The Chair of the Joint Committee will be appointed by the Committee. The Joint Committee can only be chaired by a Member of the Joint Committee appointed by a Council which has delegated functions to the Joint Committee for the duration of a municipal year.
- 3.2 In the event that there are more than two Members nominated for the role of Chair, and there is not a clear majority of votes in favour of one Member, then the name of the Member with the least number of votes will be eliminated and that process will continue until a Chair is elected with a majority of votes.
- 3.3 The Joint Committee will appoint a Vice-Chair to deputise for the Chair when they are not present or available. The Vice-Chair must also be from a Council which has delegated functions to the Joint Committee and will be appointed for the duration of a municipal year.
- 3.4 In the event that there are more than two Members nominated for the role of Vice-Chair, and there is not a clear majority of votes in favour of one Member, then the name of the Member with the least number of votes will be eliminated and that process will continue until a Vice-Chair is elected with a majority of votes.
- 3.5 The Chair or Vice-Chair of the Joint Committee will cease to hold such office when they cease to be a Member of the Joint Committee, in accordance with the provisions set out at paragraph 3.5 above.

4. Procedural Arrangements

- 4.1 The Joint Committee shall meet in accordance with its agreed calendar of meetings throughout a municipal year, but additional meetings may take place should the need arise.
- 4.2 Each Member of the Joint Committee appointed by councils which have delegated functions to the Joint Committee shall have one vote.
- 4.3 Members of the Joint Committee appointed by councils which have not delegated functions to the Joint Committee will not have the right to vote
- 4.4 The proceedings of the Joint Committee shall not be invalidated by any vacancy among its Members or Substitute Members or by any defect in the appointment or qualifications of any Member or Substitute Member.

5. Records of Proceedings

- 5.1 The Joint Committee shall make arrangements for the names of Members and Substitute Members present at any meeting to be recorded.
- 5.2 Minutes of the proceedings of a meeting of the Joint Committee, or any sub-committee, shall be kept in such form as the Joint Committee may determine.
- 5.3 Any such minutes are to be agreed as a true record and signed at the same or next suitable meeting of the Joint Committee or sub-committee by the Member chairing that meeting.

- 5.4 A Member of the Joint Committee, or any sub-committee, has the right to have their vote on any matter recorded in the minutes of the meeting at which the vote was cast.

6. Sub-Committees

- 6.1 The Joint Committee may establish such sub-committees as it thinks fit to discharge its functions

7. Officers

- 7.1 The Head of Paid Service (appointed under Section 4 of the Local Government and Housing Act 1989), Section 151 Officer (appointed under Section 73 of the Local Government Act 1975) and Monitoring Officer (appointed under section 5 of the Local Government and Housing Act 1989) of the host authority for the Joint Committee will serve as the statutory officers in support of the Joint Committee.
- 7.2 The Joint Committee may call upon any officer of any of the local authorities who have members on the Joint Committee for advice and assistance, as it considers necessary to carry out its functions.

8. Scrutiny of decisions

- 8.1 Each constituent authority which operates executive arrangements will be able to scrutinise the decisions of the Joint Committee in accordance with that constituent authority's overview and scrutiny arrangements. Any authority that operates a committee system model of governance will have the discretion to scrutinise decisions of the Joint Committee according its own specific governance arrangements.

9 Winding up of the Joint Committee and Cessation of Membership

- 9.1 The Joint Committee may be wound up immediately by a unanimous vote of all constituent authorities.
- 9.2 Where an authority determines through its own governance arrangements that it no longer wishes to be a member of the Joint Committee, that authority may cease its membership with effect from the date of its decision. However authorities will remain liable for any previously agreed financial contributions to fund Vision Derbyshire until the end of the financial year for which those contributions have been agreed regardless of any decision to cease membership. Where long term liabilities, such as any Pension Fund shortfall, exists they will be calculated at the point membership ceases and any council exiting the arrangement will pay the host authority an amount to cover their share of that liability.

FUNCTIONS AND RESPONSIBILITIES

- a. The Joint Committee is established pursuant to Section 101(5) of the Local Government Act 1972, which permits local authorities to make arrangements for two or more authorities to discharge functions jointly, so long as it is a function that the law reserves to a specified committee. The Joint Committee is established with the following aims:
- Provide collective leadership for Derbyshire
 - Progress shared ambitions for the area
 - Work together to tackle the issues and challenges outlined in the case for change.
 - Enable agile, timely and effective decision making
- b. The Joint Committee, on behalf of the participating authorities, will be responsible for improving the delivery of functions already within the remit of local authorities through statute or through specific collaborative work to improve the economic, environmental or social wellbeing of the areas within Derbyshire from the following broad definitions:-
- Shared service arrangements
 - Incorporating existing partnership arrangements within the Vision Derbyshire model
 - Areas for collaborative system changes across authorities
 - Specific thematic projects and priorities
- c. Within those broad definitions, the Joint Committee will:-
- (i) Oversee the Vision Derbyshire Delivery Programme
 - (ii) Determine the programme of projects and work streams, how those will be managed and communicated to stakeholders and the public

- (iii) Monitor and review performance in respect of services delivered through the Vision Derbyshire Joint Committee and authorise the publication of an annual report of performance and outcomes
 - (iv) Commission strategic outline and full business cases for individual councils to consider opportunities for more collaborative working in respect of shared services
 - (v) Approve annual business plans for the delivery of shared services
 - (vi) Provide or assume democratic oversight for existing joint committee and partnership arrangements
 - (vii) Provide a platform for the devolution of powers from Government to authorities in Derbyshire
 - (viii) Determine requests from individual authorities or groups of authorities to work collaboratively on specific projects or work streams
 - (ix) Provide a forum for councils and their representatives to provide challenge to each other with the aim of increasing collaboration to deliver efficient, effective and economic services, which equally improve the offer and outcomes to residents and businesses
Delegate functions and responsibilities to sub-committees or officers as the Committee deems appropriate.
- d. The functions of the Joint Committee conferred or imposed upon it by any Orders from the Secretary of State and / or the functions of the Joint Committee delegated to it by Orders approved by participating authorities will be set out within these terms of reference.
- e. The Joint Committee will exercise all its powers and duties in accordance with the law and these terms of reference and procedure rules.
- f. The authorities appointing to the Joint Committee are:
- Insert Council name
 -

- g. It is a matter for each individual Council to determine which functions and responsibilities it chooses to delegate to the Joint Committee according to its own individual governance arrangements.

PROCEDURE RULES

These procedure rules apply where appropriate to the Joint Committee and Sub-Committees established by the Joint Committee.

1. Name

- 1.1 The name of the Joint Committee shall be the 'Vision Derbyshire Joint Committee'.

2. Membership

- 2.1 The membership of the Joint Committee shall be determined in accordance with the provisions of Article 2.

3. Meetings

- 3.1 The Annual Meeting of the Joint Committee shall be held each year on such a day in the month of March, April, May or June as the Joint Committee may fix, to deal with any other business normally transacted at an annual meeting.
- 3.2 The Joint Committee shall meet throughout the municipal year in accordance with its agreed calendar of meetings, but additional meetings may take place should the need arise. The dates and times of meetings of the Joint Committee (including the Annual Meeting and extraordinary meetings) shall be determined by the Joint Committee. Such meetings shall be held at a venue determined by the Chair. Save as provided elsewhere in these Procedure Rules all meetings of the Joint Committee, sub-committees and working party meetings shall be summoned by the Proper Officer of the host authority.

3.3 An extraordinary meeting of the Joint Committee may be called at any time by the Chair. If the Chair refuses to call an extraordinary meeting of the Joint Committee after a requisition for that purpose signed by three Members of the Joint Committee has been presented to him/her or if, without so refusing, the Chair does not call an extraordinary meeting within seven days after the requisition has been presented to him/her then any three Members of the Joint Committee, on that refusal, or on the expiration of those seven days, as the case may be, may forthwith call an extraordinary meeting of the Joint Committee

3.4 No business shall be considered at any extraordinary meeting save such as is specified in any requisition of the Joint Committee calling such meeting, or as the case may be, in the requisition presented to the Chair by Members.

4. Chair and Vice-Chair

4.1 Article 4 sets out the arrangements for the appointment of Chair and Vice-Chair of the Joint Committee.

4.2 If the Chair is absent from a meeting the Vice-Chair, if present, shall preside.

4.3 If both the Chair and Vice-Chair are absent from a meeting of the Joint Committee, such Member as the Members of the Joint Committee present so choose, shall preside.

4.4 Any power or duty of the Chair in relation to the conduct of a meeting may be exercised by the person presiding at the meeting.

5. Quorum

5.1 The quorum for a meeting will be two or one third of the total of the members of the Committee who are entitled to vote, whichever is the greater.

- 5.2 If during a meeting the Chair, after counting the number of Members present, declares that there are not at least two of the Members present, who are entitled to vote, the meeting shall stand adjourned. The names of those Members who are present shall be recorded in the minutes of the meeting. Consideration of any business not transacted shall be adjourned to a date and time fixed by the Chair at the time the meeting is adjourned, or if s/he does not so fix a date and time, to the next meeting of the Joint Committee.

6. Chair's Announcements

- 6.1 No discussion shall take place on any announcement made by the chair of the meeting, but any Member shall be at liberty to move a motion, without notice, to refer the subject matter of any such announcement to the next ordinary meeting of the Joint Committee and such motion, on being seconded, shall be at once put to the vote.

7. Order of Business

- 7.1 Except as otherwise provided by paragraph 7.2 of this Rule, the order of business at every meeting of the Joint Committee other than the annual meeting and any extraordinary meeting shall be:-

- (a) To choose a person to preside if the Chair and Vice-Chair are absent;
- (b) Apologies for absence;
- (c) To receive disclosures by Members of interests in matters under consideration;
- (d) To approve as a correct record and sign the minutes of the last meeting of the Joint Committee;
- (e) To deal with any business expressly required by statute to be done;
- (f) Chair's announcements;
- (g) To dispose of business, if any, remaining from the last meeting;

- (h) To receive minutes of sub-committees;
- (i) To receive and consider reports, if any, from sub-committees;
- (j) To receive and consider reports from constituent authorities;
- (k) To receive minutes of and recommendations from other bodies;
- (l) To consider motions, if any, in the order in which notice has been received;
- (m) To deal with other business, if any, specified in the summons.

7.2 The Chair may at any meeting vary the order of business so as to give precedence to any business which in his/her opinion is of special urgency but such a variation shall not displace any business falling under items (a), (b), (d) or (e) in paragraph 7.1 of this Rule.

7.3 At any extraordinary meeting of the Joint Committee the minutes of the last ordinary meeting of the Joint Committee will not be considered. The minutes of an extraordinary meeting of the Joint Committee will be submitted where possible to the next ordinary meeting of the Joint Committee.

8. Notice of Motion

8.1 Except as provided by Rule 9, every notice of motion shall be in writing, signed by the Member or Members of the Joint Committee giving the notice and delivered by email or in person at least seven clear days before the next meeting of the Joint Committee at the office of the Head of Paid Service of the host authority, by whom it shall be dated, numbered in the order in which it is received and a record kept, which shall be open to the inspection of every Member of the Joint Committee during normal office hours.

8.2 Every motion shall be relevant to some matter in relation to the Joint Committee's powers or duties.

8.3 The Head of Paid Service of the host authority shall set out in the summons for every meeting of the Joint Committee motions of which notice has been duly

given in the order in which they have been received, unless the Member(s) giving such notice intimated in writing, when giving it, that s/he proposed to move it at some later meeting or has withdrawn it in writing.

- 8.4 If a motion set out in the summons is not moved either by a Member who gave notice thereof or by some other Member on his/her behalf, it shall, unless postponed by consent of the Joint Committee, be treated as withdrawn and shall not be moved without fresh notice.

9. Motions which may be moved without notice

- 9.1 The following motions may be moved without notice: -

- (a) Appointing a Chair of the meeting at which a motion is moved;
- (b) Motions relating to the accuracy of the minutes;
- (c) That an item of business specified in the summons has precedence;
- (d) Appointment of a sub-committee or members thereof occasioned by the appointment;
- (e) That leave be given to withdraw a motion;
- (f) That leave be given to withdraw in whole or in part or amend the minutes or proceedings of the Joint Committee or any sub-committee;
- (g) That the Joint Committee proceeds to the next business;
- (h) That the question be now put;
- (i) That the debate be now adjourned;
- (j) That the Joint Committee does now adjourn;
- (k) Amendments to any motion to approve the Minutes or proceedings of the Joint Committee or any sub-committee any part of which has been withdrawn or amended in accordance with Rule 9(f);
- (l) Suspending Procedure Rules in accordance with Rule 18;
- (m) A motion, under Part 1 of Schedule 12A to the Local Government Act 1972 (relating to admission to meetings of local authorities);

- (n) That a Member named under Rule 12 be not further heard or do leave the meeting;
- (o) Giving consent or leave of the Joint Committee where the consent or leave of the Joint Committee is required by these Procedure Rules;
- (p) That the subject matter of an announcement made by the chair of the meeting be referred to the next meeting of the Joint Committee or the appropriate sub-committee;
- (q) Approval or amendment of recommendations of Officers and any consequential resolutions.

10. Amendments to Motions

- 10.1 Normally, no motion to amend a motion other than a motion which may be moved without notice under Rule 9 shall be moved at any meeting of the Joint Committee unless not less than 24 hours' notice in writing of the motion, signed by the Member(s) giving notice, is delivered to the Monitoring Officer of the host authority. The Head of Paid Service of the host authority shall inform the Chair of the Joint Committee of any such amendments so received.

11. Rules of Debate

- 11.1 A motion or amendment shall not be discussed unless it has been proposed and seconded.

- 11.2 An amendment shall be relevant to the motion and shall be either:–

- (a) to refer a subject of debate to the next meeting of the Joint Committee or the sub-committee for consideration or re-consideration; or
- (b) to leave out words and insert or add others; or
- (c) to insert or add words;

but such omission, insertion or addition of words shall not have the effect of negating the motion before the Joint Committee.

11.3 Only one amendment may be moved and discussed at a time and no further amendment shall be moved until the amendment under discussion has been disposed of.

11.4 When an amendment has been lost, other amendments may be moved on the original motion. If an amendment is carried, the motion as amended shall take the place of the original motion and shall become the motion to which any further amendment may be moved.

11.5 When a motion is under debate no other motion shall be moved except the following:-

- (a) to amend or withdraw the motion provided that the notice of amendment has been properly given in accordance with these Procedure Rules;
- (b) to adjourn the meeting;
- (c) to proceed to the next business;
- (d) that the question be now put;
- (e) that a Member be not further heard.

11.6 The ruling of the Chair on a point of order or on the admissibility of a personal explanation shall not be open to discussion.

11.7 A Member who does not have the right to vote on a matter shall have the same rights to speak on a matter as a Member with the right to vote on that matter.

12. Disorderly Conduct

- 12.1 If at a meeting any Member of the Joint Committee in the opinion of the Chair misconducts himself/herself by persistently disregarding the ruling of the Chair or by behaving irregularly, improperly, or offensively, or by wilfully obstructing the business of the Joint Committee, the Chair may move 'That the Member named be not further heard' and the motion if seconded shall be put and determined without discussion.
- 12.2 If the Member named continues his/her misconduct after a motion under the foregoing paragraph has been carried the Chair shall either move 'That the Member named do leave the meeting' (in which case the motion shall be put and determined without seconding or discussion), or adjourn the meeting of the Joint Committee for such period as s/he in his/her discretion shall consider expedient.
- 12.3 In the event of general disturbance which in the opinion of the Chair renders the due and orderly dispatch of business impossible, the Chair in addition to any power vested in him/her may, without question put, adjourn the meeting of the Joint Committee for such period as s/he in his/her discretion shall consider expedient.

13. Rescission of Previous Resolution

- 13.1 No motion to rescind any resolution passed within the preceding six months, and no motion or amendment to the same effect as one which has been rejected within the preceding six months shall be proposed unless the notice thereof given in pursuance of Rule 8 bears the names of at least five Members of the Joint Committee. When any such motion or amendment has been disposed of by the Joint Committee, it shall not be open to any Member to propose a similar motion within a further period of six months.

- 13.2 Provided that this Rule shall not apply to motions moved by the Chair or other Members of the Joint Committee in pursuance of a recommendation of a sub-committee.

14. Mode of Voting

14.1

- (a) Every proposition shall, unless otherwise required by these Procedure Rules or statute, be determined by show of hands.
- (b) In taking the votes on any proposition, only those Members who are present in the room when the proposition is put from the chair shall be entitled to vote.
- (c) After a proposition is put from the Chair but before the vote is taken, any three Members by show of hands may require that the voting shall be recorded in the minutes of the meeting so as to show whether each Member present gave his/her vote for or against that proposition or abstained from the voting.
- (d) Except where a recorded vote has been taken, any Member who is present when the vote was taken may require that his/her vote for or against the question or abstention shall be recorded in the minutes by notifying the Head of Paid Service of the host authority.

- 14.2 Where there are more than two persons nominated for any position to be filled by the Joint Committee and of the votes given there is not a majority in favour of one person, the one having the least number of votes shall be struck off the list and a fresh vote shall be taken, and so on, until a majority of votes is given in favour of one person.

- 14.3 In the case of an equality of votes the Chair shall have a second or casting vote.

15. Urgent Business

- 15.1 The Head of Paid Service, Chief Financial Officer and the Monitoring Officer of the host authority shall each be empowered individually to take any action which is required as a matter of urgency in the interests of the Joint Committee, after consultation (where practicable) with the Chair of the Joint Committee, on behalf of and within the powers and duties of the Joint Committee. All such action shall be reported to the next meeting of the Joint Committee.

16. Variation and Revocation of Procedure Rules

- 16.1 Any motion to add to, vary or revoke these Procedure Rules shall when proposed and seconded stand adjourned without discussion to the next ordinary meeting of the Joint Committee, provided that this Rule shall not apply to any review of Procedure Rules at the annual meeting of the Joint Committee.

17. Suspension of Procedure Rules

- 17.1 No Rule shall be suspended at any meeting of the Joint Committee except on the vote of a majority of the members then present.

18. Recordings at Meetings

- 18.1 The Local Audit and Accountability Act allows persons:

- (a) To film, photograph or make sound recordings of proceedings at a meeting of a body to which this section applies, or of a committee or - sub-committee of such a body;

- (b) To use other means for enabling persons not present at such a meeting to see or hear proceedings at the meeting, as it takes place or later;
- (c) To report or provide commentary on the proceedings at such a meeting orally or in writing, so that the report or commentary is available, as the meeting takes place or later, to persons not present at the meeting.

19. Record of Attendance

- 19.1 Every Member of the Joint Committee attending a meeting or a meeting of a sub-committees of which s/he is a member, shall have their attendance recorded and published through the website of the host authority.

20. Appointment of Sub-Committees

- 20.1 The Joint Committee may establish such sub-committees as it deems appropriate or it is required to appoint by or under any statute.

- 20.2 Subject to any statutory provision in that behalf the Joint Committee:—

- (a) shall not appoint any member of a sub-committee so as to hold office later than the next annual meeting of the Joint Committee;
- (b) may at any time dissolve a sub-committee or alter its membership; every vacancy on a sub-committee shall be reported by the Head of Paid Service of the host authority at the first meeting of the Joint Committee after the vacancy has arisen and the Joint Committee may thereupon proceed to fill the vacancy.

- 20.3 The Joint Committee may appoint sub-committees for purposes to be specified by the Committee and, subject to these Procedure Rules and to any resolution of the Joint Committee in that behalf, may delegate to any such sub-committee any power or duty delegated by the Joint Committee.
- 20.4 The Chair and Vice-Chair of the Joint Committee shall be ex-officio members of every sub-committee appointed by the committee.
- 20.5 The membership of a sub-committee may include persons who are not members of the Joint Committee by which the sub-committee was appointed, however where such persons are not Members of the Joint Committee, they shall be appointed as non-voting members.
- 20.6 A Joint Committee shall not appoint any member of a sub-committee so as to hold office later than the next annual meeting of the Joint Committee and may at any time dissolve a sub-committee or alter its membership.

21. Quorum of Sub-Committees

- 21.1 Except where ordered by the Joint Committee or authorised by statute, or set out in the specific terms of reference of a sub-committee, business shall not be transacted at a meeting of any sub-committee unless at least one third of the whole number of members of the sub-committee who are entitled to vote is present, provided that in no case shall the quorum of a sub-committee be less than three members.

22. Procedure Rules to Apply to Committees and Sub-Committees

- 22.1 These Procedure Rules shall, with any necessary modifications, apply to meetings of sub-committees.

23. Interpretation

- 23.1 The decision of the chair of the meeting on the question of the construction of the Procedure Rules and on any question of order not provided for by the Procedure Rules shall be final.
- 23.2 The inclusion or exclusion of any specific matters in any other regulation or resolution shall not be construed as limiting in any way the scope of these Procedure Rules.
- 23.3 Where the Monitoring Officer is not a solicitor holding a current practising certificate for the expression “Monitoring Officer” in these Procedure Rules there shall be substituted the expression “the solicitor to the Joint Committee” wherever it is appropriate and where there is a requirement at law that such action is to be taken by a solicitor.

24. Procedure Rules to be Given to Members

- 24.1 A printed copy of these Procedure Rules and any other documents in respect of governance of the Joint Committee shall be given by the Monitoring Officer of the host authority to every Member of the Joint Committee on his/her first being appointed to the Joint Committee.

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FOR PUBLICATION

DERBYSHIRE COUNTY COUNCIL

GOVERNANCE, ETHICS AND STANDARDS COMMITTEE

20th OCTOBER 2021

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

Chairman's Report

1. Purpose

- 1.1 To consider the draft annual report of the Chairman of the Governance, Ethics and Standards Committee.

2. Information and Analysis

- 2.1 The terms of reference for the Governance, Ethics and Standards Committee as outlined at Article 11 of the Constitution require the Chairman to provide an Annual Report to full Council. It is proposed that the Annual Report will outline the work done by the Committee over the last year and give an indication of the work programme for the next municipal year.

2.2 It is proposed that the report be presented to the next Council meeting on 1st December 2021.

2.3 The draft Annual Report for consideration by the Committee is attached at Appendix 2.

3. Alternative Options Considered

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

4. Implications

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

5. Consultation

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

6. Background Papers

6.1 There are no background papers to this report.

7. Appendices

7.1 Appendix 1 – Implications.

7.2 Appendix 2 – Draft Report of the Chairman of the Governance, Ethics and Standards Committee.

8. Recommendation(s)

8.1 That the Governance, Ethics and Standards Committee considers the draft annual report of the Chairman to the Committee as attached at Appendix 2 and notes that it will be presented to full Council.

9. Reasons for Recommendation(s)

- 9.1 It is appropriate for the Chairman's report to be considered by the Committee before being presented to the Council.

Report Author: Elizabeth Wild, Principal Solicitor

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

This report has been approved by the following officers:

On behalf of: Director of Legal Services and Monitoring Officer Director of Finance and ICT Managing Executive Director Executive Director(s)	
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Implications

Financial

- 1.1 There are no financial implications as this relates to a reporting requirement.

Legal

- 2.1 The Terms of Reference for the Governance Ethics and Standards Committee as set out at Article 11 of the Constitution require the Chairman of the Committee to provide an annual report to full Council.

Human Resources

- 3.1 There are no HR implications as this relates to a reporting requirement.

Information Technology

- 4.1 There are no IT implications as this relates to a reporting requirement.

Equalities Impact

- 5.1 There are no equality implications as this relates to a reporting requirement

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

Report Sign Off and Version Control

Report Title	Chairman's Report
Author	Elizabeth Wild
Meeting and Date	GES Committee meeting 21.10.21
Version	
Exempt item	No

Implications	Name and Comments	Date Approved
Finance		
Legal		
Human Resources		
Information Technology		
Equalities		
Corporate Objectives and priorities for change		
Consultation		
Other – please specify		

Author's Directorate Sign Off

		Date
Managing Executive Director/Executive Director		

DMT – if applicable		
CMT – if applicable		
Cabinet Member briefed – if applicable		
Other – please specify		

DERBYSHIRE COUNTY COUNCIL

GOVERNANCE, ETHICS AND STANDARDS COMMITTEE

**ANNUAL REPORT OF THE GOVERNANCE, ETHICS & STANDARDS
COMMITTEE FOR THE YEAR 2020- 2021**

**Introduction from Councillor R Flatley, Chairman of the Governance, Ethics
and Standards Committee**

Having been appointed as Chairman of the Governance, Ethics and Standards Committee following the elections this May, I would like to pay tribute to the work of my predecessor Cllr Chris Short in his role as Chairman of this Committee of the past four years as well as the Committee's former Vice Chairman Cllr Kevin Buttery.

As a Committee, we are continuing with several work streams that commenced last year including reviewing the Council's constitution and looking at the authority's standards régime.

As Derbyshire recovers from the pandemic, this Committee has an important role to play in ensuring that the Council's structures and governance are fit for purpose. This is rightly where we will be focusing our efforts over the next Council term.

Councillor R Flatley

Chairman of the Governance, Ethics and Standards Committee

Membership of the Governance, Ethics and Standards Committee

Membership for September 2020 to April 2021

Councillor N Atkin
Councillor K Buttery (Vice-Chairman)
Councillor J Coyle
Councillor K Gillott
Councillor L Grooby
Councillor W Major
Councillor C R Moesby
Councillor C Short (Chairman)

Membership from April 2021

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

During the municipal year of 2020 – 2021 the Committee met on four occasions. All four were held virtually due to the pandemic. However, meetings are now in person and attended. The meeting on 1st July 2021 was the Committee's first attended meeting and took place at County Hall.

The Committee would also like to thank the Independent Persons, Lloyd Newby and Ian Orford for the commitment, contribution and support to the Committee. Particular thanks go to Mr Newby who has supported the Committee since the current standards regime came into place in 2012. Mr Newby has served two full terms of office, which his second term being extended by a further 12 months to enable the Panel to benefit from his knowledge and experience during a process of recruitment and review. Mr Newby's term of office will be drawing to a close at the end of this year.

The Committee was pleased to welcome Mr Orford who was appointed to the role of Independent Person in February 2021.

Review of the Standards Regime

Following the review undertaken by the Committee for Standards in Public Life and the publication by the LGA of a model Code of Conduct for Elected Members, the Committee has convened two working groups to consider and review the Council's current Code of Conduct and the arrangements for dealing with complaints against Councillors. It is intended that revised arrangements and a revised code will be developed to be presented to Council during this municipal year.

Under the terms of reference, it is the Governance, Ethics and Standards Committee which considers dispensations for Elected Members. These arrangements mean that it is difficult for dispensations to be considered quickly and in urgent situations. Therefore, one of the working groups is looking at those arrangements and is considering options for dispensations to be considered in a more timely and efficient manner.

In addition, the support which the Committee requires from the independent persons is being reviewed. One of the working groups is considering the optimum number of Independent Persons which the Council requires and the arrangements for an allowance for those independent persons.

From the end of December 2021, the Council will only have one independent person due to the term of office for Mr Newby coming to an end. Should the review determine that the Council requires more than one Independent Person, then the Committee will authorise officers to undertake the required recruitment process.

The Constitution

Work continues to be undertaken on the Constitution to ensure that it remains up to date and reflects any changes made to the Council's way of working.

Complaints received that Members have breached the Code of Conduct

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

Work Programme for the next municipal year (May 2021 – 2022)

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

1. Further review of the Constitution as necessary;
2. Review of the standards regime, including the Code of Conduct for Elected Members and the arrangements for dealing with complaints made that Elected Members have breached the Code of Conduct.



FOR PUBLICATION

DERBYSHIRE COUNTY COUNCIL

COUNCIL

20 October 2021

Report of the Governance, Ethics and Standards Committee

Complaints and Compliments 2020/21

1. Purpose

- 1.1 To provide an end of year update on complaints and compliments reported to the Council during 2020/21 and trend analysis for the last five years.

2. Information and Analysis

2.1 Background

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

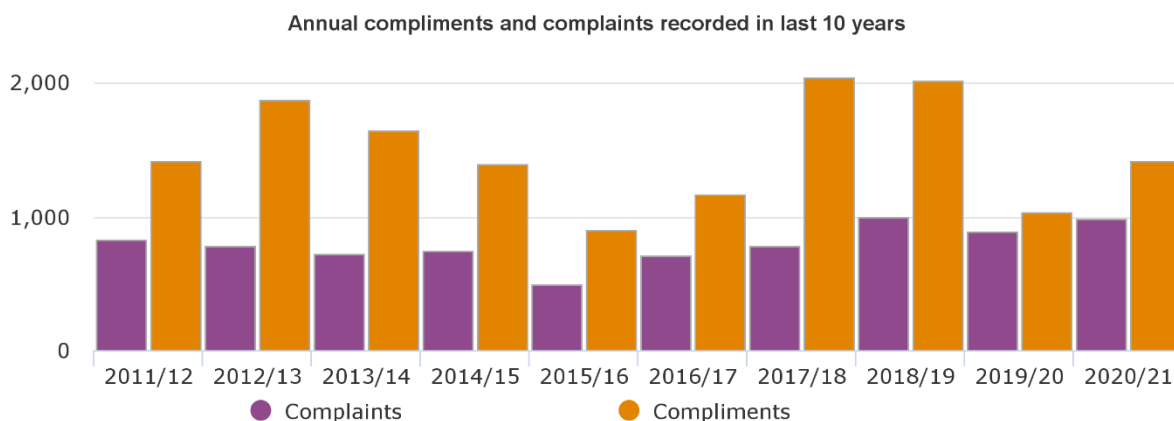
- Delivers an equitable service and remedies any injustices.
- Works constructively and sympathetically with its clients to put things right as quickly as possible; and
- Learns how it can do things better

Complaints and compliments data is currently collected through individual system managed by each departments and reported through to the APEX performance management system. Summary and detailed information from this data is presented below and enables the Council

to explore how well the compliments and complaints policy is being implemented and to use the information to improve service delivery.

2.2 Council Compliments and Complaints

A summary of compliments and complaints recorded over the last ten years is highlighted below:



Compliments

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

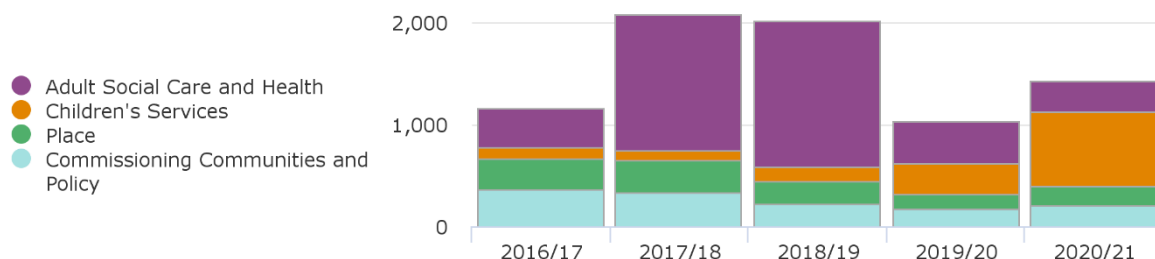
Compliments data has been collected using the following guidelines:

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

In 2020/21 the Council recorded 1,426 compliments. This is an increase from 2019/20 where 1,028 compliments were recorded. Since 2016/17, the Council has seen an overall decrease in recorded compliments received in Adult Social Care and Health, Place and Commissioning Communities and Policy. Over the same period, there has been a significant increase in the recording of compliments received by Children's Services as set out below.

Table 1 - Number of compliments received

	2016/17	2017/18	2018/19	2019/20	2020/21
Adult Social Care and Health	390	1,345	1,427	402	292
Children's Services	109	81	140	302	738
Place	294	323	218	155	187
Commissioning Communities and Policy	371	335	229	169	206
Derbyshire County Council	1,164	2,036	2,014	1,028	1,423



Complaints

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

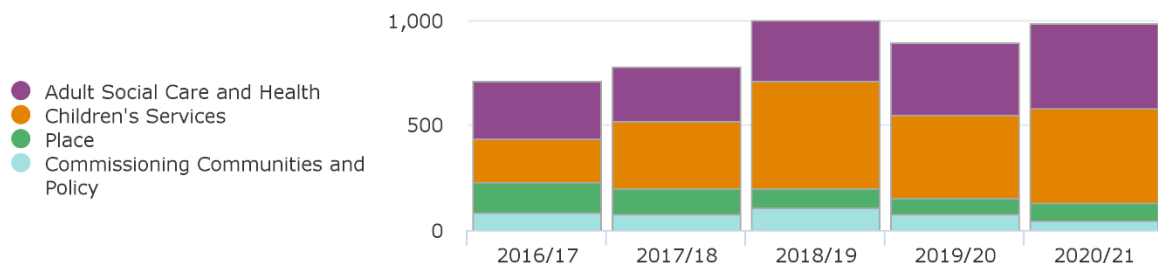
“An expression of dissatisfaction or disquiet by a service user or their representative which requires a response in writing.”

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

In 2020/21, the Council received 984 complaints. This is an increase from 889 complaints received in 2019/2020. Between 2016/17 and 2020/21, there has been an increase in the number of complaints received by Adult Social Care and Health and Children's Services, with a decrease in complaints in Place and Commissioning Communities and Policy between the same period as set out below.

Table 2 - Number of complaints received

	2016/17	2017/18	2018/19	2019/20	2020/21
Adult Social Care and Health	272	260	290	344	403
Children's Services	207	321	511	391	452
Place	143	122	95	79	83
Commissioning Communities and Policy	83	75	105	75	47
Derbyshire County Council	705	778	1,001	889	984

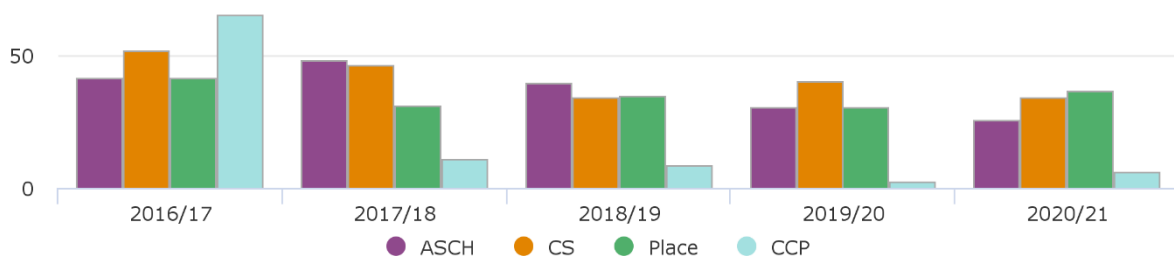


Complaints received and decisions upheld

In 2020/21, 29.9% of complaints were upheld by the Council. This was a lower percentage of complaints upheld compared to the previous five years. In 2020/21, Place upheld the largest percentage of complaints received by the Council. In a comparison between 2016/17 and 2020/21 data below, there has been a decrease in the percentage of complaints upheld by Adult Social Care and Health, Children Services and Place.

Table 3 - Percentage of complaints upheld by department

	2016/17	2017/18	2018/19	2019/20	2020/21
Adult Social Care and Health	41.6%	48.4%	39.8%	30.7%	25.6%
Children's Services	52.3%	46.7%	34.2%	40.2%	34.6%
Place	41.5%	31.2%	34.9%	30.8%	36.6%
Commissioning Communities and Policy	65.4%	10.8%	8.6%	2.7%	6.4%
Derbyshire County Council	47.9%	40.5%	33.2%	32.0%	29.9%



Response times

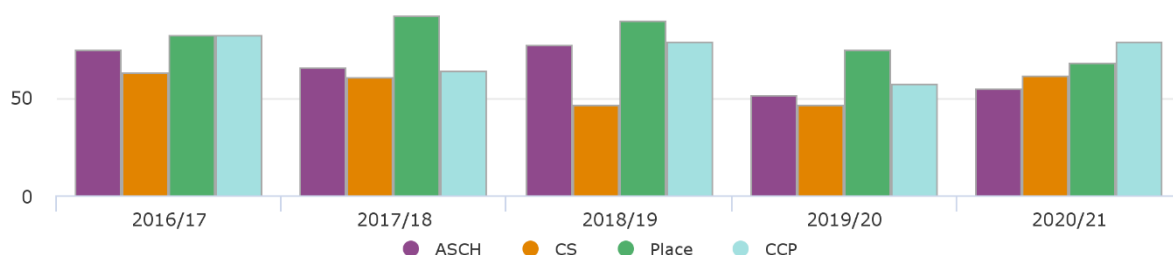
The Council's policy is to respond to complaints within 28 working days. This target was met for 60.4% of complaints during 2020/21 as set out below. This is an improvement from the previous year when 51.9% of complaints were responded to within target. However, over the five year

period from 2016/17 there has been an overall reduction in the percentage of complaints where the response was within target.

Complaints received by Commissioning, Communities and Policy in 2020/21 had the highest percentage of complaints responded to within the Council's target, with Adult Social Care and Health having the lowest percentage of complaints responded to within target. In 2020/21, 16 Council complaints were given a response time extension, so fall outside of the Council's response policy.

Table 4 - Percentage of complaints responded to within target by department

	2016/17	2017/18	2018/19	2019/20	2020/21
Adult Social Care and Health	74.5%	65.6%	77.2%	51.6%	55.1%
Children's Services	63.2%	60.3%	46.7%	46.8%	61.2%
Place	82.3%	92.4%	89.4%	74.4%	68.3%
Commissioning Communities and Policy	81.9%	63.8%	79.2%	57.1%	78.8%
Derbyshire County Council	73.2%	67.7%	64.1%	51.9%	60.4%



The average number of days that is taken to respond to complaints is recorded in Table 5 below. In 2020/21, the average number of days to respond to complaint across the Council, within target timescales, was 16. Where the response was outside the target, the average number of days to respond to a complaint across the Council was 61 days.

Table 5 - Average days to respond to complaints

Within Target	2016/17	2017/18	2018/19	2019/20	2020/21	Total
No	54.2	63.6	69.3	61.3	54.0	61.5
Yes	17.1	19.0	14.4	14.8	15.9	16.2

Complaints by type

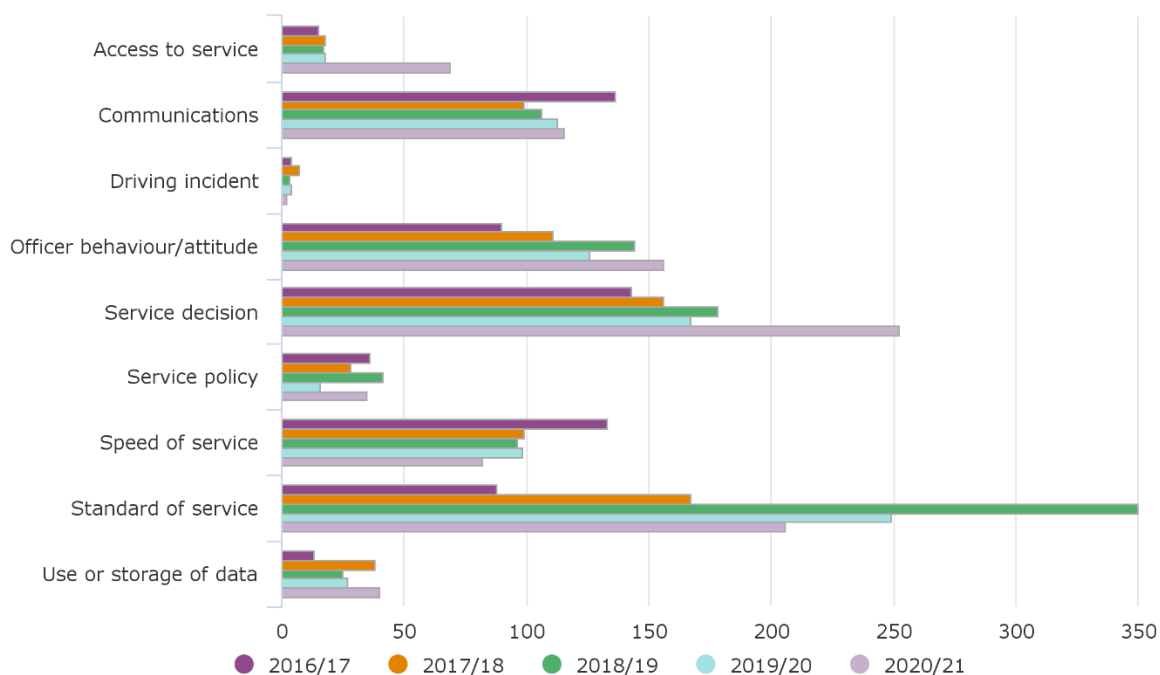
To assist with understanding the reasons why complaints are made, each complaint is allocated to a single category of complaint, based on the most significant issue raised by the complainant. This helps to identify and understand the nature of complaints and potential

weaknesses in service delivery. The list of categories, with examples of issues that fall within each category, is provided in Appendix 2.

In 2020/21, the Council received 252 complaints in relation to service decision, which represents the highest number of complaints received. This is an increase from 2019/20 where 167 complaints relating to service decisions were received. Areas which have seen an increase in complaints between 2016/17 and 2020/21 include officer behaviour/attitude, standard of service, use or storage of data and access to service. Over the same period, there has been a reduction in complaints related to speed of service.

Table 6 - Breakdown of complaints received by type

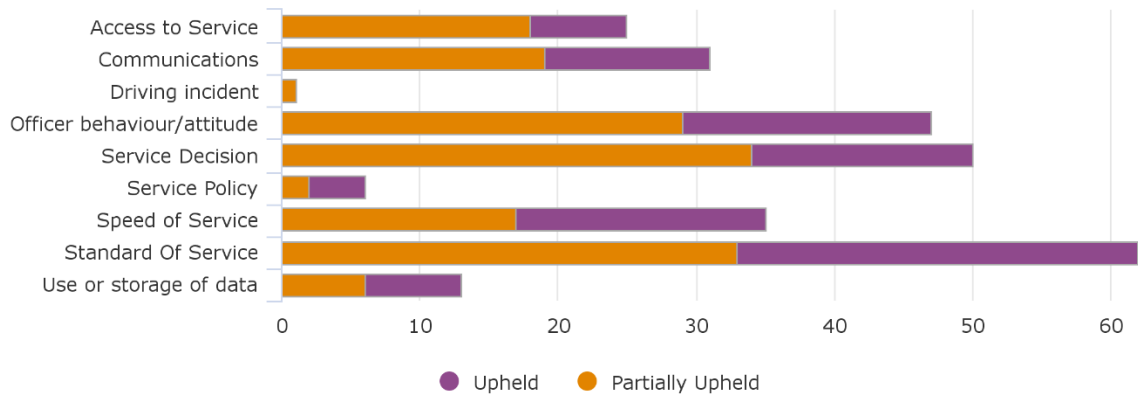
	Access to service	Communication	Driving incident	Officer behaviour/attitu	Service decision	Service policy	Speed of service	Standard of service	Use or storage of data
2016/17	15	136	4	90	143	36	133	88	13
2017/18	18	99	7	111	156	28	99	167	38
2018/19	17	106	3	144	178	41	96	350	25
2019/20	18	113	4	126	167	16	98	249	27
2020/21	69	115	2	156	252	35	82	206	40



Looking in more detail at the complaints received during 2020/21 by the outcome the highest number of upheld or partially upheld complaints changes to standard of service with a total of 62 complaints, service decision is the second highest with 50 and officer behaviour/attitude third with 47.

Table 7 - 2020/21 Complaint type by upheld outcomes

	Access to Service	Communications	Driving incident	Officer behaviour/attitude	Service Decision	Service Policy	Speed of Service	Standard Of Service	Use or storage of data
Upheld	7	12	0	18	16	4	18	29	7
Partially Upheld	18	19	1	29	34	2	17	33	6
Total	25	31	1	47	50	6	35	62	13



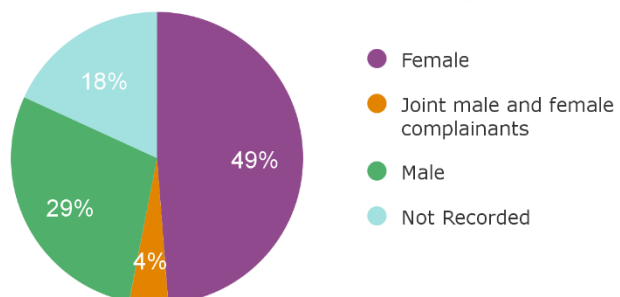
Demographics

The Council also collects data on the gender of complainants and this information is set out in Table 8 for information. As can be seen in the table and graph overleaf, in 2020/21, the highest percentage of complaints were made by female complainants which mirrors trends seen over the previous four years.

Table 8 - Complaints received by Gender

	2016/17	2017/18	2018/19	2019/20	2020/21	Total
Female	287	344	501	469	525	2,126
Joint male and female complainants	1	32	94	39	20	186
Male	211	200	278	266	300	1,255
Not Recorded	206	202	129	115	139	791

Percentage breakdown of complaints received since 2016/17 by gender



Learning from complaints

Learning about the root causes of complaints is vital for the continuous improvement of Council services and helps to develop the Enterprising Council and One Council approaches. Specific actions are undertaken as a result of individual complaints. Where the complaint investigation has identified underlying issues then broader actions have been undertaken to prevent further incidents. In general terms these have included:

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

2.3 Complaints procedures and systems

In March 2020¹, Cabinet agreed that moving forward Customer Feedback (complaints, comments and compliments) would be managed through the Customer Relationship Management (CRM) system which is currently being implemented through the Channel Shift programme.

Work is currently underway with the supplier, Granicus, to embed the CRM which will enable its use by the Council as outlined below. CRM use will enable more comprehensive reporting on customer feedback, and, most importantly, support the change of processes and policies to improve customer service from December 2021. Manual data collection from departments and the reporting of complaints for the period from 1 April 2021 to the point of availability of data from the CRM (expected December 2021) will be carried out by the Channel Shift and Customer Service teams as agreed.

2.4 Next Steps

Children's Services feedback will be the first to use the CRM system from October 2021. CRM use for Place feedback is also expected to be in place prior to June 2022.

Adult Social Care & Health's use of the CRM system is dependent on technical integration with the existing Mosaic system, which requires ICT and supplier activity. This will enter the 'Discovery' project phase from January 2022.

CCP's customer feedback process is complex as it is spread across teams and as such the workflow mapping and training of staff within CCP to use the CRM is more complex than in other areas. This will be implemented from January 2022.

Reporting on customer feedback from the CRM will be available at the point at which the system goes live in 2021, although readers should be aware that this will be on a phased basis as new services enter the system. Manual reporting from other areas will support these reports.

The Organisation Development and Policy Division will be working closely together to integrate customer feedback reporting and resulting improvements with performance monitoring to ensure a seamless response to customer service and service improvement is developed.

3. Alternative Options Considered

- 3.1 Not to provide an update on complaints and compliments received to the Committee; however this is not recommended as the role of the Committee includes the receipt of regular reports on the performance of the Corporate Complaints process.

4. Implications

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

5. Consultation

- 5.1 Not Applicable, for information only

6. Background Papers

- 6.1 Data held on the APEX Corporate Performance Management System

7. Appendices

- 7.1 Appendix 1 – Implications
- 7.2 Appendix 2 – Type of Complaints

8. Recommendation(s)

That the Governance, Ethics and Standards Committee:

- a. Notes the content of the report and the Council's Complaints and Compliments for 2020-21
- b. Notes the steps that are being taken to improve the Council's approach and the roll out of the Customer Relationship Management System as set out in the report

9. Reasons for Recommendation(s)

- 9.1 To support the Committee in understanding the latest position in respect of Complaints and Compliments for 2020-21
- 9.2 To provide an update on changes to the Council's approach in respect of Complaints and Compliments which are currently taking place.

Report Author: Matthew Walters

Contact details: matthew.walters@derbyshire.gov.uk

This report has been approved by the following officers:

<p>On behalf of:</p> <p>Director of Legal Services and Monitoring Officer Director of Finance and ICT Managing Executive Director Executive Director</p>	<p>Peter Handford Helen Barrington Sarah Eaton Julie Odams</p>
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Implications

Financial

1.1 None

Legal

2.1 The role and function of the Governance, Ethics and Standards Committee set out in Article 11 of the Constitution includes the following:

“To receive regular reports on the performance of the Corporate Complaints process, Local Government Ombudsman referrals and to recommend revisions to related policies and procedures as appropriate.”

Human Resources

3.1 None

Information Technology

4.1 The report references the next steps in respect of complaints for the implementation of the Customer Relationship Management (CRM) system.

Equalities Impact

5.1 None

Corporate objectives and priorities for change

6.1 The information feeds into the development and progress monitoring of the Council Plan areas of complaints feedback, resident-first approach and resident experience.

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

7.1 None

TYPE OF COMPLAINT DESCRIPTORS

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

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

Driving incident - Discourteous or dangerous driving.

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

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

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

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

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

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



FOR PUBLICATION

DERBYSHIRE COUNTY COUNCIL

GOVERNANCE ETHICS AND STANDARDS COMMITTEE

20 October 2021

Report of the Director of Legal Services and Monitoring Officer

**Update regarding the Code of Conduct and Process for Investigating
Alleged Breaches of the Code of Conduct**

1. Purpose

- 1.1 To report back to the Committee on the reviews carried out by the working groups and seek approval for amendments to various aspects of the current standards regime and the actions arising from the groups.

2. Information and Analysis

- 2.1 Members will recall that at the preceding Governance, Ethics and Standards Committee, it was agreed that two working groups would be set up to review the standards regime introduced in 2012 under the Localism Act 2011.
- 2.2 The focus of the first working group was the Code of Conduct and the process for granting dispensations in accordance with Section 33(2) of the Localism Act 2011. The Review of Ethical Standards by the Committee on Standards in Public Life in January 2019 made the following observation 'local authorities are currently required to have in place a code of conduct of their choosing which outlines the behaviour required of councillors. There is considerable variation in the length, quality and clarity of codes of conduct. This creates confusion among Members of the public, and among councillors who represent more than one tier of local government. Many codes of conduct fail to address adequately important areas of behaviour such as social media use and

bullying and harassment. An updated model code of conduct should therefore be available to local authorities in order to enhance the consistency and quality of local authority codes.'

- 2.3 The Local Government Association was tasked with the preparation of the model code of conduct and this was initially published in December 2020 with a revised version published between the two meetings of the working group. This has therefore formed the basis of the proposed code of conduct.
- 2.4 The proposed Code of Conduct is contained at Appendix 2. The proposed code presents additional restrictions on Members and it is therefore important that all Members have the opportunity to consider these proposed changes. It is therefore proposed that the draft revised code of conduct will be circulated to all Members to ascertain their views regarding this.
- 2.5 The working group also considered the process for granting Members dispensations from the Code of Conduct. The working group considered potential arrangements for enabling this to happen. The preference was to give the monitoring office delegations in relation to **Sections (a) (b) (d) of Section 33 (2) of the Localism Act 2011** with the Standards Committee retaining those areas as detailed in **(c) and (e)**. This would ensure that such dispensations could be given promptly and enable the business of the council to be undertaken effectively. The Monitoring officer would therefore consider the following dispensations :

(a) considers that without the dispensation the number of persons prohibited by Section 31(4) from participating in any particular business would be so great a proportion of the body transacting the business as to impede the transaction of the business;

(b) considers that without the dispensation the representation of different political groups on the body transacting any particular business would be so upset as to alter the likely outcome of any vote relating to the business;

(d) if it is an authority to which Part 1(a) of the Local Government Act 2000 applies and is operating executive arrangements, considers that without the dispensation each Member of the authority's executive would be prohibited by Section 31(4) from participating in any particular business to be transacted by the local authority's executive,

The Committee would consider dispensations falling within the following sections:

(c) considers that granting the dispensation is in the interests of persons living in the authority's area;

(e) considers that it is otherwise appropriate to grant a dispensation.

- 2.6 Any dispensation which is granted would need to be referred to in the minutes of the relevant meeting. The Member would be required to declare the interest and inform the Committee/Cabinet that a dispensation had been granted. If the dispensation was granted to an individual Cabinet Member, that would be published as part of the record of decision. The process would therefore be transparent.
- 2.7 The second working group was tasked with reviewing the process for managing alleged breaches of the Code of Conduct and for reviewing the arrangements in relation to the Independent Person, including remuneration.
- 2.8 The working group met on two occasions and formulated proposals to amend the current process. Immediately following this the Local Government Association issued their model process which is substantially more comprehensive than the current process or the version produced by the working group. It is therefore proposed that the working group will meet on a further occasion to consider the model process proposed by the Local Government Association.
- 2.9 The second working group also considered the arrangements for the Independent Person, including the remuneration of this role. Benchmarking information was obtained from authorities along with confirmation that they involved their Independent Remuneration Panels in the setting of the appropriate remuneration for this role. It was therefore considered appropriate to ascertain if the Derbyshire County Council Panel would be willing to undertake a similar piece of work. Preliminary enquiries have confirmed that the Independent Remuneration Panel would be willing to undertake this piece of work.

3. Alternative Options Considered

- 3.1 Do nothing – this option is not appropriate as this would mean the Council's Code of Conduct and process for addressing allegations of breaches of the code does not reflect the Local Government Association Model documents.
- 3.2 Adopt the model documents from the Local Government Association without amendment. This option is not appropriate as it is important to ensure that the opportunity to include specific content is taken and that

Members are fully aware of the regime which will apply to their conduct.

4. Implications

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

5. Consultation

- 5.1 The proposed Code of Conduct presents additional restrictions on Members and it is therefore appropriate that they should be consulted in relation to the content before any recommendation is made to the Council to adopt a new Code of Conduct.

6. Background Papers

- 6.1 None

7. Appendices

- 7.1 Appendix 1 – Implications.
- 7.2 Appendix 2 – Proposed Code of Conduct

8. Recommendation(s)

- 8.1 That all Members are consulted on the proposed amended Code of Conduct as contained at Appendix 2.
- 8.2 That the Governance, Ethics and Standards Committee recommends to Council that the constitution be amended to include a delegation to the Monitoring Officer 'to determine written requests from Members for dispensations pursuant to section 33(2) (a), (b) and (d) of the Localism Act 2011.
- 8.3 That the working group considering the arrangements regarding the process for addressing alleged breaches of the Code of Conduct meet further to consider the Local Government Association Model Process issued on 7th October 2021.
- 8.4 That the Independent Remuneration Panel be invited to consider the remuneration of the Independent Person(s) utilised in the standards regime.

- 8.5 That the working group and Independent Remuneration Panel should report back their findings to the Governance, Ethics and Standards Committee.

9. Reasons for Recommendation(s)

- 9.1 To ensure that all Members are aware of the proposed changes in the Code of conduct and have the opportunity to comment upon the proposed changes.
- 9.2 To enable the process of considering requests for dispensations to be undertaken efficiently , effectively and transparently.
- 9.3 To enable full consideration to be given to the LGA process which was published following the conclusion of the second report.
- 9.4 The involvement of the Independent Remuneration Panel will enable transparency and independence as regards remuneration to be demonstrated.

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Contact details:

This report has been approved by the following officers:

On behalf of: Director of Legal Services and Monitoring Officer Director of Finance and ICT Managing Executive Director Executive Director(s)	
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Implications

Appendix 1

Financial

1.1 The Independent Remuneration Panel may increase or decrease the payments to be made to Independent Persons. However as there are only a very small number of persons undertaking this role (currently only two persons) the overall impact on the Council is de minimis.

Legal

2.1 S27(2) of the Localism Act 2011 requires that a local authority must adopt 'a code dealing with the conduct that is expected of Members and co-opted Members of the authority when they are acting in that capacity.

Human Resources

3.1 Any proposed changes to the terms and conditions of the Independent Persons will be addressed through the relevant Human Resource procedure.

Information Technology

4.1 None

Equalities Impact

5.1 Not applicable

Corporate objectives and priorities for change

6.1 This report links to the Council Priority of High Performing Value for Money and Resident Focused Services. The changes proposed will enable efficient and up to date functioning of the Council as a corporate body.

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

7.1 None

Report Sign Off and Version Control

Report Title	
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Author	
Meeting and Date	
Version	
Exempt item	

Implications	Name and Comments	Date Approved
Finance		
Legal		
Human Resources		
Information Technology		
Equalities		
Corporate Objectives and priorities for change		
Consultation		
Other – please specify		

Author's Directorate Sign Off

		Date
Managing Executive Director/Executive Director		
DMT – if applicable		
CMT – if applicable		
Cabinet Member briefed – if applicable		
Other – please specify		

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Derbyshire County Council's proposed adaptation of the Local Government Association Model Councillor Code of Conduct 2020

Joint 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.

Introduction

The Local Government Association (LGA) has developed this Model Councillor Code of Conduct, in association with key partners and after extensive consultation with the sector, as part of its work on supporting all tiers of local government to continue to aspire to high standards of leadership and performance. It is a template for councils to adopt in whole and/or with local amendments.

All councils are required to have a local Councillor Code of Conduct.

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. The LGA can also offer support, training and mediation to councils and councillors on the application of the Code and the National Association of Local Councils (NALC) and the county associations of local councils can offer advice and support to town and parish councils.

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”?

For the purposes of this Code of Conduct, “local authority” includes county councils, district councils, London borough councils, parish councils, town councils, fire and rescue authorities, police authorities, joint authorities, economic prosperity boards, combined authorities, and National Park authorities.

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

General principles of councillor conduct

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

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

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.

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 its.
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.

Building on these principles and obligations, 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:

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. Town and parish councillors are encouraged to seek advice from their Clerk, who may refer matters to the Monitoring Officer.

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

4. Confidentiality and access to information

As a councillor:

4.1 I do not disclose information:

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

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

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

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

5. Disrepute

As a councillor:

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

As a Councillor, you are trusted to make decisions on behalf of your community and your actions and behaviour are subject to greater scrutiny than that of ordinary members of the public. You should be aware that your actions might have an adverse impact on you, other councillors and/or your local authority and may lower the public's confidence in you or your local authority'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 the local authority 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 the local authority's own policies regarding their use.

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 the local authority 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 B 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 the local authority, 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.

Disclosure of Non-Registerable Interests

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.

8. Disclosure of Non-Registerable Interests

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 councilor 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 favoring a personal interest over the public interest on the part of the councilor involved and may have no repercussions for them personally.”

Table 1: Disclosable Pecuniary Interests

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

SUBJECT	DESCRIPTION
Employment, office, trade, profession or vocation	Any employment, office, trade, profession, or vocation carried on for profit or gain
Sponsorship	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. This includes any payment or financial benefit from a trade union within the meaning of the Trade Union and Labour Relations (Consolidation) Act 1992
Contracts	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: (a) under which goods or services are to be provided or works are to be executed; and (b) which has not been fully discharged
Land and Property	Any beneficial interest in land which is within the area of the council. '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

Licenses	Any licence (alone or jointly with others) to occupy land in the area of the council for a month or longer
Corporate tenancies	Any tenancy where (to the councillor's knowledge): (a) the landlord is the council; and (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.
Securities	Any beneficial interest in securities* of a body where: (a) that body (to the councillor's knowledge) has a place of business or land in the area of the council; and (b) either: (i) the total nominal value of the securities* exceeds £25,000 or one hundredth of the total issued share capital of that body; or (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.

* '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

<p>You must register as an Other Registerable Interest:</p> <ul style="list-style-type: none"> 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 <ul style="list-style-type: none"> (i) exercising functions of a public nature
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- (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

The LGA has committed to reviewing the Code on an annual basis to ensure it is still fit for purpose.