

ASHFIELD DISTRICT COUNCIL



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

Agenda

Standards and Personnel Appeals Committee

Date: **Monday, 18th March, 2019**

Time: **10.00 am**

Venue: **Committee Room, 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

FILMING/AUDIO RECORDING NOTICE

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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 a correct record the minutes of the meeting of the Committee held on 10th December, 2018. 5 - 8
4. Whistleblowing Policy Annual Update. 9 - 22
5. Annual Constitution Review. 23 - 28
6. Annual Ethical Governance Update. 29 - 46

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STANDARDS AND PERSONNEL APPEALS COMMITTEE

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

on Monday, 10th December, 2018 at 10.00 am

Present: Councillor Christine Quinn-Wilcox in the Chair;

Councillors Cheryl Butler, Rachel Madden
(Substitute for Helen-Ann Smith), Cathy Mason,
Phil Rostance

Stuart Fletcher (Selston Parish Council
representative) and Daniel Williamson (Substitute
for Jason Zadrozny) (Annesley and Felley Parish
Council representative).

Apologies for Absence: Councillor Lauren Mitchell.

Officers Present: Beth Brown, Ruth Dennis and Martin Elliott.

SP.11 Declarations of Disclosable Pecuniary or Personal Interests and Non Disclosable Pecuniary/Other Interests

There were no declarations of interest.

SP.12 Minutes

RESOLVED

that the minutes of the meetings of the Committee held on 2 July and 15 October, 2018 (including the reconvened meeting of 23 October 2018), be received and approved as a correct record.

SP.13 Disclosure and Barring Service Checks for Members - Review of Policy

The Director of Legal and Governance (and Monitoring Officer) submitted a report to update the Committee in respect of the implementation of the Policy on Disclosure and Barring Service for Members which had been introduced in May 2017, and to request that the Committee considered the amended policy. The amended Policy was attached as an appendix to the officer's report.

The report noted that as Councillors by virtue of their role did not take part in "regulated activity" as defined by the Protection of Freedoms Act 2012, in that they generally did not have unsupervised contact with children or adults as part of their role, they were not legally required to be DBS checked. As

however the safeguarding of children, young people and adults was a key priority for the Council, and that as Councillors had a wide range of responsibilities which could require them to access sensitive information about, or have contact with, vulnerable children and adults, the Standards and Personnel Appeals Committee had at its meeting on 10 October 2016 recommended that all Councillors should be DBS checked at the Standard level (Minute No. SP9 2016/17). The Policy requiring all Councillors to be subject to a DBS check, and that the proposal that the cost of the check be deducted from their allowance had been approved by Council on 8 December 2016 (Minute No. C45 2016/17).

The Monitoring Officer advised the committee that the DBS system had changed since the Council had adopted and implemented the policy of DBS checks for Councillors and now included three levels of DBS checks, basic, standard and enhanced. The scope and costs of each level were outlined in the officer's report and it was noted that the Standard DBS cost £1 more than the Basic DBS but provided details of both spent and unspent convictions as defined by the Rehabilitation of Offenders Act 1974. The Monitoring Officer noted that previously issued DBS checks could not be accepted by the Council, for example those requested from Nottinghamshire County Council for District Councillors who were also County Councillors, unless it was through the official update service. It was noted that the official update service required an annual subscription and registration within 14 days of a DBS certificate being issued and that due to the costs, short timescales and data sharing permissions involved in using the update service this was not recommended as a practical option for the Council to use, and that the Council should continue to request a DBS check within two months of a Councillor taking office following their election.

Members of the Committee were in agreement that the policy of DBS checks for all Councillors had been beneficial and that they should continue, with cost of the checks being deducted from each Councillors' Basic Allowance at source. Members also noted that the DBS form should be included in the new starter pack issued to all Councillors after their election to enable checks to be processed promptly.

RESOLVED that

- a) the update in relation to the implementation of the Policy on Disclosure and Barring Service (DBS) for Members, be received and noted;
- b) it be agreed that Members continue to be DBS checked as per the Policy as presented;
- c) Council be recommended to approve that Members undergo a Standard level of DBS check at the commencement of their 4-year term of office (or at any such time as they may become elected);
- d) the amended Policy on Disclosure and Barring Service for Members, as appended to the agenda, be supported and recommended to Council for approval.

REASON:

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.

SP.14 Quarterly Complaints Update

The Director of Legal and Governance (and Monitoring Officer) presented the report to provide an update in respect of the number of alleged Member Code of Conduct complaints received for the period 23 June to 30 November, 2018 and to also provide a summary of the complaints that were outstanding. The Monitoring Officer advised that since the last report to the Committee there had been nine new complaints submitted regarding Ashfield District Council Councillors. The report provided details of the current status of each complaint and it was noted that since the last report there had been no new complaints submitted regarding Selston Parish Councillors and that there were currently no complaints outstanding regarding Annesley and Felley Parish Councillors. The Monitoring Officer advised that the majority of complaints submitted regarding Ashfield District Councillors had been dealt with and resolved in consultation with the Council's Independent Person for Standards Matters. The Monitoring Office noted the substantial use of resources used in the dealing of complaints submitted and advised that the processes for dealing with complaints was being reviewed in order to make the process more streamlined, including the introduction of an online form for submitting complaints which would capture all required information at the start of the process.

In view of recent complaints relating to Selston Parish Council, the Service Manager – Legal Services (and Deputy Monitoring Officer) who had been attending Selston Parish Council meetings to observe and provide general guidance and feedback to the Parish in relation to governance issues, attended the meeting to provide an update in relation to the conduct of the Parish Meetings attended, the Governance Review and the outstanding complaints with regard to Selston Parish Council. The Deputy Monitoring Officer advised that with regard to the meetings of the Parish Council there had been a significant improvement in their conduct in recent months with notable improvements in the behaviour of Parish Councillors and in their interaction with each other. The Deputy Monitoring Officer advised that from observing meetings there was a clear commitment shown to the local area and agreement on many issues shared by all Parish Councillors, and noted that the Chair of the Council and the Parish Clerk had both been supportive in working with them to bring about positive change at Selston Parish Council.

The Deputy Monitoring Officer noted that changes to how planning considerations were dealt with had been introduced as well amendments being made to the style of minutes and agendas, but advised that a full Governance review was yet to take place, with quotations for such a review currently being sought. Members of the Committee noted that the cost of a full Governance review could be significant, and potentially not change behaviour,

and noted that how a Parish Council functioned was significantly impacted by the personalities of the membership of the Council, not just its Governance arrangements. The Monitoring Officer advised that a presence from Ashfield District Council at Selston Parish Council meetings would be maintained for the foreseeable future as this presence had been effective in positively affecting behaviour and supporting change, but noted that this presence would not be maintained indefinitely.

Members of the Committee asked several specific questions on the cases outlined in the officer's report and received verbal responses.

RESOLVED

that the updated position in relation to Members' Code of Conduct complaints for the period 23 June, 2018 to 30 November, 2018, as outlined in the Appendix to the officer's report, be noted.

REASON

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

The meeting closed at 11.00 am

Chairman.

Report To:	STANDARDS AND PERSONNEL APPEALS COMMITTEE	Date:	18 MARCH 2019
Heading:	WHISTLEBLOWING POLICY ANNUAL UPDATE		
Portfolio Holder:	NOT APPLICABLE		
Ward/s:	NOT APPLICABLE		
Key Decision:	NO		
Subject to Call-In:	NO		

Purpose of Report

To provide the Committee with an annual update in relation to the Whistleblowing Policy and how the policy has operated in the preceding 12 months.

Recommendation(s)

1. To approve the amended Whistleblowing Policy as attached to the report;
2. To note how the policy has operated in the preceding 12 months.

Reasons for Recommendation(s)

To ensure the Committee is adequately informed to enable it to monitor the operation of the Whistleblowing Policy in accordance with the recommendation of CMAP in its audit report relating to Anti-Fraud and Corruption.

To ensure the policy remains up to date and fit for purpose.

Alternative Options Considered

(with reasons why not adopted)

None.

Detailed Information

The Standards and Personnel Appeals Committee last reviewed the policy at its meeting on 28 March 2018 and approved minor changes to the document.

Paragraph 8.1 of the current Whistleblowing Policy states that:

“The Monitoring Officer has overall responsibility for the maintenance and operation of this policy. This Officer maintains a record of concerns raised and the outcomes (but in a form which does not endanger your confidentiality) and will report these to the Standards and Personnel Appeals Committee and the Audit Committee once a year. The Whistleblowing Policy will also be reviewed on a bi-annual basis.”

Review of Policy

A review of the policy has been undertaken. It is recommended that the policy is amended to note the details of the new s151 Chief Finance Officer.

Committee is asked to approve the revised policy, which is attached as Appendix 1. The revised policy will also be reported to the Audit Committee on 11 March 2019 for approval.

The Whistleblowing Policy is published on the website and on the internal intranet.

Application of Policy during the Preceding 12 Months

During the past 12 months there have been 6 reported incidents of whistleblowing drawn to the Monitoring Officer's attention. Given the confidential nature of the complaints this report can only refer anonymously and in high level terms, especially in relation to those complaints which are ongoing. A summary of the complaints is set out below:

COMPLAINT REFERENCE	NATURE OF COMPLAINT	STATUS OF COMPLAINT	OUTCOME/ACTION TAKEN
2018-01	Anonymous complaint. Alleged that a driver was driving at work whilst under the influence of alcohol/drugs. Alleged that work items had been going missing.	Closed	Insufficient detail provided to follow up the complaints formally. An audit of stock was carried out. No further action.
2018-02	Complaints about the same alleged incident were received from two members of the public (one anonymous and one named).	Ongoing	An initial investigation was carried out which demonstrated there was some foundation to the complaints.

	The complaint related to alleged inappropriate comments.		Referred on for formal investigation under the grievance/disciplinary procedure.
2018-03	<p>Anonymous complaints received via a trade union.</p> <p>The Complaint related to alleged inappropriate comments and management conduct.</p>	Closed	<p>An initial investigation was carried out and the complaint was partially substantiated.</p> <p>Management and Leadership training required for the Head of Service, identified at PDR.</p> <p>The inappropriate comments were considered under the disciplinary procedure. The investigation concluded that inappropriate comments had been made and this was upheld at the hearing. A Management Instruction letter was issued regarding future behaviour.</p>
2019-01	<p>Anonymous complaints received via a trade union.</p> <p>Complaints related to alleged breaches of the agile working guidelines.</p>	Closed.	<p>An investigation was carried out. The complaint was not substantiated.</p> <p>Recommendations made in respect of:</p> <ul style="list-style-type: none"> • time recording whilst agile working • clarifying some elements of the guidelines • communication of the guidance to employees.
2019-02	Anonymous complaint alleging unfair	Closed.	Insufficient detail was provided to follow up

	treatment of staff and management conduct.		the complaint formally. No further action.
2019-03	Anonymous complaints received via a trade union. Complaint alleged officers took annual leave instead of sick leave.	Closed.	An investigation was carried out. The complaint was not substantiated.

Previous Application of Policy

The following table sets out the application of the Whistleblowing Policy since 2010 to the present date:

YEAR	TOTAL NUMBER OF COMPLAINTS	NO FURTHER ACTION	MANAGEMENT RECOMMENDATIONS	DISCIPLINARY/GRIEVANCE INVESTIGATION
2010	4	1	2	1
2011	0	N/A	N/A	N/A
2012	3	0	2	1 (ACTION TAKEN)
2013	1	0	0	1 (ACTION TAKEN)
2014	4	1	1	3 (2 WITH ACTION TAKEN)
2015	2	1	1	0
2016	2	0	1	1
2017	3	1	1	1
2018	3	1	0	2
2019	3 (to date)	2	1	0

Implications

Corporate Plan:

The Council is committed to treating its employees fairly and respectfully.

The Council aims to be an employer of choice and an organisation people want to work for.

Legal:

The policy has been written to take account of the Public Interest Disclosure Act 1998 which protects workers making disclosures in good faith.

Finance:

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 maintain integrity and confidence in the policy and its applications.	Annual reporting to the Audit Committee and Standards and Personnel Appeals Committee. Annual update on the application of the policy. Update reporting in accordance with the policy to the Whistleblower. Identification of trends in disclosure to inform Management.

Human Resources:

Regular review, maintenance and consistent application of the Whistleblowing Policy infer good employment practices. As such it is important to maintain the integrity of the policy.

Equalities:

There are no equalities issues identified as a direct result of the report. Equalities issues would be considered as part of any whistleblowing investigation.

Other Implications:

None

Background Papers

None

Report Author and Contact Officer

Ruth Dennis

DIRECTOR OF LEGAL AND GOVERNANCE

MONITORING OFFICER

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ASHFIELD DISTRICT COUNCIL

WHISTLEBLOWING POLICY

**Director of Legal and Governance
(Monitoring Officer)**

APPROVED:

Audit Committee – 11 March 2019

Standards Committee – 18 March 2019

REVIEW:

March 2020

Version Control

Version Number	Detail
Original	January 2008
Revised V1	January 2011
Revised V2 due	1 st July 2013
Revised V2 (Website)	25 February 2014
Revised V3	14th April, 2014
Revised V4	20 July 2015
Revised V5	14 March 2016
Revised V6	28 March 2018
Revised V7	18 March 2019

WHISTLEBLOWING POLICY

1. Introduction

- 1.1 All of us at one time or another has concerns about what is happening at work. Usually these concerns are easily resolved. However, when they are about unlawful conduct, financial malpractice or dangers to the public or the environment, it can be difficult to know what to do.
- 1.2 You may be worried about raising such issues or may want to keep the concerns to yourself, perhaps feeling it's none of your business or that it's only a suspicion. You may feel that raising the matter would be disloyal to colleagues, managers or to the organisation. You may decide to say something but find that you have spoken to the wrong person or raised the issue in the wrong way and are not sure what to do.
- 1.3 Ashfield District Council is committed to the highest possible standards of openness, probity and accountability. In line with that commitment we encourage employees and others with serious concerns about any aspect of the Council's work to come forward and voice those concerns. It is recognised that certain cases will have to proceed on a confidential basis. This policy document makes it clear that you can do so without fear of reprisals. This Whistleblowing Policy is intended to encourage and enable you to raise serious concerns within the Council rather than overlooking a problem or reporting it outside.

2. Aims of this Policy

- 2.1 This policy aims to:
 - encourage you to feel confident in raising concerns at the earliest opportunity
 - provide avenues for you to raise concerns and receive feedback on any action taken
 - allow you to take the matter further if you are dissatisfied with the Council's response
 - reassure you that you will be protected from reprisals or victimisation for whistleblowing in good faith

3. Scope of this Policy

- 3.1 In this Policy, "Whistleblowing" means the reporting by employees of suspected misconduct, illegal acts or failure to act within the Council.
- 3.2 This Policy is intended to enable those who become aware of wrongdoing in the Council affecting some other person or service, to report their concerns at the earliest opportunity.
- 3.3 The Policy is not intended to replace existing procedures:
 - If your concern relates to your own treatment as an employee, you should raise it under the existing grievance or harassment procedures

- If a member of the public has a concern about services provided to him/her, it should be raised as a complaint to the Council
- Complaints of misconduct by Councillors are dealt with under a separate procedure (the Monitoring Officer can advise you in relation to this process)

3.3 Under this Policy you should report any serious concerns that you have about service provision or the conduct of officers or Council Members or others acting on behalf of the Council that:

- make you feel uncomfortable in terms of known standards
- are not in keeping with the Council's Standing Orders and policies
- fall below the established standards of practice
- is improper behaviour

The concern may be something that relates to:

- conduct which is an offence or a breach of the law
- disclosures relating to miscarriages of justice
- the deliberate breaching of a Council policy or official code or regulation
- misuse of public funds or other assets
- possible fraud or corruption
- the endangering of health and safety of the public and/or other employees,
- damage to the environment
- the deliberate concealment of information which would constitute evidence of any of the above

4. Safeguards

Your Legal Rights

4.1 This policy has been written to take account of the Public Interest Disclosure Act 1998 which protects workers making disclosures about certain matters of concern, when those disclosures are made in accordance with the Act's provisions and in good faith.

The Act makes it unlawful for the Council to dismiss anyone or allow them to be victimised on the basis that they have made an appropriate lawful disclosure in accordance with the Act.

Rarely, a case might arise where it is the employee that has participated in the action causing concern. In such a case it is in the employee's interest to come into the open as soon as possible. The Council cannot promise not to act against such an employee, but the fact that they came forward may be taken into account.

Harassment or Victimisation

4.2 The Council recognises that the decision to report a concern can be a difficult one to make, not least because of the fear of reprisal from those responsible for the malpractice. The Council will not tolerate harassment or victimisation and will take

action to protect you when you raise a concern in good faith. The Council's disciplinary procedures will be used against any employee who is found to be harassing or victimising the person raising the concern or who has disclosed the name of the whistleblower to any person other than those named in this document.

Confidentiality

- 4.3 The Council will do its best to protect a person's identity when a concern is raised. During the course of an investigation attempts will be made to find independent corroborating evidence to allow a person's identity to remain confidential. However, it must be recognised that in some circumstances identities will have to be revealed to the person the allegation is made against and those making the allegation may be asked to provide written or verbal evidence in support of the allegation. If the matter is reported to the Police or another external body they may be unable to guarantee to withhold a person's identity.
- 4.4 If a person's identity is to be disclosed, he or she will be told before the disclosure and the reasons why disclosure is necessary. The Council will offer advice and guidance on the procedures and arrangements in the event of a person having to give evidence to an external body or in court.

Anonymous Allegations

- 4.5 This policy encourages you to put your name to your allegation. Concerns expressed anonymously are much less powerful, but they will be considered at the discretion of the Monitoring Officer in consultation with the Chief Executive Officer.
- 4.6 In exercising the discretion, the factors to be taken into account would include:
- the seriousness of the issues raised
 - the credibility of the concern
 - the likelihood of confirming the allegation from attributable sources

If you choose to use this method of reporting, the allegation should contain as much information as possible to ensure the allegation is considered as a credible concern that requires further investigation.

Untrue Allegations

- 4.7 If you make an allegation in good faith, but it is not confirmed by the investigation, no action will be taken against you. If, however, you make malicious or vexatious allegations appropriate action that could include disciplinary action may be taken against you. It will be a matter for the Monitoring Officer to form a view of whether an allegation has been made maliciously or vexatiously and to refer her view to the relevant Director if disciplinary action needs to be considered.

5. How to raise a concern

Make an immediate note of your concern

- 5.1 Note all relevant details. Set out the background and history of the concern, giving names, dates and places where possible, and the reason why you are particularly concerned about the situation.

Reporting your concern

- 5.2 This will depend on the seriousness and sensitivity of the issues involved or who is thought to be involved in the malpractice. You should normally raise concerns initially with your line manager or Director. If this is not appropriate you should contact:

Position	Contact	E-mail
Chief Executive	(01623) 457250	r.mitchell@ashfield.gov.uk
Monitoring Officer	(01623) 457009	r.dennis@ashfield.gov.uk

If you suspect fraud or corruption you may also approach the officers detailed below. This is consistent with the Council's Financial Regulations and the Anti-Fraud and Corruption Strategy.

Position	Contact (External)	E-mail
Chief Finance Officer	(01623) 457362	p.hudson@ashfield.gov.uk

- 5.3 You can raise your concerns in writing, by telephone or in person. All correspondence should be addressed to the Monitoring Officer and marked 'Strictly Private and Confidential' and sent to:

**The Monitoring Officer
Ashfield District Council
Council Offices
Urban Road
Kirkby-in-Ashfield
Nottingham
NG17 8DA**

- 5.4 The earlier you express the concern, the easier it is to take action.
- 5.5 Although you are not expected to prove the truth of an allegation, you will need to demonstrate to the person contacted that there are sufficient grounds for your concern.
- 5.6 You may wish to consider raising your concern with a colleague first and you may find it easier to do so if there are two (or more) of you who have shared the same experience or concerns.

- 5.7 You may invite your trade union or professional association to raise a matter on your behalf. It is expected that in the first instance the procedure detailed at 5.2 will be followed.

6. What the Council will do

- 6.1 The action taken by the Council will depend on the nature of the concern. The matters raised may:
- be investigated internally
 - be referred to the Police
 - be referred to the external auditor
 - form the subject of an independent inquiry
- 6.2 In order to protect individuals and the Council, initial enquiries will be made to decide whether an investigation is appropriate and, if so, what form it should take. Concerns or allegations which fall within the scope of specific procedures (for example, discrimination issues) will normally be referred for consideration under those procedures.
- 6.3 Some concerns may be resolved by agreed action without the need for investigation.
- 6.4 Where the concern has been raised includes a contact name and address, then within ten working days of a concern being received, the Council will write to you:
- acknowledging that the concern has been received
 - indicating how it proposes to deal with the matter
 - giving an estimate of how long it will take to provide a final response
 - telling you whether any initial enquiries have been made
 - telling you if further investigations will take place, and if not, why not
- 6.5 The amount of contact between the officers considering the issues and you will depend on the nature of the matters raised, the potential difficulties involved and the clarity of the information provided. If necessary, further information will be sought from you.
- 6.6 When any meeting is arranged, you have the right, if you so wish, to be accompanied by a Trade Union or professional association representative or a workplace colleague who is not involved in the area of work to which the concern relates. If you wish, the meeting may take place away from the Council Offices.
- 6.7 The Council will take steps to minimise any difficulties which you may experience as a result of raising a concern. For instance, if you are required to give evidence in criminal or disciplinary proceedings, the Council will advise you about the procedure.

6.8 The person investigating the concerns will produce a written report that:

- outlines the concerns/allegations
- details the investigation procedure
- gives the outcomes of the investigation
- details recommendations where appropriate

6.9 The Council accepts that you need to be assured that the matter has been properly addressed. Thus, subject to legal constraints, you will receive information about the outcomes of any investigations.

7. How the matter can be taken further

7.1 This policy is intended to provide you with an avenue to raise concerns within the Council. The Council hopes you will be satisfied. If you are not, and if you feel it is right to take the matter outside the Council, the following are possible contact points:

- A Councillor of Ashfield District Council
- A prescribed person - See Gov.uk Guidance – Whistleblowing: List of prescribed people and bodies
Website: <https://www.gov.uk/government/publications/blowing-the-whistle-list-of-prescribed-people-and-bodies--2>
- The Comptroller and Auditor General
The Comptroller and Auditor General
National Audit Office
157-197 Buckingham Palace Road
London
SW1W 9SP
Tel: 020 7798 7999
Website: www.nao.org.uk/contact-us/whistleblowing-disclosures/
- The independent charity Public Concern at Work on
Work Helpline: (020) 7404 6609
E-mail: whistle@pcaw.co.uk
Website: www.pcaw.co.uk
- ACAS
Helpline number: 0300 123 1100 Monday-Friday: 8am-8pm and Saturday 9am-1pm
Website: <http://www.acas.org.uk/index.aspx?articleid=1919>
- A Solicitor
- The Police
- Your Local Member of Parliament

If you raise concerns outside the Council you should ensure that it is to one of these contacts. A public disclosure to anyone else could take you outside the protection of the Public Disclosure Act and of this Policy. **When raising a concern externally remember to make it clear that you are raising the issue as a whistleblower; this gives you additional statutory rights.**

You should not disclose information that is confidential to the Council or to anyone else, except to those included in the list of contacts.

8. The Responsible Officer

- 8.1 The Monitoring Officer has overall responsibility for the maintenance and operation of this policy. This officer maintains a record of concerns raised and the outcomes (but in a form which does not endanger your confidentiality) and will report these to the Standards and Personnel Appeals Committee and the Audit Committee once a year. The Whistleblowing Policy will also be reviewed on bi-annual basis.

Report To:	STANDARDS AND PERSONNEL APPEALS COMMITTEE	Date:	18 MARCH 2019
Heading:	ANNUAL CONSTITUTION REVIEW		
Portfolio Holder:	NOT APPLICABLE		
Ward/s:	NOT APPLICABLE		
Key Decision:	NO		
Subject to Call-In:	NO		

Purpose of Report

To report proposed changes to the Constitution to the Standards and Personnel Appeals Committee for their consideration and comment prior to being reported to the AGM of the Council in May 2019.

Recommendation(s)

To consider the proposed changes to the Council's Constitution and make comments and recommendations to Council.

Reasons for Recommendation(s)

To ensure that the Council's Constitution remains up to date and fit for purpose it is reviewed annually.

The Committee's remit includes making recommendations to Council regarding amendments to the Constitution relating to matters of an ethical governance nature.

Alternative Options Considered

(with reasons why not adopted)

Do not update the Constitution. However, this would not be best practice and would reduce the value of the document, both to the Council and the wider Community as an authoritative guide to how the Council works.

Detailed Information

Constitution Review 2019

It is good practice to review the Constitution regularly and it is the Council's practice to carry out a review annually.

The proposed changes to the Constitution are outlined below:

Part of the Constitution	Proposed Amendments
Part 1 – Summary	No changes.
Part 2 – Articles	No changes.
Part 3 – Functions and Delegations	<p>Licensing – Minor amendments made to the wording of the delegation of Licensing functions to the Chief Executive/Interim Director of Place and Communities to remove duplication and delegations that are not relevant for Ashfield i.e. for London Boroughs only.</p> <p>Planning – The delegations from Planning Committee to the Chief Executive/Interim Director of Place and Communities have been amended so that the delegated authority for these functions is given to the Chief Executive/Assistant Director Planning and Regulative Services to reflect the Assistant Director Planning and Regulative Services' position as the Council's most senior planning professional.</p> <p>Audit Committee Terms of Reference – in accordance with Financial Regulation requirements and as a result of an audit report recommendation, to include the <i>"responsibility for ensuring effective scrutiny of the Treasury Management Strategy and policies"</i></p>
Part 4 – Rules of Procedure	<p>Council Procedure Rules</p> <p>Ordinary Meetings - Insert an item of business for Ordinary Meetings: <i>"(x) Receive updates from Members of the Cabinet on their Portfolio activity within a maximum time allocation of 30 minutes;"</i></p> <p>Questions by the Public – insert "11.9 – Response – <i>A response may be given by the Member to whom it has been put, or by any other Member who they nominate.</i>" This replicates a similar provision under Rule 13 (Questions by Members). The change will ensure the most suitable Member is able to respond to the question in instances where the member of the public might have put the question to, for example, the wrong portfolio holder.</p> <p>Questions by the Public and Questions by Members – amend the deadline for receipt of questions from 11.3 <i>"midday 6 clear working days before the day of the meeting"</i> and 13.4 <i>"4pm, 2 clear working days before the meetings"</i> to <i>"noon, 7 clear working days before the meeting"</i>. This amendment is proposed in order to that all deadlines for questions and motions are the same, thus avoiding confusion.</p>

Substitution of Members at Meetings – it has been proposed to amend 27.6 to include “*Substitute Members shall be from the same political group as the ordinary Member they are substituting for.*” This has been suggested to ensure the political balance of the Committee is maintained which is not the case if a member of a different political group attends as a substitute.

Access to Information Procedure Rules

No changes.

Budget and Policy Framework Procedure Rules

No changes.

Executive Procedure Rules

No changes.

Overview and Scrutiny Procedure Rules -

Removal of the requirement to appoint two non-voting tenant representatives to the Overview and Scrutiny Committee for the consideration of housing related issues (subject to confirmation by the Director of Housing and Assets). This is subject to introducing alternative, more suitable arrangements for tenant participation and scrutiny as part of the Housing Green Paper proposals.

Minor wording amendments to add clarity regarding the process of setting the scrutiny work plan.

Amendments to the pre-call in procedure to add clarity, ease of understanding and to confirm that only call in requests that have followed all of the steps required by the procedure would be accepted.

Minor amendments to the order of business/meeting procedure for the Overview and Scrutiny Committee to ensure consistency with the procedures of other committees.

Financial Regulations

Additional paragraph briefly explaining the role of the Audit Committee.

A.26 – Accounting Policies - additional wording – “*These are considered annually by the Audit Committee.*”

A.28 – Annual Statement of Accounts – additional wording – “... in accordance with the current *Chartered Institute of Public Finance and Accountancy (CIPFA)* Code of Practice...”

B.8iv. – Budget Monitoring and Control – additional wording to explain what a Supplementary Estimate is – “*A Supplementary Estimate is a budget increase greater than that already approved by Council at the annual budget setting meeting.*”

	<p>B.10 – Virement – additional wording – <i>“Re-allocation of budgets following service reviews does not constitute virement.”</i></p> <p>B.12 – Use of Reserves – additional wording – <i>“Where external funding/contributions are made available to support specific projects/schemes, regardless of value, these funds can be accessed without consideration of the above financial limits. In these instances an Officer Decision Record (ODR) will be completed.”</i></p> <p>C.24 – Banking Arrangements – additional wording – <i>“No payment is to be made by the Council via Direct Debit without the relevant mandate having first been authorised by the Corporate Finance Manager.”</i></p> <p>Code of Procedures Relating to the Disposal of Land and Buildings –</p> <p>Amendments made to reflect new job titles and management structure.</p> <p>Amendments also added to provide clarity and remove any potential area for doubt in the application of the procedure.</p> <p>Contract Procedures Rules No changes.</p> <p>Employment Procedure Rules No changes.</p>
Part 5 – Members’ Code of Conduct	Minor amendment clarifying that attendance at, or completion of, any identified mandatory training will contribute towards the performance element of Members basic allowance.
Part 6 – Member/Officer Protocol	No changes.
Part 7 – Allowances	<p>References to the minimum wage have been amended to living/minimum wage and amounts amended to April 2019 figures.</p> <p>The Members Basic Allowance and Schedule 1 detailing the amounts of Special Responsibility Allowances payable to be amended to reflect the annual salary increase for local government staff.</p>
Part 8 – Management Structure	No changes.
Part 9 – Employees Code	<p>Additional guidance added on interactions between staff and customers/service users.</p> <p>Additional guidance added regarding photographs of employees and how these photographs will be used.</p>

Part 10 – Planning Code	<p>Minor amendments to text to reflect the new management structure with references to Service Manager being replaced with Assistant Director Planning and Regulative Services.</p> <p>Minor textual and formatting amendments to improve clarity and readability.</p> <p>It is also proposed that the Code be amended to enable speakers to be the questioned by Members to clarify points raised by speakers.</p> <p>The “Have your say on Planning applications” document brought into the Constitution as an appendix.</p>
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Implications

Corporate Plan:

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

Legal:

In accordance with Article 13 of the Constitution, the Monitoring Officer is responsible for keeping the Constitution under review. The Monitoring Officer is delegated the authority to make minor alterations to the Constitution or make amendments to reflect in year changes. Substantive changes to the Constitution must be approved by the Council.

Finance:

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
Not updating the Constitution on a regular basis would increase the risk of failing to reflect current legislation and practices which	Ensuring the Council’s Constitution remains up to date and fit for purpose it is reviewed annually.

would negatively impact decision-making.	
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Human Resources:

There are minimal HR implications as outlined in the body of the report with regard to minor changes to the Code of Conduct for Employees.

Equalities:

There are no specific equalities issues highlighted in the report or apparent at this stage in relation to proposed changes.

Other Implications:

None

Reason(s) for Urgency

Not applicable

Reason(s) for Exemption

Not applicable

Background Papers

None

Report Author and Contact Officer

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Report To:	STANDARDS AND PERSONNEL APPEALS COMMITTEE	Date:	18 MARCH 2019
Heading:	ANNUAL ETHICAL GOVERNANCE UPDATE		
Portfolio Holder:	NOT APPLICABLE		
Ward/s:	NOT APPLICABLE		
Key Decision:	NO		
Subject to Call-In:	NO		

Purpose of Report

- To give the Committee an overview of the work of the Standards and Personnel Appeals Committee during 2018/2019.
- To consider work plan items for 2019/2020.
- To note Member attendance during 2018/2019 to date.
- To note arrangements for Member induction and equipment post the District Elections.
- To consider the recommendations of the Committee on Standards in Public Life report on Local Government Ethical Standards.

Recommendation(s)

Committee is asked to:

- 1. Note the progress made in relation to the agreed 2018/19 work plan;**
- 2. Consider future work plan items;**
- 3. Note the number of Member complaints received during the year as summarised in the report and the current outstanding complaints;**
- 4. Note the position in relation to attendance at meetings;**
- 5. Note and provide comments in relation to the arrangements being made for Member Induction and for Member IT equipment;**
- 6. Consider and provide comments in relation to the recommendations of the report of the Committee on Standards in Public Life regarding Local Government Ethical Standards.**

Reasons for Recommendation(s)

To enable the Committee to carry out its role in monitoring ethical governance.

Alternative Options Considered

(with reasons why not adopted)

Options are considered within the body of the report.

Detailed Information

WORK PLAN – 2018/2019

At its meeting in July 2018, the Committee agreed a programme of work for the 2018/2019 year.

The table below sets out the work item, the agreed timeframes and an update in relation to the progress made.

Proposed Work Item	Timeframe	Progress
Quarterly Complaint Update <ul style="list-style-type: none">• A report to Committee to keep it updated in respect of new and ongoing complaints made relating to the conduct of Members.	July 2018 October 2018 December 2018 March 2019	Reports have been submitted to each Committee meeting and Members have commented on the information provided.

Members' Attendance – Update <ul style="list-style-type: none"> To update Members in relation to attendance at meetings during the past municipal year and the implementation of the attendance element of the Members' allowance. 	July 2018	<p>A report was presented to the Committee in relation to Members' attendance.</p> <p>A further update is contained within this report.</p>
Politically Restricted Posts – Update <ul style="list-style-type: none"> To seek approval to update the list of politically restricted posts following the recent review of third tier managers and the introduction of Assistant Director roles. 	July 2018	A report was presented to the Committee and the list approved for updating.
Review of Members' DBS Check Policy <ul style="list-style-type: none"> A report to consider and review the existing policy following its approval in 2016. 	December 2018	<p>The DBS policy was considered and updated and recommended to Council for approval.</p> <p>The Policy was approved at Council on 13 February 2019.</p>
Members' Development – Induction Programme <ul style="list-style-type: none"> To develop an induction programme for after the District Elections in May 2019. 	March 2019	The arrangements for Member Induction are included in this report.
Whistleblowing Policy <ul style="list-style-type: none"> Annual report to consider amendments (if required) to the policy and to monitor the application of the policy 	March 2019	A report is presented to this Committee meeting elsewhere on the agenda.

Review and Update of Ethical Governance Arrangement at Selston Parish Council <ul style="list-style-type: none"> To consider and make recommendations regarding the governance issues surrounding current Councillor relationships and working arrangements at Selston Parish Council. 	December 2018	<p>An update was provided to the Committee in December 2018.</p> <p>The Deputy Monitoring Officer continues to attend meetings of the Parish Council and provides support and advice.</p>
Annual Review <ul style="list-style-type: none"> Report to consider the work of the Committee over the year compared to the agreed Work Programme. To consider an overview of the ethical governance of the Council. 	March 2019	This report.
Constitution Review <ul style="list-style-type: none"> Consideration of proposed amendments to the Constitution for recommendation to Council. 	March 2019	A report is presented to this Committee meeting elsewhere on the agenda.

The Committee will note that all items have been actioned during the year as planned and that subject to the reports which appear elsewhere on this meeting's agenda the actions are completed.

Committee is therefore asked to:

- **Note the progress made in relation to the agreed work plan.**
- **Consider future work plan items.**

SUMMARY AND UPDATE OF MEMBER COMPLAINTS RECEIVED DURING 2018/2019

By the end of February 2019, I had received **24** formal complaints during 2018 and **2** during 2019 regarding the behaviour of Councillors. Of these **26** complaints:

- 11 complaints relate to District Councillors during 2018
- 2 complaints relate to District Councillors during 2019
- 13 complaints relate to Parish Councillors during 2018
- No complaints relate to Parish Councillors during 2019

Comparing the total number of complaints since 2011:

Year	Number of Complaints
2011	0
2012	13
2013	15
2014	8
2015	12
2016	4
2017	18
2018	24
2019	2

Of the complaints made up until the end of February, four complaints relating to District Councillors remain outstanding, three are being considered by a Referrals Sub-Committee on 18 March 2019, the other has been referred in the first instance to the police. In accordance with adopted process, the Sub-Committee will be asked to consider if the complaints should not be progressed further (no further action), if other action should be taken or whether a full investigation is needed.

The Deputy Monitoring Officer continues to attend meetings of the Selston Parish Council and provides support and advice. A verbal update will be provided at the Committee meeting in relation to conduct at the Parish Meetings attended and the thirteen outstanding Parish complaints.

Committee is therefore asked to note the number of Member complaints received during the year as summarised in the report and the current outstanding complaints.

ATTENDANCE AT MEETINGS

Members will recall that during 2016/2017 as a result of the Independent Remuneration Panel's recommendations an element of attendance related allowance was introduced (Performance Special Responsibility Allowance) from June 2017 onwards. The allowance consists of £500 which is paid to Members achieving 70% attendance at all their formal meetings and mandatory training. This Committee developed and recommended a policy which was approved by Council relating to authorised absences which is taken into account when collating attendance data.

Summary Information - Q1, Q2 and Q3 (cumulative) - May 2018 to February 2019

	Q1	Q2	Q3
Members with 100% attendance	24	8	8
Members with attendance between 90% and 99%	0	10	12
Members with attendance between 80% and 89%	1	7	7

Members with attendance between 70% and 79%	3	6	6
Members with less than 70% attendance	7	3	2

Total	Quarter 1	Quarter 2	Quarter 3
Authorised absences	7	17	5
Unauthorised absences	16	38	5
No apologies submitted	6	5	3

For the 2 Members with less than 70% attendance:

- 1 Member has 20% attendance
- 1 Member has 60% attendance

Reasons for absences for the first three quarters:

Reason	Number of times
Bereavement (Authorised)	0
Family Emergency (Authorised)	1
Medical Operation (Authorised)	0
Meeting Changed at Short Notice/Holiday Booked (Authorised)	2
Work Commitment (Unauthorised)	19
Illness (Authorised)	26
Personal (Unauthorised)	24
Holiday (Unauthorised)	3
Other engagement (Unauthorised)	2
No reasons for absence (Unauthorised)	14

Assessment for the payment of the Performance Special Responsibility Allowance will occur during May or June 2019 and will be reported to the next available Committee thereafter.

The Committee is therefore asked to note the position in relation to attendance at meetings.

MEMBER INDUCTION PROGRAMME / TRAINING PROGRAMME

The Member Induction Programme / Training Programme following the District Elections on 2 May 2019 is designed for both new and returning Councillors. The programme will aim to equip Members with the knowledge and skills to enable them to successfully fulfil the role of a District Councillor by providing essential information about the functions of the Council and the responsibilities of a Member, as well as essential information to support Members in their constituency role.

The draft programme takes into account lessons learned from previous induction programmes. Some detailed arrangements are still to be finalised depending upon such things as trainer availability.

There are five main elements to the Induction Programme:

1. **Pre-election period** (to 2 May) – information and support for candidates

Candidates will be provided with a Candidate Pack. Information contained within this pack includes:

- Letter from the Chief Executive
- Roles and Responsibilities of being a District Councillor
- Draft Schedule of Meetings
- Member Development Strategy
- Draft Induction / Training Programme

2. **Core Induction** (7 May)

Key information, support, resources and training for new and returning Members. This includes:

Initial Induction (7 May) – Democratic Services / Elections / HR and IT / Comms supported day to collect key pieces of documentation from new and existing Members. This includes:

- New Member Forms detailing address / bank details etc.
- Register of Interest Forms
- DBS completion
- Photo ID Cards
- IT – Hand out of equipment and signing agreement form.

Welcome / Induction Pack

The Welcome / Induction pack of key information to be provided to all Elected Members includes:

- Key dates (Draft Schedule of Meetings)
- Forms to be completed

- Council areas of responsibility/services
- Overview of Council governance arrangements (to help inform their planning for meetings)
- Information on DBS checks process
- Links to online support information.

Visits (7 May)

Visits to key rooms and some strategic services to be arranged for all new Members; other opportunities to visit services will be considered according to specific needs (e.g. visits may be arranged for certain committees)

3. **Specific Member Training** (9 and 10 May)

Intensive Mandatory Training to cover Members training needs in 45 Minutes – 1 Hour slots. This will support Members in their specific roles. **This training is for all Elected Members.**

Intensive training over a 2 day period (9 and 10 May) is the preferred option following feedback received during the last induction for Members following the District Elections in 2015. In 2015, the initial training period was spread out over a 7 week period to cover the core training requirements. Members' feedback suggested that this would be better condensed into a more intensive training period. This approach has been discussed briefly with each Group Leader.

Members should bear in mind that the Employment Rights Act 1996 requires employers to allow staff a reasonable amount of time off for their work as a Councillor.

4. **Mandatory Training**

Committee	Delivery
Planning Committee	External
Licensing Committee and its Sub-Committees	Internal
Chief Officers' Employment Committee	External
Standards and Personnel Appeals and its Sub-Committees	Internal
Code of Conduct / Ethical Governance	Internal/External
Equalities and Diversity	Online
Safeguarding	Internal
Lone Worker	Internal

Fraud Awareness	External
Chairperson (if appointed as a Chair)	Internal and External

Additional Training being Considered

Additional training being considered as part of the core list of training for all Councillors includes:

- Emergency Planning
- Media / Social Media
- GDPR

5. Member Development Programme

The Member Development Strategy (included in the Welcome/ Induction Pack) includes a self-assessment form. All Members will be asked to complete this in order to identify individual training needs.

Activities Plan

Date	Activity	Commentary
7 May – Member Induction	Stall based set up covering Governance / HR / IT and Elections to assist Members with forms / IT etc.	Democratic Services Team and representatives from IT / HR and Elections and Comms to be in attendance. Please see draft Plan attached as Appendix A
9 May – Intensive Training Day 1	4 Training Sessions covering Mandatory Training	Please see draft Plan attached as Appendix A
10 May – Intensive Training Day 2	4 Training Sessions covering Mandatory Training.	Please see draft Plan attached as Appendix A

Members' IT

A number of options have been considered in relation to Members' IT Equipment. The budget for this has been agreed in the Capital Programme.

Members are asked to note that they will be asked to sign an IT declaration on receiving their IT equipment.

Option 1 - Windows tablets connected to the Council's network

We considered a Windows Tablet equipped with Microsoft Office – connected to the Council's network. This option was discounted because there would need to be too many restrictions implemented on the devices in order to maintain the Council's network security such that Members would not be able to install apps themselves and have the freedom to copy information to and from the device.

Option 2 - Windows tablets not connected to the Council's network

We also considered Windows tablets that were not connected to the Council's network and utilised Office 365 as the main office suite. This was discounted because while Office 365 may be a good solution for Members, in terms of an office suite, the Windows tablets are perhaps not as useful as an iPad device, in terms of apps, photos, portability and battery life. We discussed with other local authorities and they had come to the same conclusion. One Council (South Derbyshire) had deployed Windows tablets to members and had noticed a large rise in calls to the ICT Helpdesk for assistance from members with issues with the Windows devices. This included calls relating to battery life and devices being flat when they arrived for meetings etc. They said that they wished they had stayed with iPads.

Option 3 - Preferred Option - iPads

The preferred option is iPads with bluetooth keyboards as the best all round device. These can also use Office 365 as the Office suite, or continue with the Blackberry Works. They have good battery life at around 9 hours.

They have proved to be robust and are very portable without the bulk of an affordable Windows tablet. Modern.gov also works well on them. The other authorities we spoke to had come to the same conclusion and confirmed that they were retaining iPads for Members use.

Total cost for iPads will be approximately £18,000, which is within the approved budget.

The current iPads were provided with a SIM slot and it was down to Members to provide their own sim cards, although not many members did. iPads with the SIM slot option would be an additional expense of around £130 per device. SIM cards with 3GB would cost £9 per month (the revenue expenditure for SIM cards is not currently budgeted for).

As most Members will undertake Council related work on their iPads where Wi-Fi is available and because of the additional expense, it is recommended that iPads are purchased without the SIM slot. However, it has been suggested that if a business case can be provided by individual Members who may regularly be required to represent the Council (for example at meetings) at locations where WiFi is not available thus making it difficult for them to carry out their duties, this will be considered.

Current iPad

For those Councillors that currently have a Council provided iPad, they will be provided with 2 options:

- Return the iPad
- Keep it for a nominal fee of £60 - this fee was decided upon because the exchange rates for iPads are still relatively high with for example Currys / Music Magpie paying £90 - £110. If

Members decide to keep their device the £60 will be deducted from the final Members' Allowance payment.

Committee is asked to note and provide comments in relation to the arrangements being made for Member Induction and for Member IT equipment.

COMMITTEE ON STANDARDS IN PUBLIC LIFE – REPORT ON LOCAL GOVERNMENT ETHICAL STANDARDS

Members of the Committee will recall responding this time last year to the consultation undertaken by the Committee on Standards in Public Life (CSPL) regarding local government ethical standards.

The report of the CSPL was launched on 30 January 2019.

I had the benefit of attending a presentation by Mr Jonathan Goolden of Wilkin Chapman LLP who was an adviser to the CSPL regarding the report and my thanks are expressed to Jonathan for allowing me to use elements of his presentation in this report.

❖ CSPL's Terms of reference

1. examine structures, processes and practices of local government in England for:
 - a. maintaining code of conduct for councillors
 - b. investigating alleged breaches fairly and with due process
 - c. enforcing code and imposing sanctions for misconduct
 - d. declaring interests and managing conflicts of interests
 - e. whistleblowing
2. Assess whether existing structures are conducive to high standards of conduct
3. Make recommendations for improvement
4. Note evidence of intimidation and make recommendations to prevent

❖ Codes of conduct

a) Findings

- Inconsistent
- Don't cover bullying effectively
- Problems re scope – social media, claiming to or appearing to act as a councillor
- Nolan only codes inadequate
- Need to be reviewed
- Hard to find on LA websites

b) Recommendations

- **R1** LGA to create new model code, in consultation with SLCC, NALC etc.
- **R3** Councillors presumed to be acting in an official capacity in their public conduct
- **R4** Code to apply to when councillor claims, or appears to be acting, as such

c) Best Practice

- **BP1** LA codes to define and prohibit bullying and harassment, with examples
- **BP2** Failure to co-operate with investigation to be breach of code
- **BP3** LAs to review code annually
- **BP4** Code readily accessible in prominent position on LA website

❖ Interests

a) Findings

- DPIs too narrow, unclear and criminalisation is disproportionate
- Registers disclose home addresses exposing cllrs to intimidation
- List of people whose interests need to be registered is too narrow
- But current list of pecuniary interests ok
- Need to include non-pecuniary interests in codes
- Unsatisfactory arrangements on registers of gifts and hospitality
- Requirements to declare DPIs and withdraw are too narrow

b) Recommendations

- **R18** abolish DPI criminal offences
- **R2** amend DPI regulations so that Councillor home address is not registrable
- **R5** amend DPI regulations to include unpaid directorships, trusteeships, charity / public body roles and lobbying organisations
- **R6** code to require registration of gifts / hospitality over £50 or over £100 p.a. from a single source
- **R7** abolish s31 Localism Act, code to require Councillors to leave room if a member of the public would reasonably regard their interest as so significant that it is likely to prejudice their discussion or decision making

c) Best Practice

- **BP5** LAs to update registers of gifts & hospitality quarterly and make them accessible

❖ **Investigations and safeguards**

a) Findings

- Use a public interest test for filtering complaints
- No role specification, term, formal powers or legal protection for Independent Persons (IP)
- IP views not public
- Many LAs not transparent on numbers of complaints and details of decisions
- Standards Committees should have voting independent and parish members
- No current right of appeal after hearings

b) Recommendations

- **R8** 2 year term of office for IPs, renewable once
- **R9** IPs views to be recorded in decision notice and minutes
- **R10** IP must agree breach and sanction on suspensions
- **R11** LAs to provide legal indemnity to IPs
- **R12** LAs may have voting independent and parish members on standards committees
- **R13** Right of appeal to LGO if suspension
- **R14** LGO power to investigate and binding sanction
- **R15** LAs required annually to publish complaints data and outcomes

c) Best Practice

- **BP6** LAs to adopt public interest test for filtering complaints
- **BP7** LAs to have at least 2 IPs
- **BP9** LAs to publish full hearing decisions
- **BP10** LA websites to have clear complaints guidance and information

❖ Sanctions

a) Findings

- Lack of serious sanctions:
 - Prevents enforcement of lower level sanctions
 - Damages public credibility
 - Makes cost of investigations disproportionate to outcome
 - Removes means of LAs containing reputational damage
 - Credibility of current regime undermined by lack of serious sanctions
- Party group discipline can fill the gap but lacks transparency, consistency and checks on impartiality of a standards system
- Suspension preserves the ballot box which is insufficient in itself
- Legal uncertainty of premises bans

b) Recommendations

- **R16** LA power to suspend without allowances for up to 6 months
- **R17** Government / legislation to put beyond doubt lawfulness of premises bans
- **R18** Decriminalise DPLs (see interests)

❖ Town and parish councils

a) Findings

- Parish councils (PCs) are highly dependent on the skills, experience and support of clerks – evidence of substantial difficulties where clerks are inexperienced, untrained, feel isolated and poor member behaviour
- 15% of PCs experience serious behaviour issues, 5% dysfunctional
- PCs should report complaints, not the clerk
- Some Monitoring Officers decline or lack resources to provide advice or accept parish complaints
- Variation in parish codes is a burden on the principal authority and confusing for dual hatted members
- PCs can ignore sanctions recommended by principal authority hearing
- PCs can take lawful protective steps short of sanctions

b) Recommendations

- **R19** Parish clerks to be qualified
- **R20** PCs to adopt parish version of principal authority code of conduct
- **R21** Parish councillor sanctions to be determined by principal authority only

c) Best Practice

- **BP11** standards complaints about member on clerk conduct to be made by chair or PC as a whole
- **BP12** Monitoring Officer role and resourcing to include advice, support and management of PC cases

❖ Role of the Monitoring Officer (MO)

a) Findings

- MO is the lynchpin for upholding standards
- Can be conflicts of interest in MO being involved in investigation of senior members
- Confidence and support of chief executive is crucial to ensure MO has ability to uphold standards
- Some MOs have been forced to resign because of unwelcome advice or decisions

- Whistle-blowers could be deterred from reporting concerns to a private audit firm
- Whistle-blowers should be able to report concerns to councillors

b) **Recommendations**

- **R22** statutory protection for MOs etc to extend to all disciplinary action, not just dismissal
- **R23** LAs required to ensure whistleblowing policy and website specifies named contact for external auditor
- **R24** councillors to be “prescribed persons” in Public Interest Disclosure Act 1998

c) **Best Practice**

- **BP13** LA should have investigation conflict procedures, including use of MOs from other LAs

❖ **Council governance, leadership and culture**

a) **Findings**

- LAs now have complex governance – joint ventures, owned companies, LEPs
- Increased risk of conflicts of interest, lack of transparency
- 3 common threads in corporate failure:-
 - Unbalanced relation between members and officers
 - Lack of understanding of governance processes and scrutiny
 - Culture of fear or bullying
- Visible leadership essential in embedding ethical culture
- Early induction for councillors vital to set ethical tone

b) **Recommendations**

- **R26** LGA peer reviews to include standards processes

c) **Best Practice**

- **BP14** LA governance statement to include related bodies, those bodies to publish agendas, minutes and annual reports
- **BP15** senior officers to meet regularly with group leaders or whips re standards

What next?

- Detailed and challenging report
- Some recommendations require primary legislation, some need changes to regulations
- Has Government the capacity, post Brexit?
- Best practice points can be implemented now

The Committee is therefore asked to consider and provide comments in relation to the Report on Local Government Ethical Standards published by the Committee on Standards in Public Life.

Implications

Corporate Plan:

This report is presented in accordance with the Corporate Plan Priority “Organisational

Improvement” ensuring effective community leadership, through good governance, transparency, accountability and appropriate behaviours.

Legal:

The local Code of Conduct and any related processes must comply with relevant legislation, including the Localism Act 2011 and earlier Local Government Acts.

Finance:

The purchase of Members equipment is Capital expenditure and currently budgeted for (approx. £18,000 for i-pads without sim slots. Purchasing i-pads with Sim access would be an additional cost of around £130 per device. Ongoing costs associated with monthly data is currently not budgeted for in the Member Services Budget.

Budget Area	Implication
General Fund – Revenue Budget	Any additional cost of monthly sim data is not currently budgeted for in Members Services Budget.
General Fund – Capital Programme	Purchase of i-pads is budgeted for. i-pads with sim access would increase Capital cost.
Housing Revenue Account – Revenue Budget	None
Housing Revenue Account – Capital Programme	None

Risk:

Risk	Mitigation
Lack of transparency. Lack of monitoring. Failing to meet the duty of maintaining high standards of behaviour.	The work plan for this committee, the quarterly update reporting and this Annual report ensures the Council is open and transparent in the way it deals with ethical governance. The reporting and work of the Committee demonstrates the Council’s commitment to maintaining high levels of ethical behaviour.

Human Resources:

There are no significant Human Resource issues identified in the report.

Equalities:

There are no significant equalities issues identified in the report.

Other Implications:

(if applicable)

None

Reason(s) for Urgency

(if applicable)

Reason(s) for Exemption

(if applicable)

Background Papers

Report

Report Author and Contact Officer

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APPENDIX A – DRAFT MEMBER TRAINING PROGRAMME 2019-20

DATE	TIME	VENUE	TRAINING SESSION	DETAIL
Induction – Tuesday 7 May 2019				
Tues 7/5/2019	10 am - 7pm	Cttee Room	Drop-in welcome and introduction for All Councillors (Stall Based)	<ul style="list-style-type: none"> ○ Sign Declaration of Acceptance of Office ○ Have individual photos taken / access cards ○ DBS Checks ○ Receive Members' Handbook ○ Sign IT policy and collect IPad ○ Have a tour of the building ○ Meet key support staff ○ Member Development Forms
Training Day 1 – Thursday 9 May 2019				
Thursday 9/5/2019	9.30AM	Council Chamber	Induction	Welcome & Introduction from Chief Executive / Monitoring Officer
	10 am – 11am	Council Chamber	Your Responsibilities and Your Role as Councillors - Code of Conduct	Outline of Constitution Promoting and maintaining high standards of conduct by Members Code of Conduct (including Gifts and Hospitality) The Register of Interests Protocols Guidance Dispensations Political Publicity – rules
	11am	Council Chamber	The Role of Overview and Scrutiny	Role of Scrutiny/Role of Members (include New Scrutiny Guidance/Handbook) Skills Training – Chairing, Scoping reviews, Questioning Methods, Research and analysis Scrutiny and Community Leadership and Governance
	11.40		Tea Break	
	12pm – 1PM	Council Chamber	Planning Training	Role of a Member of Local Planning Authority Planning Code of Good Practice Relationship to Members' Code of Conduct Development proposals and Interests under Members' Code of Conduct Fettering Discretion in the Planning Process

				Lobbying of and by Councillors Contact with applicants, developers and objectors Role of Officers Decision Making Public Speaking at Meetings Site Visits How to determine Planning Applications
	1PM		Lunch	
	2PM – 3PM	Council Chamber	Member Role in the Licensing Process	General Principles of each Act Role of Members Ward Member Role Licensing Objectives Determining Licensing Applications
Training Day 2 - Friday 10 May				
Friday 10 May	9.30 - 10.30	Council Chamber	Emergency Planning Training	TBC
	10.30 – 11.15	Council Chamber	Social Media / Media Training	TBC
11.15 Tea Break				
	11.35 – 12.30	Council Chamber	Standards and Personnel Appeals	TBC
12.30 – 1.15 Lunch				
	1.15pm – 2.15pm	Council Chamber	GDPR, FOI	TBC
	2.15pm – 3PM	Council Chamber	Safeguarding	TBC

Other Training to be Considered

Equalities and Diversity	Online
Lone Working	Online
Fraud Awareness	External
Audit	External