

ASHFIELD DISTRICT COUNCIL



Council Offices,
Urban Road,
Kirkby in Ashfield
Nottingham
NG17 8DA

Agenda

Standards and Personnel Appeals Committee

Date: **Monday, 10th December, 2018**

Time: **10.00 am**

Venue: **Council Chamber, Council Offices, Urban Road,
Kirkby-in-Ashfield**

For any further information please contact:

Lynn Cain

l.cain@ashfield.gov.uk

01623 457317

STANDARDS AND PERSONNEL APPEALS COMMITTEE

Membership

Chairman: Councillor Christine Quinn-Wilcox

Councillors:

Cheryl Butler
Lauren Mitchell
Helen-Ann Smith

Cathy Mason
Phil Rostance
Vacancy

Parish Representatives:

Councillor Jason Zadrozny
Stuart Fletcher

Annesley & Felley Parish Council
Selston Parish Council

Co-opted Representatives:

Vacancy
Vacancy

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SUMMONS

You are hereby requested to attend a meeting of the Standards and Personnel Appeals Committee to be held at the time/place and on the date mentioned above for the purpose of transacting the business set out below.



R. Mitchell
Chief Executive

AGENDA

Page

1. To receive apologies for absence, if any.
2. Declarations of Disclosable Pecuniary or Personal Interests and Non Disclosable Pecuniary/Other Interests.
3. To receive and approve as correct records the minutes of the meetings of the Committee held on 2nd July and 15th October, 2018 (including reconvened meeting on the 23rd October, 2018). 5 - 12
4. Disclosure and Barring Service Checks for Members – Review of Policy. 13 - 20
5. Quarterly Complaints Update. 21 - 34

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STANDARDS AND PERSONNEL APPEALS COMMITTEE

Meeting held in the Committee Room, Council Offices, Urban Road, Kirkby-in-Ashfield,

on Monday, 2nd July, 2018 at 10.00 am

Present: Councillor Christine Quinn-Wilcox in the Chair;

Councillors Cheryl Butler, Cathy Mason,
Lauren Mitchell, Phil Rostance and
Helen-Ann Smith.

Mr. Stuart Fletcher (Selston Parish Council
Representative).

Apology for Absence: Councillor Jason Zadrozny (Annesley & Felley
Parish Council Representative) .

Officers Present: Lynn Cain and Ruth Dennis.

SP.1 Declarations of Disclosable Pecuniary or Personal Interests and Non Disclosable Pecuniary/Other Interests

There were no declarations of interest made.

(During consideration of this item, Councillor Phil Rostance entered the
meeting at 10.07 a.m.)

SP.2 Minutes

RESOLVED

that the minutes of the meeting of the Committee held on 28th March, 2018, be
received and approved as a correct record.

SP.3 Standards and Personnel Appeals Committee Work Plan 2018/2019

Committee were requested to consider and approve the proposed Work Plan
for the 2018/19 municipal year. The Director of Legal and Governance
explained that the Work Plan included standing work items which the
Committee considered annually, such as updating the Constitution, the
operation of the Council's Whistleblowing Policy and quarterly monitoring of
complaints against Members.

The new items for 2018/19 included the following:-

Members' Attendance Update

An annual Members' Attendance update had been included on the Work Plan
following the implementation of an attendance element to Members'

Allowances arising from the Independent Review Panel recommendations in 2016. The data collection and process for assessing the performance element commenced in June 2017.

DBS Check Policy Review

When the DBS Check Policy was first approved it was agreed that the content would be reviewed bi-annually to ensure it remained fit for purpose.

Members' Induction and Training Programme

It was envisaged that the Standards and Personnel Appeals Committee Members would be involved in the development of a Members' Induction and Training Programme for implementation following the District Elections in May 2019. The review would also encompass the Council's wider Member Development Programme and the ongoing training requirements for both District and Parish Members. The work would most probably be undertaken by a smaller, more informal working group made up of Standards and Personnel Appeals Committee Members.

Review of the Ethical Governance Arrangements for Selston Parish Council

Following a series of complaints relating to Selston Parish Council earlier this year it was agreed that an update would be given to the Committee in December 2018 regarding the Parish Council's current ethical and governance arrangements. To endeavour to assist, the Council had agreed that one of the Deputy Monitoring Officers would attend the Parish Council Meetings to observe and provide general guidance as necessary.

A decision was also made at the Annual Council Meeting in May 2018, to appoint two Parish Council Co-optees (one from Annesley & Felley and one from Selston) to the Committee to enable information, comments and feedback to be shared in a timely and transparent manner. Councillor Jason Zadrozny had been appointed for Annesley & Felley Parish Council and Mr. Stuart Fletcher for Selston Parish Council.

With regard to the Ethical Governance review, Committee were advised that the cost of undertaking the review would fall to the Parish Council and a scoping meeting would be taking place imminently between the Council and the Parish to firm up the requirements for the review exercise.

RESOLVED

that the Standards and Personnel Appeals Committee Work Plan for 2018/19, as outlined in the report, be approved.

Reason:

To reflect good practice.

SP.4 Members' Attendance - Update

The Director of Legal and Governance updated the Committee in relation to Members' attendance at meetings and training over the past 12 months as part of the data capture exercise for the Performance Related Element of the Members' Allowance.

The Performance Element came into operation in May 2017 and Members were individually informed of their attendance record on a quarterly basis with this information also being shared with their relevant Group Leader. Following the first year of implementation, only one Member had fallen below the required 70% attendance level and had recorded a 36% attendance overall.

The Committee discussed the various types of authorised and unauthorised absences (as outlined in the Guidance approved at Council in April 2017) and were informed that the Director of Legal and Governance had tried to take a pragmatic and flexible approach to authorising absences throughout the year. For example, when Members had taken care to book holidays around their scheduled Committee meetings and then those meeting dates were unavoidably changed and fell within the holiday period, the absence would be classed as authorised to ensure the Member was not unduly penalised through no fault of their own.

Members considered the current criteria and made some suggestions for change but it was agreed that the process had only been in place for 12 months and should at least be allowed to continue for a further 12 months before any potential changes to the guidance were made. In any event the Independent Review Panel (IRP) would be returning to the Council to commence a new review into Members' Allowances in 2019/2020 in accordance with current legislative requirements.

To conclude, Members discussed general meeting etiquette including the correct process for submitting apologies for Committee meetings. Slight concerns were raised that many Members were not following some of the agreed procedures and it was agreed that an appropriate training session for newly appointed Councillors after the May 2019 elections might be beneficial.

RESOLVED that

- a) the record of Members' attendance for the 2017/18 municipal year, as outlined in the report, be received and noted;
- b) the Director of Legal and Governance (and Monitoring Officer) be requested to undertake the following:-
 - to send out an e-mail to current Members reminding them of the agreed procedure for submitting apologies for meetings to the Democratic Services Team;
 - to ensure that an appropriate meeting etiquette training session be scheduled into the New Member Induction Programme for 2019.

Reason:

To ensure a clear and transparent process regarding the payment of the performance element of the Members' Allowance and to enable the Committee to perform its monitoring role in relation to the ethical governance of the Authority.

SP.5 Politically Restricted Posts - Update

The Director of Legal and Governance sought approval from the Committee to update the list of politically restricted posts to incorporate new job title to re-designated posts following the recent Third Tier Officer restructure.

RESOLVED

that the updated list of Politically Restricted Posts, as appended to the report and compiled in accordance with the requirement of the Local Government and Housing Act 1989 and associated regulations, be approved.

Reason:

To comply with the requirements of the Local Government and Housing Act 1989 and associated regulations.

SP.6 Quarterly Complaints Update

The Director of Legal and Governance presented the report to provide an update in respect of the number of alleged Member Code of Conduct complaints received for the period 21st March, 2018 to 22nd June, 2018.

Members were advised that the report noted one new complaint had been received since the last report was presented and initial enquiries were already underway. A further two complaints had been received since the report was prepared; one against a District Councillor and one against a Parish Councillor.

Following the recent spate of complaints relating to Selston Parish Council, one of the Council's Deputy Monitoring Officers had been attending the Parish Council meetings in an observatory capacity to enable feedback and guidance to be provided in relation to governance issues as required.

Since the last meeting, Council had approved the appointment of two Parish Council representatives to the Committee with Councillor Jason Zadrozny being the representative for Annesley & Felley and Parish Councillor Stuart Fletcher for Selston. It was hoped that the appointments would be beneficial to both the Committee and the Parish representatives over the coming year. Members also noted that the Council would be again endeavouring to recruit two Co-opted Members to the Committee within the next 6 months.

In relation to the list of complaints, Committee were reminded that the list was anonymised but did highlight the formation of any possible trends i.e. the increase of social media as a medium for potential bullying and defamation and the spate of complaints against Selston Parish Council following a particularly fractious meeting.

The Director of Legal and Governance took the opportunity to speak about the cluster of Selston Parish Council complaints and informed Committee that they had initially been put on hold pending a police investigation into an incident that has occurred at the same Parish meeting. However, the Council had recently been informed that the investigation had been concluded and the complaints would now be dealt with by an external third party as the Council did not currently have the resources available to undertake the investigation.

To conclude, Members were informed that the revised Members' Complaints Process had been approved at the Annual Meeting of the Council in May 2018 and would be applied to any complaints going forward.

(At this point in the proceedings and in accordance with the Members' Code of Conduct and the Council's Constitution, Councillor Christine Quinn-Wilcox declared a Non Disclosable Pecuniary/Other Interest in relation to her current position as Parish Councillor for Selston. Her interest was such that she remained in the room and took part in the discussion and voting thereon.)

A brief debate took place whereby Members discussed the following:-

- concerns regarding the weak sanctions available to local authorities to reprimand Councillors found to be in breach of the Members' Code of Conduct;
- ongoing limitations surrounding the election of committed Parish Councillors to the role due to lack of guidance, training and monetary recompense;
- the problems being experienced by Selston Parish Council being driven by political motivated Parish Councillors and the destructive impact of such actions;
- acknowledgement that the District Council was restricted in the influence it could bring to bear on solving political struggles at Parish Council level;
- the rules for co-option at Parish Council level and the balance of elected and co-opted Members holding Selston Parish Council seats.

RESOLVED

that the updated position in relation to Members' Code of Conduct complaints for the period 21st March, 2018 to 22nd June, 2018, as outlined in the Appendix to the report, be noted.

Reason:

To reflect good practice and to enable Members to monitor the volume and progress of complaints.

(During discussion of this item, Councillor Cathy Mason left the room at 11.05 a.m. and returned to the meeting at 11.07 a.m.)

The meeting closed at 11.25 am

Chairman.

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STANDARDS AND PERSONNEL APPEALS COMMITTEE

Meeting held in the Council Chamber, Council Offices, Urban Road, Kirkby-in-Ashfield,

on Monday, 15th October, 2018 at 10.00 am and reconvened on
Tuesday, 23rd October, 2018 at 9.30 a.m.

Present: Councillor Christine Quinn-Wilcox in the Chair;

Councillors Cheryl Butler, Cathy Mason,
Lauren Mitchell and Helen-Ann Smith.

Apology for Absence: Councillor Phil Rostance.

Officers Present: Ruth Dennis and Kate Hill.

Council's Representative: Carol Cooper-Smith (assisted by Justine Wright).

Appellant's Representative: Janis Haynes.

SP.7 Declarations of Disclosable Pecuniary or Personal Interests **and Non Disclosable Pecuniary/Other Interests**

No declarations of interest were made.

SP.8 Minutes

RESOLVED

that the minutes of the meeting of the Committee held on 2nd July, 2018, be received and approved as a correct record.

SP.9 Section 100A Local Government Act 1972: **Exclusion of the Press and Public**

RESOLVED

that in accordance with the provisions of Section 100A of the Local Government Act 1972, the press and public be now excluded from the meeting during the following item of business on the grounds that it involves the likely disclosure of exempt information as defined in paragraphs 1 and 3 of part 1 of Schedule 12A of the Act and in respect of which the Proper Officer considers the public interest in maintaining the exemption outweighs the public interest in disclosing the information.

SP.10 Determination of Appeal Against Dismissal

The Committee heard an appeal by R.B. against the decision of the Interim Director for Place and Communities to dismiss the Appellant from the Council's employment.

The Council's representative presented management's case as set out in the statement of case attached to the agenda.

(Following management's presentation of their statement of case and having been in session for almost 7 hours, it was agreed by all parties to adjourn the meeting at 4.20 p.m. and reschedule the hearing for Tuesday, 23rd October, 2018 at 9.30 a.m.)

Having reconvened the meeting, the Appellant, the Appellant's representative and the Committee Members were given the opportunity to ask questions of the Council's representative. The Council's Representative declined to call any witnesses.

The Appellant and the Appellant's representative presented the case for R.B. as set out in the statement of case attached to the agenda. The Council's representative and Committee Members were given the opportunity to ask questions of Appellant and the Appellant's representative. The Appellant declined to call any witnesses.

The Council's representative, the Appellant and the Appellant's representative were given the opportunity to sum up their respective cases.

The Chairman then required all parties to withdraw from the meeting to enable Members to deliberate on the appeal.

The Chairman subsequently invited all parties back to the meeting to hear the decision of the Committee.

RESOLVED

that the Committee concur with the findings of the Interim Director for Place and Communities and the appeal be therefore rejected.

The meetings closed at 4.20 p.m. (15th October) and 3.10 p.m. (23rd October)

Chairman.

Report To:	STANDARDS AND PERSONNEL APPEALS COMMITTEE	Date:	10 DECEMBER 2018
Heading:	DISCLOSURE AND BARRING SERVICE CHECKS FOR MEMBERS – REVIEW OF THE POLICY		
Portfolio Holder:	NOT APPLICABLE		
Ward/s:	NOT APPLICABLE		
Key Decision:	NO		
Subject to Call-In:	NO		

Purpose of Report

The report is to update the Committee in respect of the implementation of the Policy on Disclosure and Barring Service for Members which was introduced in May 2017 and to consider the amended policy.

Recommendation(s)

Committee is asked to :

- 1. Note the update in relation to the implementation of the Policy on Disclosure and Barring Service for Members;**
- 2. Consider if all Members should continue to be DBS checked; and if so,**
- 3. Recommend to Council what level of check Members should undergo; and**
- 4. Recommend to Council the amended Policy as set out in Appendix 1.**

Reasons for Recommendation(s)

In order to protect those who are most vulnerable in society the Council adopted a policy for all Members to undergo Standard Disclosure and Barring Checks in 2017. The policy has been in place for two years and so it is a good time, in advance of the District Council elections in May 2019, to look at how the policy has been implemented and consider making suitable changes to the policy in order for the policy to remain up to date.

Alternative Options Considered

(with reasons why not adopted)

To recommend that DBS checks are no longer required – checking an individual's background would assist in determining whether appointing a Member to a particular role may be less suitable for them in light of a relevant disclosure. In order to protect those who are most vulnerable in society it is proposed that this option be rejected; the Council may be open to criticism if it does not take reasonable steps to assess and mitigate the risk.

To recommend that a basic check is carried out - a basic check contains details of convictions and conditional cautions considered to be unspent under the terms of the Rehabilitations of Offenders Act 1974. The check does not provide details of any police remands or warnings.

To recommend that a standard check is carried out - discloses both spent and unspent convictions, cautions, reprimands and warnings.

To recommend that an enhanced check is carried out – this option is ruled out as it is not lawful to check the barred lists unless the individual who is being checked is going to undertake a “regulated activity” as amended by the Protection of Freedoms Act 2012. Members are not eligible by virtue only of their position as a councillor.

To recommend that DBS checks are carried out for specific Councillor roles only instead of for all Members – all Councillors have responsibilities for decision making and engage in a variety of function across the Council and in their constituency work and so it is considered more appropriate to check all Members.

Detailed Information

The Protection of Freedoms Act 2012 (“PFA”) introduced changes to the arrangements for carrying out criminal records checks. One of the key changes involved the merger of the Criminal Records Bureau (“CRB”) and the Independent Safeguarding Authority (“ISA”) in December 2012 to form a new body called the Disclosure and Barring Service (“DBS”).

The DBS is a non-departmental public body, sponsored by the Home Office. The DBS provides access to criminal records and other relevant information for organisations in England and Wales and is also responsible for investigating safeguarding concerns and maintaining the barred lists for Children and Adults and the combined list (these are statutory lists containing details of people considered unsuitable to work with children and/or adults).

Changes to the definition of Regulated Activity

The changes introduced under the PFA not only affected the administrative arrangements but also scaled back the number of activities, involving work with children and adults, that are regulated; these are known as “regulated activities”. Individuals on a barred list for children and/or adults cannot undertake a “regulated activity” and it is a criminal offence for the Council to allow an individual to do so without first checking whether they are on a barred list.

A “regulated activity” is one involving close work with vulnerable groups, including children, which a barred person must not do. The legislation redefines and reduces the scope of regulated activities. Examples of “regulated activity” include being employed in a position that involves regularly undertaking unsupervised activities such as caring for or supervising children, regularly working for certain establishments such as children's centres, and providing personal care to an adult in a care home or day care centre.

Councillors generally do not have unsupervised contact with children or adults as part of their role and therefore will not be involved in “regulated activity”. Therefore, unless activities fall within the redefined scope of “regulated activity”, Councillors are not required to be checked by virtue only of their position as a Councillor.

It should be noted that Section 80 of the Local Government Act 1972 already provides some safeguard by disqualifying individuals from standing for election or holding office if they have been convicted of a criminal offence within the last 5 years and received in excess of 3 months’ imprisonment (including a suspended sentence).

DBS Checks for Councillors and Council policy

In light of safeguarding issues in other Councils, the Standards and Personnel Appeals Committee requested that the Council’s position be reviewed and the development of a policy for consideration was placed on the Committee’s work programme in 2016.

Section 11 of the Children Act 2004 places a statutory duty on key people and bodies, including district councils, to make arrangements to ensure that in discharging their functions they have regard to the need to safeguard and promote the welfare of children.

In seeking to identify the appropriate options in relation to the undertaking of DBS checks for Councillors, other local authorities were consulted to provide information on their respective positions and the recommendations and alternative options presented in 2016 took this research into account. The established practice within local authorities with regard to undertaking DBS checks on Councillors varies but it appears that local authorities are increasingly undertaking DBS checks for their Members. County or Metropolitan Council’s having a responsibility for education and social services functions generally carry out such checks.

Although the duties and responsibilities of Councillors do not fall under the scope of “regulated activity” and Councillors are no longer required to be checked if not undertaking such activity, the Council can still request that DBS checks (excluding a check of the barred lists) be carried out.

Safeguarding children, young people and adults is a key priority for the Council and the important role Councillors play in scrutinising services that are delivered and the arrangements that are put in place for these groups is recognised.

Councillors have a wide range of responsibilities which may require Councillors to access sensitive information about, or have contact with, vulnerable children and adults. A Councillor’s constituency work may bring them in to unsupervised contact with vulnerable people. The fact that all Councillors are checked may strengthen public confidence.

The Standards and Personnel Appeals Committee recommended that all Councillors should be DBS checked at the Standard level. At Council on 8 December 2016 it was:

“RESOLVED that

- a) the proposed Policy on Disclosure and Barring Service ‘DBS’ Checks for Councillors and Co-opted Members, as presented to Council, be approved and adopted;*
- b) it be agreed that all Councillors bear the individual cost of their annual DBS check (undertaken by the Council) and the monies be deducted accordingly from their Member allowance via the Council’s payroll system.” (Council Minute C.45 refers)*

DBS Checks

There are now three levels of DBS checks that can be carried out; when the Council's 2017 policy was introduced only Standard and Enhanced checks were available. The three levels of checks are:

1. **Basic DBS** – A Basic check is for any purpose, including employment. The certificate would disclose details of convictions and conditional cautions that are considered to be unspent under the Rehabilitation of Offenders Act 1974 (ROA). An individual can apply for a basic check directly to DBS, or through the Council if the individual gives consent to carry out the check. The Basic check costs £25.
2. **Standard DBS** - this level of check would disclose both spent and unspent convictions, cautions, reprimands and warnings that are held on the Police National computer which are not subject to filtering. An individual cannot apply for a standard check themselves. The Standard DBS check costs £26.
3. **Enhanced DBS** - this level of check provides the information resulting from a standard DBS check and may also contain non-conviction police information provided by the local police force. The enhanced check may be with or without checks against the barred lists. The enhanced DBS check costs £44.

A DBS check has no official expiry date. Any information included will be accurate at the time the check was carried out. The Council's current policy is to require a Member to undergo a DBS check within two months of the Member taking office following an election. The Council decided not to accept previously-issued DBS checks unless this was through the official update service. In order for a check to be portable a Councillor would have to firstly have a new DBS Certificate. The Member would then have 14 days to register with the DBS for the Update Service after the certificate issue date (the Council cannot do this on the Member's behalf). Registration must be renewed annually and costs £13 per year. It is only when you have successfully registered with the update service that your DBS check is portable. The DBS Update Service keeps DBS certificates up to date online and allows a certificate status to be checked at any time. For the Council to be able to use the Online Update Service the elected Member would be required to give consent for access.

The Committee is asked to consider:

1. **Whether to recommend to Council that all Members should continue to undergo a DBS check following their election to the Council; and if so**
2. **What level of DBS check to recommend to Council; and**
3. **Appropriate amendments to the Policy as set out at Appendix 1 to the report.**

Implementation of the Policy – Update

Following the implementation of the policy in May 2017, 34 out of 35 Members have undergone a standards DBS check. Councillor Joanne Donnelly is the only Councillor not to have undergone a DBS check through the Council. Councillor Donnelly has been reminded of the need to undergo a DBS check on numerous occasions.

Implications

Corporate Plan:

The Council will strive to ensure effective community leadership, through good governance, transparency, accountability and appropriate behaviours.

Legal:

Legal issues are outlined in the report.

Finance:

In accordance with the Council resolution, the costs of the DBS checks have been paid for by Members by the deduction from their allowance. There are no budgetary implications.

Budget Area	Implication
General Fund – Revenue Budget	None
General Fund – Capital Programme	None
Housing Revenue Account – Revenue Budget	None
Housing Revenue Account – Capital Programme	None

Risk:

Risk	Mitigation
Failure to meet Section 11 of the Children Act 2004 duty which places a statutory duty on key people and bodies, including district councils, to make arrangements to ensure that in discharging their functions they have regard to the need to safeguard and promote the welfare of children.	The approval of a policy whereby all Councillors undergo a DBS check provides a means of demonstrating the Council is complying with its statutory duty. The proposed policy also sets out the process in the event that information is disclosed as part of the DBS check.
Security of data.	The proposed policy identifies how the Council ensures data is retained securely in line with legislation.

Human Resources:

There are no Human Resource implications associated with the report.

The HR Shared Service is involved in the processing and safe storage of the DBS checks and information disclosed.

Equalities:

If the Council adopts a reviewed policy it will apply to all Members.

The DBS offers a confidential checking service for transgender applicants in accordance with the Gender Recognition Act 2004.

Other Implications:

None.

Report Author and Contact Officer

Ruth Dennis

DIRECTOR OF LEGAL AND GOVERNANCE

(Monitoring Officer)

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01623 457009

Policy on Disclosure and Barring Service (“DBS”) Checks for Councillors and Co-opted Members

Background

1. The effective date of commencement for this policy is [*to be confirmed*].
2. This policy complies with the exception to the Rehabilitation of Offenders Act 1974 and with the Disclosure and Barring Service Code of Practice.
3. This policy replaces all previous policies, decisions and/or precedents relating to criminal records checks for Ashfield District Councillors.

General Principles

4. In light of the fact that the Council has a duty to protect the most vulnerable in society this Policy requires all Councillors to undergo [*basic or standard*] level DBS checks.

The Process

5. *Within two months of taking office following election, all newly elected Councillors will be required to undergo a standard DBS check.*
6. Checks will be processed by Democratic Services in conjunction with Human Resources following a request by the Council’s Monitoring Officer.
7. The relevant Councillor will be provided with a DBS certificate issued by the DBS. The Council will be notified of the disclosure and whether the DBS check is clear. This information will be returned to the Monitoring Officer. Where a check is not clear, for instance, it contains details of an offence, the Councillor will be required to provide a copy of the DBS certificate to the Monitoring Officer within 28 days of the date of issue of the DBS certificate, unless the content of the DBS certificate is disputed and the dispute is raised with the DBS within 3 months of the date of issue, in which case the certificate must be provided to the Monitoring Officer within 28 days following the outcome of the dispute.
8. In accordance with Section 124 of the Police Act 1997 disclosure information will only be passed to those people who are authorised to receive it in the course of their duties. The Monitoring Officer will maintain a record of the date a check was requested, the date a response was received and a ‘list’ of all those to whom the disclosure or disclosure information has been revealed together with other relevant information. It is a criminal offence to pass this information to anyone who is not entitled to receive it.
9. Disclosure information will only be used for the specific purpose for which it is requested and for which the applicant’s full consent has been given.

10. Records of the Disclosure Number will be kept electronically, along with the date of issue. Where Disclosure Information is made available this will be kept securely in lockable, non-portable containers and destroyed within six months in line with the DBS Code of Practice and the Data Protection Act.
11. Once the retention period has elapsed, any disclosure information will be destroyed by secure means. No photocopy or other image of the disclosure or any copy or representation of the contents of a disclosure will be kept. However, as stated above, the Monitoring Officer will maintain a register of the date of the request for, and issue of, a disclosure, the name of the subject, the type of disclosure requested, the position for which the disclosure was requested, the unique reference number of the disclosure and the detail of any decision taken as a result of the disclosure.

Portability

12. DBS certificates are not portable other than for those individuals registered with the online DBS update service.

The Use of Disclosure Information

13. The existence of a criminal record or other information revealed as a result of a standard DBS check will not debar a Councillor from holding office.
14. In the event that the disclosure information received raises issues of concern, the Chief Executive advised by the Monitoring Officer in consultation with the relevant Group Leader, will discuss with the individual Councillor the restrictions considered necessary, to safeguard children, young people and adults, on the positions held by that Councillor.

Review of the Policy

15. This policy will be reviewed every two years and updated as and when required as a result of changes in the law.

Report To:	STANDARDS AND PERSONNEL APPEALS COMMITTEE	Date:	10 DECEMBER 2018
Heading:	QUARTERLY COMPLAINTS UPDATE		
Portfolio Holder:	NOT APPLICABLE		
Ward/s:	NOT APPLICABLE		
Key Decision:	NO		
Subject to Call-In:	NO		

Purpose of Report

This report provides an update in respect of Members' Code of Conduct complaints.

Recommendation(s)

The Committee is requested to note the updated position in respect of Members' Code of Conduct complaints as set out in the Appendix for the period commencing on 23 June 2018 to 30 November 2018.

Reasons for Recommendation(s)

To reflect good practice. To enable Members to monitor the volume and progress of complaints.

Alternative Options Considered

(with reasons why not adopted)

No alternative options are considered appropriate.

Detailed Information

This report outlines in the Appendix the number of complaints of alleged Member misconduct which have been received since the last update and a summary of those which are outstanding.

9 new complaints have been received regarding a District Councillor since the last report was presented to Members in July 2018.

In light of recent complaints relating to Selston Parish Council, one of the Council's Deputy Monitoring Officers has been attending Selston Parish Council meetings to observe and provide general guidance and feedback to the Parish in relation to governance issues. The Deputy Monitoring Officer will provide a verbal update at the Committee meeting in relation to the conduct of the Parish Meetings attended, the Governance Review and the outstanding complaints. It should be noted that no new complaints relating to Parish Members have been received since June 2018.

Implications

Corporate Plan:

The Council will strive to ensure effective community leadership, through good governance, transparency, accountability and appropriate behaviours.

Legal:

There are no legal issues identified as a result of this monitoring report.

Finance:

Budget Area	Implication
General Fund – Revenue Budget	The Authority incurs costs in investigating complaints of alleged Member misconduct and these charges are borne by the General Fund. The Council investigates complaints in house as far as possible to reduce costs. Where complaints need to be investigated externally these costs are expected to be contained within existing budgets. There have been no external costs incurred to date.
General Fund – Capital Programme	N/A
Housing Revenue Account – Revenue Budget	N/A
Housing Revenue Account – Capital Programme	N/A

Risk:

Risk	Mitigation
<p>The Council has recognised the following Corporate Risk: <i>Members' Ethical Framework – Failure to demonstrate high standards of behaviour (CR003)</i></p> <p>Significant resource to deal with implications of Code of Conduct Complaints.</p> <p>Potential for negative</p>	<p>The Standards and Personnel Appeals Committee approves an annual work programme to consider how it will ensure high standards of ethical behaviour.</p> <p>A review of the Members' Code of Conduct Complaints Process and Social Media Policy was carried out during 2017/2018 in accordance with the recommendations of the LGA Peer Challenge 2017 and the Council approved changes at the AGM in May 2018.</p>

<p>perception of the Council which impacts upon the Council's reputation.</p> <p>Potentially adverse impact upon the workings of the Council.</p> <p>New legislation does not provide "strong" sanctions for breaches to the Code which may make regulation of poor ethical behaviour difficult and leave complainants dissatisfied with outcomes.</p>	<p>Presentation of Quarterly Complaint Monitoring reports to Standards and Personnel Appeal Committee ensures ongoing monitoring of complaints to identify trends and areas for improvement.</p> <p>Council has approved the appointment of two Parish Co-optees to the Committee to encourage Parish involvement in the process in light of recently high levels of complaints in relation to one of the Parishes.</p>
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Human Resources:

There are no HR issues relating to this monitoring report.

Equalities:

There are no equalities issues relating to this monitoring report.

Other Implications:

None

Report Author and Contact Officer

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QUARTERLY UPDATE OF COMPLAINTS FROM 22 JUNE 2018 TO 30 NOVEMBER 2018

REFERENCE	DATE COMPLAINT RECEIVED BY MONITORING OFFICER	COMPLAINANT TYPE	COMPLAINT ABOUT A DISTRICT OR PARISH COUNCILLOR	ALLEGED BREACH	LOCAL ASSESSMENT DECISION (MONITORING OFFICER IN CONSULTATION WITH INDEPENDENT PERSON)	DATE OF ASSESSMENT DECISION
ADC2018-02	1 May 2018	Public	District Councillor	2.1 Respect 2.2 Contrary to high standards of conduct. 2.7 Disrepute	Following undertaking initial enquiries no independent corroborating evidence – no evidence on recording of the meeting. As such, not in the public interest to investigate further. No further action.	16 July 2018
ADC2018-03	27 June 2018	District Councillor	District Councillor	2.1 Respect 2.2 Contrary to high standards of conduct. 2.7 Disrepute	New process invoked involving an opportunity for mediation. Referrals Sub-Committee required.	
ADC2018-04	24 July 2018	Public	District Councillor	2.1 Respect	No further action – alleged incident related to political campaigning which is	Letter sent 31 October 2018

				2.2 Contrary to high standards of conduct. 2.7 Disrepute	outside the remit of the Code.	
ADC20018-05	8 October 2018	Public	District Councillor	2.2 Contrary to high standards of conduct. 2.7 Disrepute	Initial investigations carried out. No further action as there is insufficient evidence of a breach of the Code.	30 November 2018
ADC2018-06	2 October 2018	District Councillor	District Councillor	2.2 Contrary to high standards of conduct. 2.7 Disrepute	In-depth conversation with the Subject Member. Other action.	8 November 2018
ADC2018-07	11 October 2018	District Councillor	District Councillor	2.1 Respect 2.2 Contrary to high standards of conduct. 2.7 Disrepute	Recording of the meeting considered. No evidence comments made were directed at an individual as such there is insufficient evidence of a breach of the Code. No further action.	30 November 2018
ADC2018-08	12 October 2018	Public	District Councillor	2.1 Respect	Recording of the meeting considered. Public apology given at the time. Not	30 November 2018

				2.2 Contrary to high standards of conduct. 2.7 Disrepute	proportionate to take any further action. No further action.	
ADC2018-09	17 October 2018	District Councillor	District Councillor	16 - Failure to declare changes to register of interests	Evidence of alleged breach requested.	
ADC2018-10	18 October 2018	District Councillor	District Councillor	2.1 Respect 2.2 Contrary to high standards of conduct. 2.7 Disrepute	Insufficient evidence of a breach of the Code. Not proportionate to take any further action. No further action.	30 November 2018
ADC2018-11	2 November 2018	Public	District Councillor	2.1 Respect 2.2 Contrary to high standards of conduct. 2.7 Disrepute	Insufficient evidence of a breach of the Code. Not proportionate to take any further action. No further action.	30 November 2018.
SPC2018-01	9 February 2018	Public	Parish Councillor	2.1 Respect	Recording of the meeting has been considered. No	

				<p>2.2 Contrary to high standards of conduct.</p> <p>It was alleged that Cllr Sue Jackson called Mr Hankin “a pig” during the meeting.</p>	<p>evidence that the alleged comments were made on the recording.</p> <p>Clerk does not recall hearing the alleged comments.</p> <p>External consideration to be undertaken into this and all other Parish Complaints in conjunction with the review of parish governance arrangements.</p>	
SPC2018-02	11 February 2018	Public	Parish Councillor	<p>2.1 Respect</p> <p>2.2 Contrary to high standards of conduct.</p>	<p>Relates to Facebook.</p> <p>External consideration to be undertaken into this and all other Parish Complaints in conjunction with the review of parish governance arrangements.</p>	
SPC2018-03	11 February 2018	Public	Parish Councillor	<p>2.1 Respect</p> <p>2.2 Contrary to high standards of conduct.</p> <p>2.7 Disrepute</p>	<p>Relates to Facebook.</p> <p>External consideration to be undertaken into this and all other Parish Complaints in conjunction with the review</p>	

					of parish governance arrangements.	
SPC2018-04	27 February 2018	Public and Councillors	Parish Councillor	2.1 Respect 2.2 Contrary to high standards of conduct. 2.7 Disrepute	<p>Matters relating to this meeting and its aftermath were reported and investigated by the police. Whilst the police investigation was ongoing, the complaint was put on hold.</p> <p>External consideration to be undertaken into this and all other Parish Complaints in conjunction with the review of parish governance arrangements.</p>	
SPC2018-05	27 February 2018	Public and Councillors	Parish Councillor	2.1 Respect 2.2 Contrary to high standards of conduct. 2.7 Disrepute	<p>Matters relating to this meeting and its aftermath were reported and investigated by the police. Whilst the police investigation was ongoing, the complaint was put on hold.</p>	

					External consideration to be undertaken into this and all other Parish Complaints in conjunction with the review of parish governance arrangements.	
SPC2018-06	27 February 2018	Public and Councillors	Parish Councillor	2.1 Respect 2.2 Contrary to high standards of conduct. 2.7 Disrepute	<p>Matters relating to this meeting and its aftermath were reported and investigated by the police. Whilst the police investigation was ongoing, the complaint was put on hold.</p> <p>External consideration to be undertaken into this and all other Parish Complaints in conjunction with the review of parish governance arrangements.</p>	
SPC2018-07	27 February 2018	Public and Councillors	Parish Councillor	2.1 Respect 2.2 Contrary to high standards of conduct. 2.7 Disrepute	<p>Matters relating to this meeting and its aftermath were reported and investigated by the police. Whilst the police investigation was ongoing,</p>	

					<p>the complaint was put on hold.</p> <p>External consideration to be undertaken into this and all other Parish Complaints in conjunction with the review of parish governance arrangements.</p>	
SPC2018-08	27 February 2018	Public and Councillors	Parish Councillor	<p>2.1 Respect</p> <p>2.2 Contrary to high standards of conduct.</p> <p>2.7 Disrepute</p>	<p>Matters relating to this meeting and its aftermath were reported and investigated by the police. Whilst the police investigation was ongoing, the complaint was put on hold.</p> <p>External consideration to be undertaken into this and all other Parish Complaints in conjunction with the review of parish governance arrangements.</p>	
SPC2018-09	27 February 2018	Public	Parish Councillor	2.1 Respect	Matters relating to this meeting and its aftermath were reported and	

				2.2 Contrary to high standards of conduct. 2.7 Disrepute	<p>investigated by the police. Whilst the police investigation was ongoing, the complaint was put on hold.</p> <p>External consideration to be undertaken into this and all other Parish Complaints in conjunction with the review of parish governance arrangements.</p>	
SPC2018-10	27 February 2018	Public	Parish Councillor	2.1 Respect 2.2 Contrary to high standards of conduct. 2.7 Disrepute	<p>Matters relating to this meeting and its aftermath were reported and investigated by the police. Whilst the police investigation was ongoing, the complaint was put on hold.</p> <p>External consideration to be undertaken into this and all other Parish Complaints in conjunction with the review of parish governance arrangements.</p>	

SPC2018-11	7 March 20-18	Parish Councillor	Parish Councillor	2.2 Contrary to high standards of conduct. 2.3 Bullying	External consideration to be undertaken into this and all other Parish Complaints in conjunction with the review of parish governance arrangements.	
SPC2018-12	19 March 2018	Parish Councillor	Parish Councillor	2.1 Respect 2.2 Contrary to high standards of conduct. 2.7 Disrepute	Facebook External consideration to be undertaken into this and all other Parish Complaints in conjunction with the review of parish governance arrangements.	
SPC2018-13	26 June 2018	Parish Councillor	Parish Councillor	2.1 Respect 2.2 Contrary to high standards of conduct. 2.7 Disrepute	Parish Council meeting External consideration to be undertaken into this and all other Parish Complaints in conjunction with the review of parish governance arrangements.	

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