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PUBLIC

To: Members of Governance, Ethics and Standards Committee

Monday, 10 January 2022

Dear Councillor,

Please attend a meeting of the **Governance, Ethics and Standards Committee** to be held at **2.00 pm** on **Tuesday, 18 January 2022** 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 - 6)

To confirm the non-exempt minutes of the meeting of the Governance, Ethics and Standards Committee held on 20 October 2021

To consider the non-exempt reports of the Director of Legal and Democratic Services and Monitoring Officer on:

- 4 (a) Revisions to Council Constitution: Review of Council Procedure Rules (Pages 7 - 38)
- 4 (b) Update Regarding the Review of the Ethical Standards Regime (Pages 39 - 72)
- 5. Member Development Working Group - Verbal Update

PUBLIC

MINUTES of a meeting of the **GOVERNANCE, ETHICS AND STANDARDS COMMITTEE** held on 20 October 2021 at County Hall, Matlock

PRESENT

Councillor R Flatley (in the Chair)

Councillors C Cupit, K Gillott, L Grooby, W Major, D Muller, S Swann, and B Woods.

There were no apologies for absence.

13/21 **MINUTES RESOLVED** that the minutes of the meeting of the Governance, Ethics and Standards Committee held on 01 July 2021 be confirmed as a correct record and signed by the Chairman.

14/21 **WHISTLEBLOWING POLICY** The Council had in place the Confidential Reporting Code which had been approved in November 2016. It had been reviewed to ensure that it was 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 had been taken into account. The guidance made it clear there was no one-size-fits-all whistleblowing policy, however provided some tips about what a policy should include. It recognised policies would vary depending on the size and nature of the organisation, but should be clear, simple and easily understood.

In light of the guidance, the Confidential Reporting Code had been renamed Whistleblowing Policy as it was considered the purpose of the document would be more clearly understood. The document had also been re-drafted so that it was easier to read.

It had been proposed that Governance, Ethics and Standards Committee considered the draft Policy, commented and referred to Cabinet for formal approval. Once the Policy had been approved, the Council would ensure it was publicised via the intranet and the employee newsletter and training was provided. It would also be published on the internet. This would ensure that individuals were aware of the policy and how to make a disclosure.

Once the Policy was approved, it would 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 would be addressed through separate reports to Governance, Ethics and Standards Committee and Council.

RESOLVED that the Committee provided comment on the draft Whistleblowing Policy at Appendix 3 and referred it to Cabinet for formal approval.

15/21 ANNUAL REVIEW LETTER OF THE LOCAL GOVERNMENT AND SOCIAL CARE OMBUDSMAN

The terms of reference for the Governance, Ethics and Standards Committee included “*to receive regular reports on Local Government Ombudsman referrals*”. Therefore, the Committee had been 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 had been attached at Appendix 2 for consideration.

All of the Ombudsman’s annual review letters were published on their website (www.lgo.org.uk) and copied to the Audit Commission. The aim of the Annual Review Letter was to provide councils with information which would help them assess their performance in handling complaints.

RESOLVED that the Committee note (1) the Annual Review Letter of the Local Government and Social Care Ombudsman for the year ending 31 March 2021; and (2) that a report on this matter had already been considered by Cabinet on 14 October 2021.

16/21 COMPLAINTS RECEIVED AGAINST COUNCILLORS PURSUANT TO THE CODE OF CONDUCT FOR ELECTED MEMBERS FOR THE PERIOD 1ST JANUARY 2021 - 30TH SEPTEMBER 2021

The Council’s Procedure for considering complaints that Councillors had breached the Code of Conduct which had been attached at Appendix 2, provided that the Monitoring Officer, in consultation as appropriate with one of the Independent persons from the Standards Committee, decided how complaints should be dealt with. Decisions were 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.

In order to support the Monitoring Officer with the management of complaints, the Committee was kept informed of complaints received against Councillors on a bi-annual basis. The last report was presented to the Committee in March 2021.

During the period from 1st January 2021 to 30th September 2021, two complaints had been received, but neither had yet been determined and remained under consideration. Details would be provided in the next report.

Two complaints remained outstanding at the time of the previous report and had now been resolved. Both complaints were from members of the public.

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 had been determined that it was not sufficiently serious to merit further investigation.

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.

RESOLVED that the Committee note the complaints made that Members' had breached the Code of Conduct.

17/21 REVISIONS TO COUNCIL CONSTITUTION It was 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 were required to the Constitution, the detail of which had been set out in Appendix 2 to the report.

The amendments were required in deal with a number of matters, all outlined within the report.

RESOLVED that the Committee agreed the proposed changes to the Council's Constitution as set out in Appendix 2 to the report and referred them to full Council for approval.

18/21 CHAIRMAN'S REPORT The terms of reference for the Governance, Ethics and Standards Committee as outlined at Article 11 of the Constitution required the Chairman to provide an Annual Report to full Council. It had been proposed that the Annual Report would outline the work done by the Committee over the last year and give an indication of the work programme for the next municipal year.

It was proposed that the report be presented to the next Council meeting on 1st December 2021. The draft Annual Report for consideration by the Committee had been attached at Appendix 2.

RESOLVED that the Committee considered the draft annual report of the Chairman to the Committee as attached at Appendix 2 and note that it would be presented to full Council.

19/21 COMPLAINTS AND COMPLIMENTS 2020/21 The Council was committed to delivering high quality public services and engaged in a very substantial number of transactions with the public each year. A robust compliments and complaints policy, with effective supporting procedures, was a vital way to monitor how well the Council:

- Delivered an equitable service and remedied any injustices;

- Worked constructively and sympathetically with its clients to put things right as quickly as possible; and
- Learned how it can do things better

Complaints and compliments data had been collected through an individual system managed by each department and reported through to the APEX performance management system. Summary and detailed information from this data had been presented within the report and enabled the Council to explore how well the compliments and complaints policy was being implemented and to use the information to improve service delivery.

The complaints and compliments data had been outlined within the report.

RESOLVED that the Committee note (1) the content of the report and the Council's Complaints and Compliments for 2020-21; and (2) the steps that were being taken to improve the Council's approach and the roll out of the Customer Relationship Management System as set out in the report.

20/21 UPDATE REGARDING THE CODE OF CONDUCT AND PROCESS FOR INVESTIGATING ALLEGED BREACHES OF THE CODE OF CONDUCT 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.

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 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 had therefore formed the basis of the proposed code of conduct.

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 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.

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 was substantially more comprehensive than the current process or the version produced by the working group. It was therefore proposed that the working group would meet on a further occasion to consider the model process proposed by the Local Government Association.

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 had confirmed that the Independent Remuneration Panel would be willing to undertake this piece of work.

RESOLVED that the Committee agreed (1) that all Members were consulted on the proposed amended Code of Conduct as contained at Appendix 2; (2) that the Governance, Ethics and Standards Committee recommended 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; (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; (4) that the Independent Remuneration Panel be invited to consider the remuneration of the Independent Person(s) utilised in the standards regime; and (5) that the working group and Independent Remuneration Panel should report back their findings to the Governance, Ethics and Standards Committee.

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FOR PUBLICATION

DERBYSHIRE COUNTY COUNCIL

GOVERNANCE ETHICS AND STANDARDS COMMITTEE

18 January 2021

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

Revisions to Council Constitution: Review of Council Procedure Rules

1. Purpose

- 1.1 To agree the proposed amendments to the Council Procedure Rules in the Constitution and to refer these amendments 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.
- 2.2 The Council has the power to make Standing Orders for the regulation of their proceedings and business and may vary or revoke any such orders under para 42 of Schedule 12 to the Local Government Act 1972. There is no prescribed form for the Standing Orders, but there are certain provisions specified in legislation that the Standing Orders must comply with. These are set out in the Legal Implications section in Appendix 1.
- 2.3 The Council's Standing Orders (known as the Council Procedure Rules) have been subject to a detailed review by the Director of Legal and Democratic Services in conjunction with the Chairman of the Council in order to ensure the smooth running of council business and that the

procedures at council meetings are effective and efficient. Following the review, revised Council Procedure Rules have been drafted, which appear at Appendix 2 to the report. For ease of comparison, a copy of the current Council Procedure Rules appear at Appendix 3 for information. The main amendments proposed are as follows:

- a) To re-order the order of business at meetings to enable items for which third parties are in attendance can be dealt with early in the meeting and ensure officer reports which require a formal decision are considered prior to expiry of the 3 hour time limit.
- b) To enable the order of business to be changed where required.
- c) To reflect the legislative provisions relating to the calling of extraordinary meetings.
- d) To limit the scope of motions so that they align with the provisions regarding questions and to limit the number to 1 per Member per meeting.
- e) To ensure that questions and Motions can be rejected if seeking to require Council to act in a way that is outside of its powers or otherwise unlawful.
- f) To clearly list the circumstances in which a notice of motion is not required.
- g) To require notice of questions by Members and the public to be given 10 days prior to the meeting to enable the question to be included in the agenda for the meeting so as to aid openness and transparency.
- h) To enable a question to be put to another Member if the Member to which it is directed is not in attendance at the meeting.
- i) To introduce a 30 minute time restriction on dealing with questions from Members, that may be extended by the Chair.
- j) To reduce the word limit for questions from 200 to 150 words to ensure questions are succinct and focussed.
- k) To clarify the rules of debate, in particular where a Member wishes to amend or withdraw a motion and what constitutes a valid amendment to a motion.
- l) To reflect the fact that the Monitoring Officer has delegated authority to grant dispensations in certain circumstances.
- m) To update the provisions on substitutes. Council is responsible for appointing members of Committees (including substitute members). The proposed wording will enable effective substitutes without the need to include a list of the names of all substitutes at the AGM.
- n) To make it clear that individuals are unable to record and report on meetings where exempt or confidential business is being considered.
- o) To ensure consistency in terminology.

- p) To re-order the Standing Orders generally so that they are clearer and more easily understood.

2.4 It is proposed that Governance, Ethics and Standards Committee agree the proposed Council Procedure Rules as set out in Appendix 2 to this report and refers them to full Council for approval and inclusion in the Constitution.

3. Alternative Options Considered

3.1 Do nothing – this option is not appropriate as it will not ensure that the Council Procedure Rules are kept up to date and fit for purpose.

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 Council Procedure Rules.

7.3 Appendix 3 – Current Council Procedure Rules.

8. Recommendations

That the Committee agrees the proposed Council Procedure Rules as set out in Appendix 2 to this report and refers them to full Council for approval and inclusion in the Constitution.

9. Reasons for Recommendations

9.1 To ensure effective and efficient procedures at council meetings.

9.2 To comply with legislative requirements and ensure the Council's Constitution is kept up to date and fit for purpose.

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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.
- 2.2 Schedule 12 to the Local Government Act 1972 includes a number of statutory provisions the Council's Standing Orders must comply with:-
- the Council must hold an annual meeting. The annual meeting must be held between 8 and 21 days after the retirement of councillors in an election year, and in March to May in other years;
 - the Chairman can call an extraordinary meeting at any time. Any five members can requisition an extraordinary meeting if the Chairman fails to do so;
 - the quorum for a meeting is one quarter of the membership;
 - decisions are to be made by simple majority voting, with a casting vote to the Chairman;
 - the names of members at a meeting must be recorded; and
 - minutes must be recorded in a book and signed at the next suitable meeting.
- 2.3 Sections 20 of the Local Government and Housing Act 1989 empower the Secretary of State to make regulations requiring Councils to adopt certain procedural standing orders. The Secretary of State has exercised this power to make the:
- i. Local Authorities (Standing Orders) Regulations 1993, which require the adoption of standing orders concerning:-
 - (a) recorded votes; and
 - (b) the signing of minutes of an extraordinary meeting
 - ii. Local Authorities (Standing Orders) (England) Regulations 200, which require the adoption of a standing order concerning recording of votes taken at a budget decision meeting.

- 2.4 The proposed Council Procedure Rules comply with these legislative requirements.
- 2.5 Article 22 of the Constitution makes it clear that changes to the Constitution will only be approved by the full Council after consideration of the proposal by the Governance Ethics & Standards Committee. This report discharges that constitutional requirement.
- 2.6 The current version of the Council Procedure Rules include the following provision:

“19. *Suspension and Variation*

19.3 *Any motion to add to, vary or revoke any Standing Order, shall, when proposed and seconded, stand adjourned without discussion to the next ordinary meeting of the Council.”*

As a result the proposed amendments to the Council Procedure Rules cannot be approved by Council at the first meeting and will be adjourned to the next ordinary meeting.

Human Resources

- 3.1 None.

Information Technology

- 4.1 None.

Equalities Impact

- 5.1 None.

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 effective functioning of Council meetings.

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

- 7.1 None.

Appendix 3 - Council Procedure Rules

STANDING ORDERS OF THE COUNTY COUNCIL

1. **Annual Meeting**

- 1.1 The Annual Meeting of Council will be held at 2.00 pm on the third or fourth Wednesday in May each year, as Council may decide.
- 1.2 The election of the Chairman of the Council shall be the first item of business at the Annual Meeting of Council.

2. **General Meetings**

- 2.1 Ordinary Council Meetings will take place in accordance with the programme of meetings decided at the Annual Meeting of Council. All meetings will be held at County Hall, Matlock, commencing at 2 pm or such other suitable time and venue agreed by the Chairman,.
- 2.2 The Chairman may cancel a scheduled Council Meeting due to lack of business or in exceptional circumstances after consultation with the Leader of the Council and the Leader of the Main Minority Group.

3. **Extraordinary meetings**

- 3.1 An extraordinary Council Meeting may be called by:
 - (a) the Council by resolution;
 - (b) the Chairman at any time;
 - (c) the Head of Paid Service, Chief Finance Officer or Monitoring Officer; or
 - (d) any five members of council if they have signed a requisition presented to the Chairman and the Chairman has refused to call a meeting or has failed to call a meeting within seven days of the presentation of the requisition.
- 3.2 The agenda for an extraordinary meeting will specify the matters that the meeting will deal with. Petitions and questions will be accepted only if they relate to the business for which the extraordinary meeting has been arranged.

4. **Order of business at ordinary meetings**

- 4.1 The order of business at the Council Meeting will be as follows:

- (a) If necessary, the appointment of a chair for the meeting in the absence of the Chairman of the Council
- (b) Apologies
- (c) Declarations of interests
- (d) Chairman's announcements
- (e) Minutes of the previous meeting
- (f) Presentations
- (g) Report of the Leader of the Council and Members' Questions on the report
- (h) Questions submitted by the public
- (i) Petitions
- (j) Reports of officers, with items for decision taken first and items for noting second
- (k)
- (l) Questions submitted by Members
- (m) Motions

4.2 Business falling within items (e) to (m) may be varied:-

- (a) By the Chairman at their discretion; or
- (b) By a resolution duly moved and seconded which shall be put without discussion.

5. Quorum and Record of Attendances

5.1 If there are not at least 16 Members present, the Chairman will adjourn the meeting to a specified time and date.

5.2 The names of the Members present at the meeting shall be recorded.

6. Duration of Meeting

6.1 Unless the majority of Members present vote for the meeting to continue, any meeting that has lasted for three hours will adjourn without delay. Any remaining business will be considered at the next ordinary Council Meeting or an alternative date and time for a meeting will be arranged.

7. Minutes

7.1 No discussion will take place upon the minutes of the Council except upon their accuracy.

7.2 The Chairman will sign the minutes of the proceedings at the next suitable meeting.

- 7.3 Where in relation to any meeting of the Authority the next such meeting is a meeting called under paragraph 3 (Extra-Ordinary Meetings) of Schedule 12 of the Local Government Act 1972, the next following meeting of the Authority (being a meeting called otherwise than under that paragraph) shall be treated as a suitable meeting for the purposes of paragraph 41(1) and (2) (Signing of Minutes) of that schedule.

8. Questions by Members on the Report of the Leader of the Council

- 8.1 A Member of the Council may ask the Leader of the Council a question directly arising from the content of the report.
- 8.2 A Member asking a question under this Standing Order may ask one supplementary question which must arise directly out of the original question or reply.

9. Questions by the Public

- 9.1 Members of the public who are on the register of electors, or are tax payers or non-domestic tax payers in the County of Derbyshire, may ask questions of Cabinet Members at ordinary Council Meetings.
- 9.2 A question may only be asked if notice has been given by delivering it in writing or by electronic mail to the Director of Legal and Democratic Services no later than 12 noon at least 10 working days before the Council Meeting (i.e. on a Wednesday 2 weeks before a Council meeting on a Wednesday). Late questions may be asked provided they relate to a report on the agenda and could not have been put before publication of the agenda and notice has been given by delivering it in writing or by electronic email to the Director of Legal and Democratic Services no later than 12 noon at least three working days before the Council Meeting (i.e. on a Friday when Council meets on the following Wednesday). The notice must give the name and address of the questioner and the name of the Cabinet Member of the Council to whom the question is to be put.
- 9.3 At any one Council Meeting no person may submit more than one question, and no more than one such question may be asked on behalf of one organisation.
- 9.4 The Director of Legal and Democratic Services may reject a question if it:

- exceeds 150 words in length;
 - is not about a matter for which the Council has a responsibility, or which affects Derbyshire;
 - asks Council to act in a way that is ultra vires (outside its powers), unlawful or illegal;
 - is defamatory, frivolous or offensive;
 - is substantially the same as a question which has been put at a Council Meeting in the past six months; or
 - requires the disclosure of confidential or exempt information.
- 9.5 Questions for which 10 working days' notice has been given and have not been rejected will be listed in the agenda in the order in which they were received. Questions will be asked in the order notice of them was received, except that the Chairman may group together similar questions.
- 9.6 The Chairman will invite the questioner to put the question to the member named in the notice. If the questioner who has submitted a written question is unable to be present, they may ask the Chairman to put the question on their behalf. In the absence of the questioner, the Chairman may ask the question on the questioner's behalf, indicate that a written reply will be given, or decide that the question will not be dealt with.
- 9.7 If the Cabinet Member to whom the question is asked is unable to be present, the Chairman may put the question to another Cabinet Member or indicate that a written reply will be given.
- 9.8 A questioner who has put a question in person may also put one supplementary question without notice to the Cabinet Member who has replied to their original question. A supplementary question must arise directly out of the original question or the reply and may be rejected by the Chairman on any of the grounds in Standing Order 9.4.
- 9.9 The maximum period of time for questions by the public at a Council Meeting shall be 30 minutes. This period may be extended at the discretion of the Chairman. Any questions not answered at the end of the time allocated for questions by the public will be answered in writing.
- 9.10 The Director of Legal and Democratic Services will keep a record, open to public inspection, of all public questions received and will immediately send a copy of the question to the Member to whom it is to be put. Rejected questions will include reasons for the rejection. Copies of all late questions that could not be listed in the agenda will

be circulated to all Members and will be made available to the public attending the meeting. The Director of Legal and Democratic Services will be responsible for sending to the questioner a copy of the answer provided at the Council Meeting as soon as practicable after the meeting.

10. Petitions

- 10.1 Any petition signed by 100 or more members of the public and not received to be dealt with under a procedure regulated by law, shall be dealt with in accordance with the Council's Petition Scheme.

11. Questions by Members

- 11.1 After giving notice in writing or by electronic email to the Director of Legal and Democratic Services by 12 noon at least 10 working days before the Council Meeting (i.e. on a Wednesday 2 weeks before a Council meeting on a Wednesday), a Member of the Council may ask the Chairman, a Cabinet Member or the Chairman of any Committee or Sub-Committee a question on any matter in relation to which the Council has powers or duties or which directly affects Derbyshire.
- 11.2 A Member may ask the nominated representative of the Derbyshire Fire Authority a question on the discharge of the functions of the Authority. Notice in writing or by electronic email of any such questions must first be given to the Director of Legal and Democratic Services by 12 noon at least 10 working days before the Council Meeting (i.e. on a Wednesday 2 weeks before a Council meeting on a Wednesday).
- 11.3 The Director of Legal and Democratic Services may reject a question if it:
- exceeds 150 words in length;
 - is not about a matter for which the Council has a responsibility, or which directly affects Derbyshire;
 - seeks to ask Council to act in a way that is ultra vires (outside its powers), unlawful or illegal;
 - is defamatory, frivolous or offensive;
 - is substantially the same as a question which has been put at a Council Meeting in the past six months; or
 - requires the disclosure of confidential or exempt information.
- 11.4 Questions for which notice has been given and have not been rejected will be listed in the agenda in the order in which they were

received. Questions will be asked in the order notice of them was received, except that the Chairman may group together similar questions.

- 11.5 If the Member who has submitted a written question is unable to be present, they may ask the Chairman to put the question on their behalf. In the absence of the questioner, the Chairman may ask the question on the questioner's behalf, indicate that a written reply will be given, or decide that the question will not be dealt with.
- 11.6 If the Member of the Council to whom the question is asked is not present at the meeting, the Chairman may put the question to another Cabinet Member or the Vice-Chairman of any Committee or Sub-Committee as appropriate or indicate that a written reply will be given.
- 11.7 An answer may take the form of:
- (a) a direct oral answer;
 - (b) where the desired information is in a publication of the Council or other published work, a reference to that publication; or
 - (c) where the reply cannot conveniently be given orally, a written answer circulated later to the questions.
- 11.8 A Member asking a question under this Standing Order may ask one supplementary question without notice to the Member to whom the first question was asked. The supplementary question must arise directly out of the original question or the reply and may be rejected by the Chairman on any of the grounds in Standing Order 11.3.
- 11.9 The time allocated for questions by Members at each meeting will be 30 minutes. This period may be extended at the discretion of the Chairman. Any questions not answered at the end of the time allocated for questions by Members will be answered in writing.
12. **Reference of Question to the Council, Cabinet or a Committee**
- 12.1 Unless the Chairman decides otherwise, no discussion will take place on any question, but any Member may move that a matter raised by a question be referred to the Cabinet or the appropriate Committee or Sub-Committee. Once seconded, such a motion will be voted upon without discussion.
13. **Notice of Motion**

- 13.1 Notice of a motion shall be given in writing or by electronic mail by the Member to the Director of Legal and Democratic Services by 12 noon at least 10 working days before the Council Meeting (i.e. on a Wednesday 2 weeks before a Council meetings a Wednesday). The Director of Legal and Democratic Services will record the date of receipt in a book which shall be open to inspection by any person.
- 13.2 The Director of Legal and Democratic Services may reject a motion if it:
- is not about a matter for which the Council has a responsibility, or which directly affects Derbyshire;
 - seeks to require Council to make a decision that is ultra vires (outside its powers), unlawful or illegal;
 - is defamatory, frivolous or offensive; or
 - is substantially the same as a motion which has been put at a Council Meeting in the past six months.
- 13.3 A Member may submit a maximum of one notice of motion at a Council Meeting.
- 13.4 Motions for which notice has been given and have not been rejected will be listed in the agenda in the order in which they were received unless the Member who gave notice states in writing that they wish to withdraw it prior to the publication of the agenda.

14. Motions not requiring notice to be given

- 14.1 Notice shall not be required for the following Motions:
- (a) to appoint a chair of the meeting at which the motion is moved;
 - (b) in relation to the accuracy of the minutes;
 - (c) to change the order of business in the agenda;
 - (d) to refer a matter to an appropriate body or individual;
 - (e) to appoint the Chairman, Civic Chairman and Vice Civic Chairman for the year, the Leader of the Council, to committees and sub-committees or outside bodies arising from an item on the summons for the meeting;
 - (f) to receive reports or adoption of recommendations of cabinet, committees or officers and any resolutions arising from them;
 - (g) to withdraw a motion;
 - (h) to amend a motion;
 - (i) to proceed to the next business;
 - (j) that the question be now put;
 - (k) to adjourn a debate;
 - (l) to adjourn a meeting;

- (m) that the meeting continue beyond three hours;
- (n) to suspend a particular Council Procedure Rule;
- (o) to exclude the public and press;
- (p) that a named Member should not be heard further;
- (q) that a named Member should be excluded from the meeting; and
- (q) to give the consent of the council where its consent is required by the constitution.

15. Rules of Debate

- 15.1 Members shall stand when speaking and address the Chairman, unless the Chairman otherwise directs.
- 15.2 Whenever the Chairman rises, any member then standing shall sit and the Council shall be silent.
- 15.3 If two or more Members wish to speak the Chairman shall call one, ordinarily giving the other(s) a later opportunity to speak.
- 15.4 No speech may exceed 10 minutes except with the consent of the Chairman.
- 15.5 A Member may rise on a point of order, or in personal explanation, and shall be entitled to be heard. A point of order shall relate only to an alleged breach of a Standing Order or statutory provision which the Member will specify. A personal explanation shall be confined to a relevant earlier statement which has been misunderstood.
- 15.6 A motion or amendment shall not be discussed unless it has been proposed and seconded.
- 15.7 Where a Member has given notice of a motion but does not propose the motion at the Council Meeting, the motion will be treated as withdrawn.
- 15.8 A Member may alter a motion of which they have given notice with the consent of the Council. The consent of Council will be signified without discussion.
- 15.9 A Member may alter or withdraw a motion they have proposed with the consent of their seconder and the Council. The consent of Council will be signified without discussion.
- 15.10 Only alterations which could be made as an amendment to the motion can be made.

15.11 An amendment must be relevant to the motion and can either be to:

- i) refer a matter to the Cabinet or a committee; or
- ii) insert, add, alter or leave out words.

An amendment must not:

- i) negate or be negative to the motion, or
- ii) seek to introduce into the motion a new issue.

15.12 When a motion is under debate no other motion shall be moved except one of the motions specified in Standing Order 14.1.

15.13 A further amendment shall not be moved while an amendment is being considered.

15.14 The mover of the motion has a right of reply at the close of the debate on the motion or on any amendment. The mover of an amendment has the final right to reply at the close of the debate on the amendment. Any other Member may only speak a second time in a debate under Standing Order 15.5 or with the permission of the Chairman.

15.15 If an amendment is not carried, other amendments to the original motion may be moved.

15.16 If an amendment is carried, the motion as amended becomes the substantive motion to which any further amendments may be moved.

15.17 The ruling of the Chairman under this Standing Order shall not be open to discussion.

16. **Closure Motions**

16.1 At the conclusion of a speech of a Member, another Member may move that the question be now put or the meeting or debate be adjourned. If such closure motion is seconded, and the Chairman does not rule that the matter should be discussed further on that occasion, the Chairman shall put to the vote the closure motion. In the case of a debate closed by a motion that the question be now put the right of reply of the mover of the original motion or amendment under Standing Order 15.14 will then be exercisable.

17. **Budget Motions**

17.1 No motion or amendment to propose a precept shall be considered unless it contains sufficient detail within it to justify the precept. In determining whether or not a particular motion or amendment is in order the Chairman shall have regard to:

- i) advice of relevant officers;
- ii) information available within the motion or amendment concerning proposed reductions or increases in service estimates, or proposed measures which would reduce expenditure or increase income, or the government grant implications of the level of expenditure proposed; and
- iii) any other relevant matter.

18. **Voting**

18.1 When a vote is to be taken the Chairman shall call for Members to use the electronic voting and vote recording system, or a show of hands or, if five Members stand, a recorded vote. If there is a recorded vote a record of those voting for and against will be kept and any Member present but not declaring their vote shall be recorded as abstaining.

18.2 Where immediately after a vote is taken at a meeting of a relevant body, if any Member of that body so requires, there shall be recorded in the minutes of the proceedings of that meeting whether that person cast their vote for the question or against the question or whether they abstained from voting.

In this paragraph "relevant body" means the authority, the Cabinet, a committee or sub-committee of the Authority or a relevant joint committee or sub-committee of such a body.

18.3 Immediately after any vote on any decision relating to the making of the calculation or the issuing of the precept is taken at a budget decision meeting there must be recorded in the minutes the names of the persons who cast votes for the decision or against the decision or who abstained from voting.

18.4 Where three or more persons are nominated for any position and there is not a majority in favour of any one person, the person having the least number of votes shall be disregarded and a fresh vote taken and so on until there is a majority in favour of one person.

18.5 If there are equal numbers of votes for or against, the Chairman will have a second or casting vote. There will be no restriction on how the Chairman chooses to exercise a casting vote.

19. Interests

19.1 Where any business of the meeting relates to or is likely to relate to:

- (a) a Disclosable Pecuniary Interest as described at paragraph 4(1) of the Code of Conduct for Members;
- (b) a Personal Interest as described at paragraph 4(2) of the Code of Conduct for Members; or
- (c) any Other Interest as described at paragraph 4(3) of the Code of Conduct for Members.

held by a Member, the Member must, at the commencement of the consideration of that item of business, or as soon as the interest becomes apparent, disclose to the meeting the existence and nature of that interest.

19.2 Where a Member discloses an interest, and that interest is a Disclosable Pecuniary Interest, the Member must withdraw from the meeting room where the item of business is being discussed and, unless the Member has been granted a dispensation by the Monitoring Officer or Governance, Ethics and Standards Committee, they may not:

- (a) participate in any discussion of the matter at the meeting
- (b) vote on the matter at the meeting
- (c) continue to deal with that matter.

19.3 Disclosures of interests will be recorded in the minutes of the meeting.

20. Disorderly Conduct

20.1 If at a meeting any Member of the Council commits misconduct by persistently disregarding the ruling of the Chairman, by behaving irregularly, improperly or offensively or by willfully obstructing the business of the Council, the Chairman or any other Member may move "that the Member named be not further heard" and the motion, if seconded, shall be put and determined without discussion.

20.2 If misconduct by the Member continues the Chairman shall move that the Member named shall be excluded from the meeting and the motion, if seconded, shall be put and determined without discussion.

20.3 If a member of the public interrupts the proceedings at any meeting the Chairman shall warn the person. If the interruption continues the

Chairman shall order the person's removal from the meeting. In the case of a general disturbance in any part of a meeting open to the public, the Chairman shall order that part to be cleared.

- 20.4 The Chairman may, in the event of a disturbance interfering with the orderly dispatch of business, adjourn or suspend a meeting for such period as the Chairman considers appropriate.

21. **Recording and reporting on meetings**

- 21.1 Members of the public may record and report on meetings which members of the public are allowed to attend. However, oral reporting or oral commentary during meetings is not permitted as this would be disruptive to the good order of the meeting and such conduct would be considered to be disorderly in accordance with Standing Order 20. Where the public are excluded from a meeting, persons present shall not report on the meeting using any means for enabling persons not present to see, hear or receive commentary on proceedings (including filming, photography, audio recording or oral/written commentary) unless the meeting resolves that such reporting can take place.

22. **Committees**

- 22.1 When appointing a committee, the Council may also appoint the Chairman and Vice- Chairman, who in each case must be a Member of the Council.
- 22.2 A **substitute** Member may take the place of a Member who is unable to attend a meeting of one of the Committees or Sub-Committees. For each of the Committees and Sub-Committees for the Council, where a member of a committee is listed as a member of a political group for the purposes of allocating committee seats, all other eligible members of that political group properly notified to the proper officer who are not appointed members of that Committee or Sub-Committee are appointed as substitute members, save that Cabinet Members cannot be appointed as substitute members of an Improvement and Scrutiny Committee, Audit Committee or Regulatory Planning Committee.
- 22.3 Such substitute Member, once named by a member of the absent Member's political group, will be accepted onto the Committee with power to speak and vote.
- 22.4 The substitute member shall announce at the start of the meeting which member they are substituting for.

- 22.5 No member may serve as a substitute on the:
- a) Regulatory Planning Committee unless they have undertaken training in accordance with the Code of Good Planning Practice and as may otherwise be required by the Director of Legal & Democratic Services; or
 - b) Pensions and Investments Committee unless they have undertaken training in line with the Fund's Training Policy.
- 22.6 The **quorum** of a committee or sub-committee shall be one quarter of the whole number of Members, or two, whichever is the greater number.
- 22.7 The Chairman of a committee may call a **special meeting** at any time. A quarter of the Members of a committee may require the Director of Legal and Democratic Services to call a special meeting. The requisition must be in writing or by electronic mail setting out the business to be considered. The special meeting will only consider the business so set out. All meetings of committees shall be summoned by the Director of Legal and Democratic Services.
- 22.8 **Information** - A copy of the agenda of every meeting of a Council committee together with the index of reports of Executive Directors and Directors shall be sent to every Member of the Council, in accordance with the Access to Information Rules.
- 22.9 **Local Members** - With the consent of the Chairman, a Member whose electoral division is directly affected by a matter or who has special knowledge which is relevant, may attend any committee and may speak (but not vote) on any particular matter.
- 22.10 **Requests from Members** - The agenda for any committee shall include consideration of any item requested by a member of the committee, subject to the Director of Legal and Democratic Services receiving notice in writing or by electronic mail at least 10 working days before the date of the meeting.
23. **Application of Standing Orders**
- 23.1 Standing Orders 7 (Minutes), 18 (Voting), 19 (Interests), 20 (Disorderly Conduct), 21 (Recording and Reporting on meetings), 22 (Committees) and 25 (Interpretation) shall apply to meetings of Committees with any necessary adaptation.
24. **Suspension and Variation**

- 24.1 Subject to Standing Order 24.2 any of the preceding Standing Orders may be suspended so far as regards any business of the meeting where suspension is moved.
- 24.2 A motion to suspend Standing Orders shall not be moved without notice unless at least one half of the whole number of the Members of the Council are present.
- 24.3 Any motion to add to, vary or revoke any Standing Order, shall, when proposed and seconded, stand adjourned without discussion to the next ordinary Council Meeting.

25. **Interpretation**

- 25.1 The ruling of the Chairman as to the application and meaning of any Standing Order shall not be challenged.

Appendix 3 - Council Procedure Rules

STANDING ORDERS OF THE COUNTY COUNCIL

1. Annual Meetings
2. General Meetings
3. Quorum
4. Order of Business
5. Minutes
6. Motions Requiring Notice
7. Motions Not Requiring Notice
8. Questions by Members
9. Questions by Members on the Report from Cabinet
10. Questions by the Public
11. Rules of Debate
12. Closure Motions and Budget Motions
13. Voting
14. Interests
15. Disorderly Conduct
16. Petitions
17. Committees
18. Canvassing
19. Suspension and Variation
20. Interpretation

1. The Annual Meeting of Council will be held at 2.00 pm on the third or fourth Wednesday in May each year, as Council may decide.
2. **General meetings** of the Council will take place in accordance with the programme of meetings decided at the Council's Annual Meeting. All meetings will be held at County Hall, Matlock, commencing at 2 pm.
 - 2.1 Members of the public may record and report on meetings which members of the public are allowed to attend. However, oral reporting or oral commentary during meetings is not permitted as this would be disruptive to the good order of the meeting and such conduct would be considered to be disorderly in accordance with Clause 15.
 - 2.2 The Chairman may cancel a scheduled meeting of the Council due to lack of business or in exceptional circumstances after consultation with the Leader of the Council and the Leader of the Main Minority Group.
3. **Quorum** If there are not at least 16 Members present, the Chairman will adjourn the meeting to a specified time and date.
4. The **order of business** at the Council will be as follows:
 - (a) If necessary, the appointment of the Chairman
 - (b) Apologies
 - (c) Declarations of interests
 - (d) Chairman's announcements
 - (e) Minutes of the previous meeting
 - (f) Report of the Leader of the Council and Members' Questions
 - (g) Questions submitted by the public
 - (h) Petitions
 - (i) Questions submitted by Members
 - (j) Reports of officers
 - (k) Presentations
 - (l) Motions
- 4.1 Unless the majority of Members present vote for the meeting to continue, any meeting that has lasted for three hours will adjourn without delay. Any remaining business will be considered at the next ordinary meeting of the Council or an alternative date and time for a meeting will be arranged.
5. No discussion will take place upon the **minutes** of the Council except upon their accuracy.

- 5.1 The Chairman will sign the **Minutes** of the proceedings at the next suitable meeting.
- 5.2 Where in relation to any meeting of the Authority the next such meeting is a meeting called under paragraph 3 (Extra-Ordinary Meetings) of Schedule 12 of the Local Government Act 1972, the next following meeting of the Authority (being a meeting called otherwise than under that paragraph) shall be treated as a suitable meeting for the purposes of paragraph 41(1) and (2) (Signing of Minutes) of that schedule.
6. **Notice of a motion** shall be given in writing or by email by the Member to the Director of Legal and Democratic Services by 12 noon at least 10 working days before the meeting of the Council. The Director of Legal and Democratic Services will record the date of receipt in a book which shall be open to inspection by any person.
- 6.1 Motions for which notice has been given will be listed in the agenda in the order in which they were received unless the Member who gave notice states in writing that they wish to withdraw it.
- 6.2 Motions must be about matters for which the Council has responsibility or which affect its area.
7. **Notice** shall not be required for Motions
- (a) Concerning the appointment of the Chairman of the County Council, Civic Chairman of Derbyshire County Council and Vice Civic Chairman of Derbyshire County Council for the year at the meeting, the accuracy of minutes of the Council, the order of business, or
 - (b) Proposing appointments, or references to decision-making bodies, receipt of minutes and approval of any recommendations, amendments to motions, leave to withdraw motions, adjourning the meeting or exclusion of the public, or
 - (c) Under Standing Orders 12 (closure of debate), 15 (that a named member be not further heard) or 19 (suspension of Standing Orders).
8. **Questions by Members**
- 8.1 After giving written notice to the Director of Legal and Democratic Services by 12 noon on the Friday before the Council Meeting, a Member of the Council may ask the Chairman, a member of the Executive or the Chairman of any Committee or Sub-Committee a question on any matter

in relation to which the Council has powers or duties or which affects Derbyshire.

- 8.2 If the Member of the Council who has submitted a written question is unable to be present, he/she may ask the Chairman to put the question on his/her behalf. In the absence of the questioner, the Chairman may ask the question on the questioner's behalf, indicate that a written reply will be given, or decide that the question will not be dealt with.
- 8.3 An answer may take the form of:
- (a) a direct oral answer;
 - (b) where the desired information is in a publication of the Council or other published work, a reference to that publication; or
 - (c) Where the reply cannot conveniently be given orally, a written answer circulated later to the questions
- 8.4 A Member asking a question under this Standing Order may ask one supplementary question without notice of the Member to whom the first question was asked. The supplementary question must arise directly out of the original question or the reply.
- 8.5 A Member may ask the nominated representative of the Derbyshire Fire Authority a question on the discharge of the functions of the Authority. Written notice of any such questions must first be given to the Director of Legal and Democratic Services by 12noon on the Friday before the Council meeting.
- 8.6 The Director of Legal and Democratic Services may reject a question if it:
- Exceeds 200 words in length;
 - is not about a matter for which the Council has a responsibility, or which affects Derbyshire;
 - is defamatory, frivolous or offensive;
 - is substantially the same as a question which has been put at a meeting of the Council in the past six months; or
 - requires the disclosure of confidential or exempt information.

9A. Questions by Members on the Report of the Leader of the Council

- (a) A Member of the Council may ask the Leader of the Council a question directly arising from the report.
- (b) A Member asking a question under this Standing Order may ask one supplementary question which must arise directly out of the original question or reply.

10. Questions by the Public

General

- 10.1 Members of the public who are on the Derbyshire County Council register of electors, or are Derbyshire County Council tax payers or non-domestic tax payers, may ask questions of members of the Cabinet at ordinary meetings of the Council. The maximum period of time for questions by the public at a Council Meeting shall be 30 minutes.

Order of Questions

- 10.2 Questions will be asked in the order notice of them was received, except that the Chairman may group together similar questions.

Notice of Questions

- 10.3 A question may only be asked if notice has been given by delivering it in writing email to the Director of Legal and Democratic Services no later than 12noon three working days before the Council Meeting (ie on a Friday when Council meets on the following Wednesday). The notice must give the name and address of the questioner and the name of the Cabinet Member of the Council to whom the question is to be put.

Number of Questions

- 10.4 At any one meeting no person may submit more than one question, and no more than one such question may be asked on behalf of one organisation.

Scope of Questions

- 10.5 The Director of Legal and Democratic Services may reject a question if it:
 - Exceeds 200 words in length;

- is not about a matter for which the Council has a responsibility, or which affects Derbyshire;
- is defamatory, frivolous or offensive;
- is substantially the same as a question which has been put at a meeting of the Council in the past six months; or
- requires the disclosure of confidential or exempt information.

Asking the Question at the Meeting

- 10.6 The Chairman will invite the questioner to put the question to the member named in the notice. If the questioner who has submitted a written question is unable to be present, he/she may ask the Chairman to put the question on his/her behalf. In the absence of the questioner, the Chairman may ask the question on the questioner's behalf, indicate that a written reply will be given, or decide that the question will not be dealt with.

Supplementary Question

- 10.7 A questioner who has put a question in person may also put one supplementary question without notice to the Cabinet Member who has replied to his/her original question. A supplementary question must arise directly out of the original question or the reply. The Chairman may reject a supplementary question on any of the grounds in Standing Order 10.5 above.

Written Answers

- 10.8 The time allocated for questions by the public at each meeting will be 30 minutes. This period may be extended at the discretion of the Chairman. Any questions not answered at the end of the time allocated for questions by the public will be answered in writing. Any question that cannot be dealt with during public question time because of the non-attendance of the Cabinet Member to whom it was to be put, will be dealt with by a written answer.

Reference of Question to the Council Cabinet or a Committee

- 10.9 Unless the Chairman decides otherwise, no discussion will take place on any question, but any Member may move that a matter raised by a question be referred to the Cabinet or the appropriate Committee or Sub-

Committee. Once seconded, such a motion will be voted upon without discussion.

Record of Questions

- 10.10 The Director of Legal and Democratic Services will keep a record, open to public inspection, of all public questions received and will immediately send a copy of the question to the Member to whom it is to be put. Rejected questions will include reasons for the rejection. Copies of all questions will be circulated to all Members and will be made available to the public attending the meeting. The Director of Legal and Democratic Services will be responsible for sending to the questioner a copy of the answer provided at the Council Meeting as soon as practicable after the Council Meeting.

11. Rules of Debate

- 11.1 Members shall stand when speaking and address the Chairman.
- 11.2 Whenever the Chairman rises, any member then standing shall sit and the Council shall be silent.
- 11.3 If two or more Members wish to speak the Chairman shall call one, ordinarily giving the other(s) a later opportunity to speak.
- 11.4 A motion or amendment shall not be discussed unless it has been proposed and seconded.
- 11.5 The proposer of a motion with the consent of the Council may alter the motion.
- 11.6 When a motion is under debate no other motion shall be moved except one of the motions specified in Standing Order 7.
- 11.7 No speech may exceed 10 minutes except with the consent of the Chairman.
- 11.8 A Member may rise on a point of order, or in personal explanation, and shall be entitled to be heard. A point of order shall relate only to an alleged breach of a Standing Order or statutory provision which the Member will specify. A personal explanation shall be confined to a relevant earlier statement which has been misunderstood.
- 11.9 The mover of the motion has a right of reply at the close of the debate on the motion or on any amendment. Any other Member may only speak a

second time in a debate under Standing Order 11.8 or with the permission of the Chairman.

11.10 An amendment shall be relevant to the motion and shall not merely negate or be negative to it:

- i) it shall be either to refer a matter to the Cabinet or a committee; or
- ii) to insert, add, alter or leave out words in or from the motion. A further amendment shall not be moved while an amendment is being considered.

11.11 The ruling of the Chairman under this Standing Order shall not be open to discussion.

12. Closure Motions and Budget Motions

12.1 At the conclusion of a speech of a Member, another Member may move that the question be now put or the meeting or debate be adjourned. If such closure motion is seconded, and the Chairman does not rule that the matter should be discussed further on that occasion, the Chairman shall put to the vote the closure motion. In the case of a debate closed by a motion that the question be now put the right of reply of the mover of the original motion will then be exercisable.

12.2 No motion or amendment to propose a precept shall be considered unless it contains sufficient detail within it to justify the precept moved. In determining whether or not a particular motion or amendment is in order the Chairman shall have regard to:

- i) advice of relevant officers;
- ii) information available within the motion or amendment concerning proposed reductions or increases in service estimates, or proposed measures which would reduce expenditure or increase income, or the government grant implications of the level of expenditure proposed; and
- iii) any other relevant matter.

13. Voting

13.1 When a vote is to be taken the Chairman shall call for a show of hands or if five Members stand a recorded vote. If there is a recorded vote a record of those voting for and against will be kept and any Member present but not declaring their vote shall be recorded as abstaining.

- 13.2 Where immediately after a vote is taken at a meeting of a relevant body, if any Member of that body so requires, there shall be recorded in the minutes of the proceedings of that meeting whether that person cast his or her vote for the question or against the question or whether he or she abstained from voting.

In this paragraph "relevant body" means the authority, the Cabinet, a committee or sub-committee of the Authority or a relevant joint committee or sub-committee of such a body.

- 13.3 Immediately after any vote on any decision relating to the making of the calculation or the issuing of the precept is taken at a budget decision meeting there must be recorded in the minutes the names of the persons who cast votes for the decision or against the decision or who abstained from voting.
- 13.4 Where three or more persons are nominated for any position and there is not a majority in favour of any one person, the person having the least number of votes shall be disregarded and a fresh vote taken and so on until there is a majority in favour of one person.
- 13.5 If there are equal numbers of votes for or against, the Chairman will have a second or casting vote. There will be no restriction on how the Chairman chooses to exercise a casting vote.

14. Interests

- 14.1 Where any business of the meeting relates to or is likely to relate to:
- (a) a Disclosable Pecuniary Interest as described at paragraph 4(1) of the Code of Conduct for Members;
 - (b) a Personal Interest as described at paragraph 4(2) of the Code of Conduct for Members; or
 - (c) any Other Interest as described at paragraph 4(3) of the Code of Conduct for Members.

held by a Member, the Member must, at the commencement of the consideration of that item of business, or as soon as the interest becomes apparent, disclose to the meeting the existence and nature of that interest.

- 14.2 Where a Member discloses an interest, and that interest is a Disclosable Pecuniary Interest, the Member must withdraw from the meeting room where the item of business is being discussed and, unless the Member

has been granted a dispensation by the Governance, Ethics and Standards Committee, he or she may not:

- (a) participate in any discussion of the matter at the meeting
- (b) vote on the matter at the meeting
- (c) continue to deal with that matter

14.3 Disclosures of interests will be recorded in the minutes of the meeting.

15. **Disorderly Conduct**

15.1 If at a meeting any Member of the Council commits misconduct by persistently disregarding the ruling of the Chairman, by behaving irregularly, improperly or offensively or by wilfully obstructing the business of the Council, the Chairman or any other Member may move "that the Member named be not further heard" and the motion, if seconded, shall be put and determined without discussion.

15.2 If misconduct by the Member continues the Chairman shall move that the Member named shall be excluded from the meeting and the motion, if seconded, shall be put and determined without discussion.

15.3 If a member of the public interrupts the proceedings at any meeting the Chairman shall warn the person. If the interruption continues the Chairman shall order the person's removal from the meeting. In the case of a general disturbance in any part of a meeting open to the public, the Chairman shall order that part to be cleared.

15.4 The Chairman may, in the event of a disturbance interfering with the orderly dispatch of business, adjourn or suspend a meeting for such period as the Chairman considers appropriate.

16. **Petitions**

16.1 Any **petition** signed by 100 or more members of the public and not received to be dealt with under a procedure regulated by law, shall be dealt with in accordance with the Council's Petition Scheme (Appendix 2).

17. **Committees**

17.1 When **appointing** a committee the Council may also appoint the Chairman and Vice- Chairman, who in each case must be a Member of the Council.

- 17.2 A **substitute** Member may take the place of a Member who is unable to attend a meeting of one of the Committees or Sub-Committees. Such substitute Member, once named by a member of the absent Member's political group, will be accepted onto the Committee with power to speak and vote
- 17.3 The **quorum** of a committee or sub-committee shall be one quarter of the whole number of Members, or two, whichever is the greater number;
- 17.4 **Meetings** - The Chairman of a committee may call a special meeting at any time. A quarter of the Members of a committee may require the Director of Legal and Democratic Services to call a special meeting. The requisition must be in writing setting out the business to be considered. The special meeting will only consider the business so set out. All meetings of committees shall be summoned by the Director of Legal and Democratic Services.
- 17.5 **Information** - A copy of the agenda of every meeting of a Council, committee together with the index of reports of Executive Directors and Directors shall be sent to every Member of the Council, in accordance with the Access to Information Rules (Appendix 6).
- 17.6 **Local Members** - With the consent of the Chairman, a Member whose electoral division is directly affected by a matter or who has special knowledge which is relevant, may attend any committee and may speak (but not vote) on any particular matter.
- 17.7 **Requests from Members** - The agenda for any committee shall include consideration of any item requested by a member of the committee, subject to the Director of Legal and Democratic Services receiving written notice at least 10 working days before the date of the meeting.
- 17.8 **Application of Standing Orders** - Standing Orders 2 (general meetings) 13 (voting), 15 (disorderly conduct) and 20 (interpretation) shall apply to meetings of Committees with any necessary adaptation.
18. **Canvassing** - A Member of the Council shall not solicit for any person any appointment within the Council but this shall not preclude a Member from giving a written reference for a candidate for a post.
19. **Suspension and Variation**
- 19.1 Subject to paragraph 2 of this Standing Order any of the preceding Standing Orders may be suspended so far as regards any business of the meeting where suspension is moved.

- 19.2 A motion to suspend Standing Orders shall not be moved without notice unless at least one half of the whole number of the Members of the Council are present.
- 19.3 Any motion to add to, vary or revoke any Standing Order, shall, when proposed and seconded, stand adjourned without discussion to the next ordinary meeting of the Council.
20. **Interpretation** The ruling of the Chairman as to the application and meaning of any Standing Order shall not be challenged at any meeting of the Council.



FOR PUBLICATION

DERBYSHIRE COUNTY COUNCIL

GOVERNANCE ETHICS AND STANDARDS COMMITTEE

18 January 2022

Report of the Director of Legal Services and Monitoring Officer

Update Regarding the Review of the Ethical Standards Regime

1. Purpose

- 1.1 To report back to the Committee on the progress made by the working groups in relation to the ethical standards regime and approve an amended process for investigating alleged breaches of the Code of Conduct.

2. Information and Analysis

- 2.1 It was agreed at the Governance ,Ethics and Standards Committee on 1st July 2021 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 of the Localism Act 2011.

The proposed Code of Conduct and the process for the granting of dispensations was considered at the 22nd October 2021 Governance, Ethics and Standards Committee meeting and it was agreed that a period of consultation with Members would be undertaken in relation to the new proposed code of conduct and the proposed arrangements for the granting of dispensations were approved. The draft Code of Conduct was circulated to all Members in the week commencing 3rd

January 2022. The outcome of the consultation and a revised Code of Conduct will be reported to a future meeting of the Committee.

- 2.3 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.
- 2.4 The working group met on two occasions and formulated proposals to amend the Council's current process. Immediately following this the Local Government Association issued updated guidance which was more comprehensive than version produced by the working group. The working group has therefore met on a further occasion to consider the guidance issued by the Local Government Association. The proposed draft at Appendix 2 therefore reflects the updated Local Government Association guidance. It is proposed that the Governance, Ethics and Standards Committee approve the revised process to apply to any complaints received from 19 January 2022. It is proposed that any existing complaints should continue to be dealt with under the existing process, a copy of which is attached at Appendix 3 for information.
- 2.5 The second working group also considered the arrangements for the Independent Person. It was agreed at the Committee meeting on 22nd October that the Independent Remuneration Panel would undertake a piece of work to consider options in this regard. The Independent Remuneration Panel has commenced this piece of work and will report it's findings to a future meeting of the Governance, Ethics and Standards Committee.

3. Alternative Options Considered

- 3.1 Do nothing – this option is not appropriate as this would mean the Council's process for addressing allegations of breaches of the code does not reflect the Local Government Association current guidance .

4. Implications

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

5. Consultation

- 5.1 It is not proposed to consult on the proposed process beyond the working group as the changes to the process so not substantially alter the arrangements which are currently in place.

6. Background Papers

- 6.1 Local Government Association guidance on Complaint Handling
<https://www.local.gov.uk/publications/guidance-member-model-code-conduct-complaints-handling>

7. Appendices

- 7.1 Appendix 1 – Implications.
7.2 Appendix 2 – Proposed process for considering complaints that members have breached the code of conduct.
7.3 Appendix 3 – Existing process for considering complaints that members have breached the code of conduct.
7.4 Appendix 4 - Equality Impact Analysis Record

8. Recommendation(s)

- 8.1 That the Governance, Ethics and Standards Committee approves the proposed process for considering complaints that members have breached the code of conduct at Appendix 2.
8.2 That the Governance , Ethics and Standards Committee notes the actions which are ongoing in relation to the code of conduct and Independent Persons.

9. Reasons for Recommendation(s)

- 9.1 To ensure that the Council has an effective process for the determination of alleged breaches and that the process reflects the Local Government Association model guidance.

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Implications

Financial

1. None directly arising from this report.

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.' The proposed code of conduct is currently the subject of consultation with members. Under S28(6), the Council must also have in place arrangements under which allegations can be investigated and decisions on allegations can be made. S28(7) requires those arrangements to include provision for the views of an Independent Person to be sought and taken into account by the Council before it makes its decision on an allegation it has decided to investigate. The proposed process for considering allegations of breaches will comply with the statutory requirements and ensure that there is transparency and due process in the determination of allegations of breaches of the code.
- 2.2 S28(11A)-(11D) require the Council's arrangements for dealing with complaints to contain specific provisions where the Police and Crime Commissioner is a member of the council, specifically that an allegation against the commissioner must be referred to the Police and Crime Panel; the Panel may make a report or recommendations to the council on the allegation and that report/recommendations must be taken into account when determining the complaint.

Human Resources

3.1 None directly arising from this report.

Information Technology

4.1 None directly arising from this report.

Equalities Impact

- 5.1 The proposed process requires a code of conduct complaint to be submitted in writing, as required by S28(9) of the Localism Act 2011 and contain certain information which may have a negative impact on complainants who have a disability that prevents them from making their complaint in writing. The process therefore recognises that the Council is committed to ensuring that its services are accessible to all and reasonable adjustments will be made to enable persons with protected characteristics to utilise this process and mitigate any negative impact. For example, a complainant may have a disability that prevents them from making their complaint in writing. In such cases, the Council would provide appropriate support such as transcribing a verbal complaint and then producing a written copy for approval by the complainant or the complainant's representative.
- 5.2 The proposed process also enables the Monitoring Officer to consider any delay in the submission of a complaint and makes it clear that the Monitoring Officer will normally reject a complaint where the last event complained of took place more than six months prior to the date of the complaint. This could have a negative impact on complainants who, due to disability or serious ill health, could find it challenging to complain within the 6 month time limit. However in order to mitigate any negative impact the Monitoring Officer is required to consider any reason why there had been a delay in making the complaint and would have the discretion to progress a complaint where there are exceptional circumstances or specific reasons that may have impacted the complainant's ability to make a complaint within the timescale.
- 5.3 An Equalities Impact Analysis has been completed and concludes that the proposed revision to the process is not disadvantageous to those persons who have protected characteristics.

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

DERBYSHIRE COUNTY COUNCIL

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

1. Introduction

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

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

2. The Code of Conduct

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

3. Making a Complaint

All complaints must be submitted in writing to:

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

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

The complaint must include;

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

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

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

4. Data Protection

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

5. Conflict of Interest

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

6. Criminal Conduct

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

7. Acknowledging the Complaint

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

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

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

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

8. Initial Filtering of Complaints

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

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

9. Additional Information

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

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

10. Confidentiality

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

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

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

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

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

11.. Initial Assessment of Complaint

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

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

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

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

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

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

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

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

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

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

12. Informal Resolution

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

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

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

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

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

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

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

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

13. Investigation

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

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

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

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

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

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

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

a) Local Resolution

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

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

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

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

b) Hearing

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

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

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

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

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

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

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

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

15. Sanctions

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

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

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

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

16. What Happens at the end of the Hearing?

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

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

17. What is the Hearing Panel?

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

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

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

18. Who is the Independent Person?

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

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

19. Complaints relating to the Police and Crime Commissioner.

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

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

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

20.. Revision of these Arrangements

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

21. Appeals

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

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

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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
- 4. 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.
- 5. 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.
- 6. 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
- 7. A report into an investigation shall include the Investigator's findings on whether the Code has been breached.
- 8. 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.
- 9. 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
- 10. 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.
- 11. 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.
- 12. 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
- 13. 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.
- 14. 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.
- 15. 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.
- 16. 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.
- 17. Any decision of the Monitoring Officer or the Standards Committee or Hearing Sub Committee shall be final and binding.

18. 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
19. 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.
20. In all cases where the Monitoring Officer is unable to perform his role his deputy will do so.

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DERBYSHIRE COUNTY COUNCIL

Complaints against Elected Members

- 1. Please provide us with your name and contact details (see section 5 if you have any concerns about confidentiality):**

Title:	First name:	Last name:
Address:		
		Postcode:
Contact telephone:		
Email address:		
Signature:		
Date of complaint:		

- 2. Please provide us with the name of the Elected Member or Members you believe have breached the Code of Conduct:**

- 3. Please explain in this section (or on separate sheets) what the Member has done that you believe breaches the Code of Conduct. If you are complaining about more than one Member you should clearly explain what each individual person has done that you believe breaches the Code of Conduct.**

It is important that you provide all the information you wish to have taken into account.

For example:

- You should be specific, wherever possible, about exactly what you are alleging the Member said or did. For instance, instead of writing that the Member insulted you, you should state what it was they said.
- You should provide the dates of the alleged incidents wherever possible. If you cannot provide exact dates it is important to give a general timeframe.
- You should confirm whether there are any witnesses to the alleged conduct and provide their names and contact details if possible.
- You should provide any relevant background information.

Please provide details of your complaint in this section (continue on separate sheet if there is not enough room on this form):

Please note that it is helpful to provide as much information as possible, to be specific regarding what was allegedly said or done, the date it happened and whether there were any witnesses.

4. Only complete this section if you are requesting that your identity is kept confidential.

The subject of the complaint will be provided with a copy of the complaint unless to do so:

- might prejudice any criminal investigation or pending proceedings, or
- would otherwise be contrary to the public interest.

In the interests of fairness and natural justice, we believe people who are complained about have a right to know who has made the complaint. The copy of the complaint provided may be anonymised, but we are unlikely to withhold your identity unless you have a good reason for it not to be disclosed.

Please note that requests for confidentiality or requests for suppression of complaint details will not automatically be granted. We will consider your request alongside the substance of your complaint and then contact you with the decision. If your request for confidentiality is not granted we will usually allow you the option of withdrawing your complaint.

However, it is important to understand that in certain exceptional circumstances where the matter complained about is very serious, we can proceed to deal with the complaint and disclose your name even if you have expressly asked us not to.

Please provide us with details of why you believe we should withhold your name and/or details of your complaint:

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5. Additional Help

Complaints must be submitted in writing. This includes electronic submission. However, we can make reasonable adjustments to assist you if you have a disability that prevents you from making your complaint in writing.

If you need any support in completing this form, please let us know as soon as possible.
We can also help if English is not your first language.

6. Please return to:

Helen Barrington

Monitoring Officer and Director of Legal Services

Derbyshire County Council

County Hall

Matlock,

Derbyshire

DE4 3AG

Telephone: 01629 538383

Email: helen.barrington@derbyshire.gov.uk

7. About you

To help monitor the services we offer to different sections of our community, we should be grateful if you would answer the following questions about yourself:

Gender (*please tick*):

<input type="checkbox"/>	Male
<input type="checkbox"/>	Female

Age (*please tick*):

<input type="checkbox"/>	24 and under
<input type="checkbox"/>	25 – 44
<input type="checkbox"/>	45 – 64
<input type="checkbox"/>	65 +

Do you consider yourself to have a disability? (*please tick*)

<input type="checkbox"/>	Yes
<input type="checkbox"/>	No

Ethnic Group (*please tick*):

<input type="checkbox"/>	White British
<input type="checkbox"/>	White Other
<input type="checkbox"/>	Mixed
<input type="checkbox"/>	Asian or Asian British
<input type="checkbox"/>	Black or Black British
<input type="checkbox"/>	Chinese
<input type="checkbox"/>	Other ethnic group (please state):

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Derbyshire County Council
Equality Impact Analysis Record

Service Area	Legal and Democratic Services
Service or function	Reviewing the process for determining complaints against elected members.

Stage 1. Prioritising the analysis**Why has the policy, practice, service or function been chosen?**

The Equality Impact Analysis (EIA) was undertaken to establish what impact the proposed revision of the process for determining complaints against elected members may have. It evaluates if the proposals have a direct or indirectly negative impact on complainants within the nine protected groups identified under the Equality Act 2010. This will ensure that the County Council continues to comply with the requirements of the public sector equality duty.

What if any proposals have been made to alter the policy, service or function?

The process for determining complaints against elected members has been reviewed to ensure that this provides the most appropriate mechanism to undertake this effectively and fairly. The revisions to the current policy include by way of example confirmation that complainants would be supported in submitting a written application should they require assistance to do so in accordance with the Equality Act 2010.

The revised process includes a requirement that complaints should be submitted within six months of the action complained of and that the Monitoring Officer will normally reject a complaint where the last event complained of took place more than six months prior to the date of the complaint. The process does confirm that the Monitoring Officer will however consider any reason why there had been a delay in making the complaint. This may include the particular characteristics of the individual complainant.

The proposed revision to the process has been undertaken with reference to the Local Government Association Guidance on Complaint Handling issued on 21st September 2021.¹

What is the purpose of the policy, practice, service or function?

The process provides a mechanism to enable people to complain if they consider that the conduct of an elected member has fallen below the standard required in accordance with the Derbyshire County Council Code of Conduct. The process details how such a complaint would be evaluated and if appropriate investigated.

¹ <https://www.local.gov.uk/publications/guidance-member-model-code-conduct-complaints-handling>

Stage 2. The scope of the analysis — what it covers

The EIA assesses the impact to persons with the following nine protected characteristics as identified in the Equality Act 2010

- Age
- Disability
- Sex
- Sexual Orientation
- Race (including colour, nationality, ethnic or national origin)
- Religion or belief
- Marriage and civil partnership
- Pregnancy and maternity
- Gender Reassignment

Stage 3. Sources of data

Source	Reason for using
<p>Statistical Data relating to the number of complaints made each year relating to elected members. This is included in the annual review of the Governance, Ethics and Standard Committee.</p> <p>The form which is currently submitted detailing complaints requires complainants to identify their gender, ethnicity and age – range and whether they consider if they have a disability. It does not request information relating to any other protected characteristic.</p>	<p>This information provides details of the number of complaints each year and therefore provides an indication of the number of persons who may be impacted each year by the revised policy.</p> <p>The 2018/19 Annual Report indicated that over the course of the year 2018 to 2019, 4 potential complaints against councillors were received. However, on undertaking preliminary enquiries, none of those complaints were upheld and 2 were considered to fall outside the remit of the Code of Conduct.</p> <p>The 2019/2020 Annual Report indicated that during the period from 21st June 2019 to 30th June 2020 three complaints were received.</p> <p>One complaint was received within the period 1st July 2020 to 31st December 2020 as recorded in the report the GES Committee on 4th March 2021.</p> <p>The majority of complainants identified as white British and male , not having a disability and aged over 25.</p> <p>The number of complaints is insufficient to attach statistical significance to the demographic information identified above.</p>

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Stage 4. Analysing the impact or effects

Protected characteristic	Impact of proposed changes in the policy
<ul style="list-style-type: none"> Age 	No adverse or positive impact can be identified in relation to the proposed revision of the policy.
<ul style="list-style-type: none"> Disability 	<p>The current policy requires complaints to be submitted in writing. This requirement remains but the process confirms that ‘the Council is committed to ensuring that its services are accessible to all and reasonable adjustments will be made to enable persons with protected characteristics to utilise this process.’ The revised process is therefore likely to have a positive impact in relation to those persons who may have found the completion of the form problematic. The complaints form currently indicates that reasonable adjustments will be made and support given but this is not currently included in the policy.</p> <p>The requirement to submit complaints within six months could potentially be detrimental to complainants with a disability. Such detriment is mitigated against by including a provision that the Monitoring Officer would consider any reason for the delay.</p>
<ul style="list-style-type: none"> Sex 	No adverse or positive impact can be identified in relation to the proposed revision of the policy.
<ul style="list-style-type: none"> Sexual Orientation 	No adverse or positive impact can be identified in relation to the proposed revision of the policy.
<ul style="list-style-type: none"> Race (including colour, nationality, ethnic or national origin) 	No adverse or positive impact can be identified in relation to the proposed revision of the policy.
<ul style="list-style-type: none"> Religion or belief 	No adverse or positive impact can be identified in relation to the proposed revision of the policy.
<ul style="list-style-type: none"> Marriage and civil partnership 	No adverse or positive impact can be identified in relation to the proposed revision of the policy.
<ul style="list-style-type: none"> Pregnancy and maternity 	No adverse or positive impact can be identified in relation to the proposed revision of the policy.
<ul style="list-style-type: none"> Gender Reassignment 	No adverse or positive impact can be identified in relation to the proposed revision of the policy.

Stage 5. Main conclusions

Analysis of the above findings demonstrates that the proposed revisions to the process would not significantly disadvantage any of the protected groups.

Although there are gaps in the data, with no statistics for sexual orientation, race, religion, marriage and civil partnership, pregnancy and maternity or gender reassignment, it is not envisaged that there will be any adverse impact to complainants in these groups.

Stage 6. Ways of mitigating unlawful prohibited conduct or unwanted adverse impact, or to promote improved equality of opportunity and/or good relations.

The process has been made more inclusive by ensuring that it is explicit within the policy and not just the complaint form that potential complainants would be assisted with the completion of the form if requiring assistance. It may also be helpful to revise the form to include all protected characteristics within the 'about you' section to ensure that the available information for future reviews is richer.