



FOR PUBLICATION

DERBYSHIRE COUNTY COUNCIL

GOVERNANCE, ETHICS AND STANDARDS COMMITTEE

THURSDAY, 18 JANUARY 2024

Report of the Director - Legal and Democratic Services

**Review of the Code of Conduct for Elected Members and arrangements
for dealing with complaints made under the Code of Conduct**

1. Purpose

- 1.1 A review of the current Code of Conduct for Members and procedure for considering complaints that Members have breached the Code of Conduct has been undertaken by the Working Group nominated by this Committee and the purpose of this report is to inform the Committee of the outcome of the review and make recommendations for amendments.

2. Information and Analysis

- 2.1 At its meeting in October 2023, the Governance, Ethics and Standards Committee agreed that a Working Group should be established to review the current Code of Conduct for Members and procedure for considering complaints that Members have breached the Code of Conduct. The Working Group, comprising Councillors Swann, Flatley and C Dale met on 28th November to undertake the review.
- 2.2 Following the findings of the report of the Committee on Standards in Public Life on Local Government Ethical Standards which were reported to the Governance, Ethics and Standards Committee together with the new model Code of Conduct published by the LGA in January 2021, the Governance, Ethics and Standards Committee set up two working groups

in July 2021 to consider and revise the standards regime at Derbyshire County Council.

- 2.3 The review resulted in the Council adopting a new Code of Conduct in April 2022 and procedure for considering complaints that Members have breached the Code of Conduct in January 2022. The documents were based on the model Code of Conduct and guidance produced by the Local Government Association.
- 2.4 The new Code and procedure for dealing with complaints have now been in place for more than 12 months. One of the recommendations from the Committee for Standards in Public Life was that principal authorities should review their Code of Conduct each year and regularly seek where possible, the views of the public, community organisations and neighbouring authorities. The LGA model code also includes the following *“the LGA will undertake an annual review of this Code to ensure it continues to be fit for purpose, incorporating advances in technology, social media and changes in legislation”*. Therefore, it was appropriate to review both documents and consider any revisions required to enhance the regime and ensure that the best practice identified by the Committee for Standards on Public Life is being put into practice.
- 2.5 In considering complaints made against Members, the Council receives very few complaints. In the municipal year 2021- 2022 only one complaint was received; 7 complaints were received in 2022 – 2023, but one of those was withdrawn; and only one complaint has been received so far in 2023 – 2024. No increase has been noted since the adoption of the new Procedure and the new Code. The Monitoring Officer has not determined that any complaints received require further investigation, and no complaints have progressed to hearing.
- 2.6 At the time of developing the procedure for dealing with complaints, consideration was given to the timescales involved in dealing with complaints and the timescales are now generally adhered to with complaints being dealt with in a timely manner and no issues being raised by the Monitoring Officer when dealing with complaints in accordance with the procedure.
- 2.7 Therefore, in general terms, the Working Group was satisfied that the implementation of the Code of Conduct and procedure for dealing with complaints appear to have been successful and is working well.
- 2.8 However, the Working Group did consider that there were two specific amendments which needed to be made. The first was an omission from the Procedure for Considering Complaints. The Working Group identified

that whilst the list of sanctions at section 15 of the Procedure for dealing with complaints includes removal of members from any or all committees of the Council or Cabinet, there is no similar sanction to remove the Leader. This was included in the previous version of the Code of Conduct and the LGA guidance on complaints handling, but was omitted erroneously in preparing the current version. The Working Group was therefore of the view that this sanction should be re-instated. Members should be aware that although this was missing from the procedure for considering complaints, the list is not exhaustive and therefore such a sanction would have been available to a Hearing Panel should that have been necessary.. A copy of the amended procedure for considering complaints including this sanction is attached at Appendix 2 for approval.

- 2.9 The Working Group also considered that it would be appropriate to make a change to the presentation of the Code on page 2. The LGA model Code says:

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

Building on these principles, the following general principles have been developed specifically for the role of councillor.

In accordance with the public trust placed in me, on all occasions:

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

In undertaking my role:

- I impartially exercise my responsibilities in the interests of the local community*
- I do not improperly seek to confer an advantage, or disadvantage, on any person*
- I avoid conflicts of interest*
- I exercise reasonable care and diligence; and*
- I ensure that public resources are used prudently in accordance with my local authority's requirements and in the public interest.*

The Derbyshire Code omits the highlighted section and splits the two sets of bullet points around the Nolan principles. Therefore, the working group were of the view that it would be appropriate to add in the highlighted section and to list the principles after the Nolan

Principles. A copy of the amended Code of Conduct is attached at Appendix 3 for agreement and referral to Council for approval.

- 2.10 The Working Group also considered the need for regular review of the procedure for considering complaints against Members and the Code of Conduct. One of the recommendations from the Committee for Standards in Public Life was that principal authorities should review their Code of Conduct each year and regularly seek where possible, the views of the public, community organisations and neighbouring authorities. The LGA model code also includes the following *“the LGA will undertake an annual review of this Code to ensure it continues to be fit for purpose, incorporating advances in technology, social media and changes in legislation”*.
- 2.11 However, the Working Group also noted that these are recommendations and advice, rather than a requirement. Therefore, in light of the small number of complaints received by the authority, the fact that the current arrangements are working well, and that only minor amendments are required to the Code of Conduct to correct a previous error and in terms of presentation, the Working Group was of the view that it was not necessary to review the arrangements annually as this was disproportionate in terms of officer and Member time. The Group suggested that a review once every two years would be more appropriate and proportionate.
- 2.12 The need for additional training for Members was also considered by the Working Group. It was noted that significant training had been offered to Members on the adoption of the new Code of Conduct which had been successful. However, it was also noted that the declaration of interests regime is significantly different to previously and the Working Group felt that Members would find it useful to have refresher training focussing on scenarios and practical examples of interests which needed to be declared.

3. Consultation

- 3.1 Not applicable.

4. Alternative Options Considered

- 4.1 Not to amend the current Code of Conduct and procedure for considering complaints as recommended. However, this is not recommended as the review has identified appropriate amendments

and to not make those amendments would not ensure that the regime is fit for purpose.

5. Implications

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

6. Background Papers

6.1 None identified.

7. Appendices

7.1 Appendix 1 – Implications

7.2 Appendix 2 – Derbyshire County Council’s Arrangements for dealing with complaints that members have breached the Code of Conduct with suggested amendments highlighted.

7.3 Appendix 3 - Derbyshire County Council’s Code of Conduct for Councillors with suggested amendments highlighted.

8. Recommendation(s)

That Committee:

- a) supports the proposal to include the additional sanction and approves the revised Procedure for Considering Complaints that Members have breached the Code of Conduct at Appendix 2;
- b) agrees the proposed amendment regarding presentation outlined at paragraph 2.9 and included in the revised Code of Conduct at Appendix 3 and refers these amendments to Council for approval and inclusion within the Constitution;
- d) agrees that there should be a review of the procedure for considering complaints against Members and the Code of Conduct for Members once every two years with the next review being scheduled for October 2025; and
- e) requests officers to implement further training in respect of the requirements for declaring interests.

9. Reasons for Recommendation(s)

9.1 To ensure that the Code of Conduct and arrangements for dealing with complaints against elected members remains up to date and fit for

purpose and to ensure that appropriate training is available to all members.

Report Author: Elizabeth Wild

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

Implications

Financial

1.1 None

Legal

- 2.1 The Localism Act 2011 sets out the statutory framework for ethical standards and the Council must be satisfied that current arrangements comply with those statutory requirements.
- 2.2 The report of the Committee on Standards in Public Life set out guidance for best practice in respect of the standards regime in local authorities and it would be appropriate for the Council to ensure that these are taken into account within its current regime.
- 2.3 The Governance, Ethics and Standards Committee has the authority to design, implement, monitor, approve and review the standards of ethics and probity of the Council, both for Elected Members and Officers and is therefore able to approve amendments to the procedure for considering complaints. However the adoption and revisions to the Members' Code of Conduct is reserved to the Council.
- 2.4 The Committee is also responsible for overseeing and managing programmes of guidance, advice and training on ethics, standards and probity for Elected Members on the Members Code of Conduct.

Human Resources

3.1 None directly arising out of this report.

Information Technology

4.1 None directly arising out of this report.

Equalities Impact

5.1 None directly arising out of this report.

Corporate objectives and priorities for change

6.1 None directly arising out of this report.

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

7.1 None directly arising out of this report.