



**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 1<sup>st</sup> 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 22<sup>nd</sup> 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 3<sup>rd</sup>

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 22<sup>nd</sup> 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

