



FOR PUBLICATION

DERBYSHIRE COUNTY COUNCIL

GOVERNANCE, ETHICS AND STANDARDS COMMITTEE

THURSDAY, 13 JULY 2023

**Report of the Director - Legal and Democratic Services and the Interim
Director of Organisation Resilience, People and Communications**

Code of Conduct for Employees

1. Purpose

- 1.1 To agree the updates and amendments to the Code of Conduct for Employees following the scheduled review, and recommendations by the Appointments and Conditions of Service Committee; and
- 1.2 To consider an amendment to the Constitution to remove the Code of Conduct for Employees and the Ethics Statement from the Constitution and delegate decision-making regarding future amendments to the Appointments and Conditions of Service Committee

2. Information and Analysis

- 2.1 The Council's employment procedures are updated and reviewed on an ongoing basis to ensure they remain relevant and up to date to ensure the Council meets its commitments outlined in the Council Plan. Work has been undertaken to review and revise the current Code of Conduct for Officers to ensure it remains relevant and fit for purpose.
- 2.2 On 27th June 2023, the Appointments and Conditions of Service Committee (ACOS) agreed a revised Code of Conduct for Employees.

ACOS also supported the proposal that that the Ethics Statement, which is currently a separate document at Appendix 10 of the Constitution should be incorporated into the Code and no longer remain separate. A copy of the report to the Appointments and Conditions of Service Committee setting out the proposed amendments and the reasons for those amendments is attached at Appendix 2.

- 2.3 Currently the Code of Conduct for Officers is included at Appendix 12 to the Constitution and any amendments must therefore be considered by the Governance, Ethics and Standards (GES) Committee and approved by full Council.
- 2.4 In addition to the amendments detailed in the attached report, ACOS Committee recommended at its meeting on 27 June 2023 to remove the Code of Conduct from the Constitution and propose that the role of the ACOS Committee be amended so that ACOS Committee has delegated authority to approve future changes to the Employee Code of Conduct.
- 2.5 Whilst the inclusion of the Employee Code of Conduct within the Constitution may raise the profile of the Code and ensure Member support for the Code, no other employment policy forms part of the Constitution. Furthermore, as an employment document, it is appropriate for it to be regularly updated and reflect employment conditions at any given time. Removing the Code from the Constitution will result in the Code being considered in line with other employment policies and enable amendments to be made and implemented more quickly and efficiently.
- 2.6 Removal of these two documents will also require further amendments to be made to the Constitution to re-number the appendices.
- 2.7 Should GES Committee support the recommendations then these will be presented to full Council for approval at its meeting on 13th September 2023.

3. Consultation

- 3.1 Consultation for the amendments to the Code of Conduct with recognised trade unions has been undertaken initially through the CJC HR Operation Workstream and latterly through the Policy Forum. Initial suggestions have been discussed and wording strengthened on the areas where the trade unions have expressed concerns. Further minor comments were received at the Policy Forum on 16th May and

20th June 2023. Where appropriate these have been incorporated into the Code of Conduct. The final document has been shared with trade unions and it is anticipated that we will reach agreement to the changes made to the Code of Conduct.

- 3.2 Consultation has not been undertaken in relation to whether or not the Code should be included within the Constitution as this is an administrative decision.

4. Alternative Options Considered

- 4.1 An alternative option would be to retain the Code of Conduct and the Ethics Statement as part of the Constitution. Whilst this might raise the profile of the Code and ensure Member support, it would entail any future amendments, however minor, being referred to both GES Committee and full Council for approval.

5. Implications

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

6. Background Papers

- 6.1 None.

7. Appendices

- 7.1 Appendix 1 – Implications
7.2 Appendix 2 – ACOS Report 27 June 2023 – Code of Conduct for Employees
7.3 Appendix 3 – EIA

8. Recommendation(s)

That Committee:

- a) Supports the amendments to the Employee Code of Conduct as outlined in the report and as recommended by ACOS and recommends them to full Council for approval.
- b) Supports the proposal and recommends to full Council that the Code of Conduct currently included within the Constitution at Appendix 12 and the Ethics Statement at Appendix 10 are removed from the Constitution and supports and recommends to full Council the proposal that

responsibility for the consideration and approval of the Code of Conduct is delegated to the ACOS committee as a corporate employment policy

- c) Recommends to full Council that should Council approve the recommendation, any consequential amendments resulting from the removal of these two appendices should be made to the Constitution.

9. Reasons for Recommendation(s)

- 9.1 It is considered that the proposed revisions will provide more clarity for employees and managers and reflect best practice when dealing with conduct issues.
- 9.2 The removal of the Code of Conduct for Officers and the Ethics Statement from the Constitution will enable future amendments to be implemented more expeditiously as it will only require consideration by one Committee. As the Code of Conduct is the only employment policy included in the Constitution, removal of it and delegation of responsibility to the ACOS Committee would align it with the other Council employment policies and ensure that all such policies are considered by the same Committee under the same procedure.

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Implications

Financial

- 1.1 None

Legal

- 2.1 Section 9P of the Local Government Act 2000 requires a local authority to prepare and keep up to date a constitution, which must contain a copy of the authority's standing orders and a copy of the authority's code of conduct and such information as the Secretary of State may direct.
- 2.2 In 2000, the Secretary of State issued the Local Government Act 2000 (Constitutions) (England) Direction 2000 which set out the information that the constitution of a local authority should contain. This includes, "A description of the roles of officers of the local authority including...the code of conduct for local government employees issued by the Secretary of State in accordance with section 82 of the Local Government Act 2000." Since the issue of the Direction, section 82 has been repealed for England by the Localism Act 2011 and no longer applies. The Council could, therefore, agree to remove the Code of Conduct for Officers from the Constitution and delegate responsibility for its approval to the Appointments and Conditions of Service Committee. This is a non-executive function and can therefore be delegated to the Committee.
- 2.3 Under its terms of reference, the Governance Ethics and Standards Committee is required to advise the Council on the monitoring, amendments to and overall operation of the Constitution. Article 22 of the Constitution also makes it clear that changes to the Constitution will only be approved by full Council after consideration of the proposal by the Governance, Ethics and Standards Committee. Therefore, GES Committee is required to consider the amendments to the Code of Conduct and the proposal to remove it from the Constitution.

Human Resources

- 3.1 Legal comments have been sought and incorporated. Legal Services have suggested it would be advisable to ensure employees be required to sign to confirm receipt of the Code of Conduct. It is proposed to include a statement within the employment contract which outlines that in signing the contract the employee accepts receipt of the Code of Conduct. This is in response to feedback from disciplinary cases whereby an employee has breached the Code of Conduct, but

individual's state they were not aware of it. Work will be undertaken with HR Services to facilitate this.

Information Technology

4.1 None

Equalities Impact

5.1 An Equalities Impact Assessment has been completed and shared for comment with the Equalities, Diversity and Inclusion Manager. A copy of this document is attached as Appendix 3.

Corporate objectives and priorities for change

6.1 None

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

7.1 To enable organisational transformation and effective employee relations.