



**FOR PUBLICATION**

**DERBYSHIRE COUNTY COUNCIL**

**GOVERNANCE ETHICS AND STANDARDS COMMITTEE**

**20 October 2021**

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

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

**1. Purpose**

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

**2. Information and Analysis**

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

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

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

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

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

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

The Committee would consider dispensations falling within the following sections:

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

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

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

### **3. Alternative Options Considered**

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

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

#### **4. Implications**

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

#### **5. Consultation**

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

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

- 6.1 None

#### **7. Appendices**

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

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

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

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

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

9.1 To ensure that all Members are aware of the proposed changes in the Code of conduct and have the opportunity to comment upon the proposed changes.

9.2 To enable the process of considering requests for dispensations to be undertaken efficiently , effectively and transparently.

9.3 To enable full consideration to be given to the LGA process which was published following the conclusion of the second report.

9.4 The involvement of the Independent Remuneration Panel will enable transparency and independence as regards remuneration to be demonstrated.

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**Contact details:**

**This report has been approved by the following officers:**

<p><b>On behalf of:</b>  Director of Legal Services and Monitoring Officer Director of Finance and ICT Managing Executive Director Executive Director(s)</p>	
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**Implications**

**Appendix 1**

## **Financial**

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

## **Legal**

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

## **Human Resources**

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

## **Information Technology**

4.1 None

## **Equalities Impact**

5.1 Not applicable

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

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

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

7.1 None

Report Sign Off and Version Control

Report Title	
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Author	
Meeting and Date	
Version	
Exempt item	

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

Author's Directorate Sign Off

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