

**ASHFIELD DISTRICT COUNCIL**



**Ashfield**

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

## Agenda

# Standards and Personnel Appeals Committee

Date: **Monday, 14th March, 2016**

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Time: **6.30 pm**

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Venue: **Committee Room, Council Offices, Urban Road.  
Kirkby-in-Ashfield.**

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For any further information please contact:

**Alan Maher**

01623 457318

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# STANDARDS AND PERSONNEL APPEALS COMMITTEE

## Membership

**Chairman:**

**Councillor Lachlan Stuart Morrison**

**Councillors:**

James Francis Aspinall  
Joanne Donnelly  
Philip Michael Rostance  
Jacqueline Donna James

Amanda Brown  
Catherine Ann Mason  
Christine Louise Quinn-Wilcox  
Councillor Helen Ann Smith

## FILMING/AUDIO RECORDING NOTICE

This meeting may be subject to filming or audio recording. If you have any queries regarding this, please contact Democratic Services on 01623 457318.

## **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 and Non Disclosable Pecuniary / Other Interests.**
- 3. To Receive and Approve as a Correct Record, the Minutes of the Meeting held on Monday 11 January 2016.** 5 - 8
- 4. Annual Review.** 9 - 22
- 5. Quarterly Complaints Monitoring Report** 23 - 28
- 6. Annual Review of the Whistle Blowing Policy.** 29 - 40
- 7. Politically Restricted Posts.** 41 - 46

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## **STANDARDS AND PERSONNEL APPEALS COMMITTEE**

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

**on Monday, 11 January, 2016 at 6.30 p.m.**

**Present:** Councillor L.S. Morrison, in the Chair

Councillors A. Brown, J. Donnelly, J.D. James, C.A Mason,  
C. Quinn-Wilcox, P. Roberts (substitute for Cllr J.F.  
Aspinall), P.M. Rostance

**Apologies for Absence:** J.F. Aspinall

**Officers Present:** R. Dennis, A. Maher

**SP.17 Declarations of Disclosable Pecuniary and Non Disclosable  
Pecuniary/Other Interests.**

There were no declarations of interest made.

**SP.18 Minutes.**

The minutes of the Committee held on 19 October 2015 were approved as a true record.

**SP.19 Social Media Policy for Councillors**

Members of the Committee were reminded that they had previously discussed social media (such as Twitter and Face book) and had recognised that it was likely to become an increasingly important tool for Councillors, especially when engaging with their constituents and local communities. However, they had also recognised the potential dangers to individual Councillors if they used social media inappropriately and so breached the Code of Conduct.

Members had agreed that a draft policy on the use of social media be drawn up in order to minimise these dangers. The report to Committee now sets out the draft policy. This made it clear that when using social media, Councillors should:

- (a) Show respect for others – and not use it to be rude or disrespectful;
- (b) Not disclose confidential information about people or the Council;

- (c) Not make repeated negative comments about or to individuals, which could be interpreted as bullying or intimidation;
- (d) Abide by the laws of equality – and in particular, not publish anything that might be seen as racist, sexist, ageist, homophobic or anti-faith, even if this was intended as a joke.

Members discussed the draft policy, which they welcomed. During this discussion several suggested amendments to the text were made. These included a specific reference to the practice of Internet ‘trolling’ and also a clarification of when someone was acting in a personal capacity or as an elected Member. The Monitoring Officer agreed to make the necessary changes to the policy. The Committee also felt that it would be helpful for Members to receive appropriate training on the use of social media. It was noted that the Members of other local authorities currently make greater use of social media than Ashfield. Again, the Monitoring Officer agreed to make the necessary arrangements.

#### RESOLVED

- (a) That the Monitoring Officer in consultation with the Chair be authorised to make the necessary amendments to the Policy in the light of the comments raised by the Committee at today’s meeting,
- (b) That the amended Social Media Policy be recommended to Council for approval; and
- (c) That the Monitoring Officer make necessary arrangements for social media awareness training for Members.

#### Reasons

The development of a Social Media Policy for Councillors will help to ensure that the Council clearly outlines responsibilities when using social media.

#### **SP.20 Politically Restricted Posts**

The Committee then considered a report which set out the list of politically restricted posts, or in other words those posts where the post holders are prevented by law from having any active political role, either in or outside of the workplace. This list, it was explained, reflected the Council’s current organisational structure, following on from the various reorganisations which had taken place during recent years. Members were asked to approve the list, subject to an amendment to both remove a post and add a post on to it. The Monitoring Officer would then discuss the list with the Trade Unions, in order to identify any further additions or deletions. These changes would be reported back to the next meeting of the Committee. Members supported this approach.

#### RESOLVED

- (a) That the Committee delegate authority to the Monitoring Officer to consult with the Trade Unions in respect of the draft list of politically restricted posts as

required by the Local Government and Housing Act 1989 and report back to the next Standards and Personnel Appeals Committee any changes, deletions or additions;

- (b) That the Committee require the Monitoring Officer (being the appointed proper officer for the purpose of maintenance of the list) to report to the Committee every two years as to the adequacy or otherwise of the list.

Reasons

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

## **SP.21 Quarterly Complaints Monitoring Report**

The report to Committee provided information on complaints of alleged Member misconduct and the progress which had been made in assessing them. The report also stated that four new complaints of misconduct had been received from the public during recent months. The Monitoring Officer explained that these new complaints were still being assessed and no decision had been taken as yet about whether or not to investigate them further.

Members discussed the report. As part of this discussion, they noted the reasons for delays, which were often outside the Council's control. They also noted that several of the cases involved the alleged abuse of social media.

RESOLVED

That the Committee note the updated position in respect of the Members' Code of Conduct complaints for the period 9 October 2015 to 31 December 2015.

Reasons

To reflect good practice.

## **SP.22 Independent Person and Co-optees**

Members were reminded that the Localism Act 2011 required local authorities to appoint 'Independent Persons' to play a role in both the investigation of complaints against Members and in disciplinary action relating to statutory officers. Members were also reminded that Council had agreed to appoint two non-voting Co-opted Members to serve on the Committee.

The report to Committee explained that the Council currently has two 'Independent Members', who were appointed in 2012 and 2013. They had been appointed in conjunction with Mansfield District Council, where the post holders carry out the same role. The Committee considered the options and decided that in conjunction with Mansfield District Council the post holders ought to be formally contacted in order to find out whether they do or do not wish to continue in post.

The report also explained that the recruitment process carried out in the autumn to appoint two non-voting Co-opted Members on to the Committee had not been successful. The Committee confirmed that it wished to launch a second recruitment process. Members suggested that this second exercise ought to be targeted at those groups with a professional interest in governance and legal processes, such as those who serve as magistrates. The Monitoring Officer agreed to do this.

#### RESOLVED

- (a) That the Committee asks the Monitoring Officer to discuss the ongoing arrangements for Independent Persons with Mansfield District Council;
- (b) The Monitoring Officer is asked to consult with the current Independent Persons in order to determine whether they wish to remain in post;
- (c) That a second recruitment process for Co-optees be undertaken along the lines discussed at the meeting.

#### Reasons

To ensure that the Council fulfils its obligations under Section 28 of the Localism Act 2011. To ensure effective community leadership, through good governance, transparency, accountability and appropriate behaviour.

The meeting closed at 7.20pm.

Chairman.



# Agenda Item 4

**REPORT TO:** STANDARDS AND PERSONNEL APPEALS COMMITTEE      **DATE:** 14 MARCH 2016

**HEADING:** ANNUAL REVIEW

**PORTFOLIO HOLDER:** N/A

**KEY DECISION:** NO      **SUBJECT TO CALL-IN:** NO

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## 1. PURPOSE OF REPORT

This report provides:

- a) an update in respect of the recommendations of the Local Government Association (LGA) as a result of their ethical governance review;
- b) an overview of the complaints history of the Authority to identify trends;
- c) an update regarding Member training.

## 2. RECOMMENDATION(S)

- a) The Committee is requested to note the updated position in respect of the recommendations of the Local Government Association (LGA) as a result of their ethical governance review and any outstanding issues.
- b) The Committee is asked to consider whether it wishes to recommend further actions and whether the Committee would like a further update report.
- c) The Committee is asked to note the complaints overview data and make recommendations as appropriate.
- d) The Committee is asked to note the training update and make recommendations as appropriate.

## 3. REASONS FOR RECOMMENDATION(S)

To enable the Committee to monitor the implementation of the LGA's recommendations and the impact of the changes.

To carry out its role in monitoring ethical governance.

## 4. ALTERNATIVE OPTIONS CONSIDERED (with reasons why not adopted)

No alternative options are considered appropriate.

## 5. BACKGROUND

### LGA's Ethical Governance Review

The LGA's findings were reported to Council on 9 October 2014. In summary, the LGA's perception was that relationships and behaviours between some Members, and between some Members and Officers, were below the standard expected in a well-functioning council. It believed that if behaviour and attitudes were not addressed through direct and rapid action, with Members taking clearer responsibility for adhering to the highest standards of ethics and integrity, then the situation would continue to deteriorate, Officers' capacity will be drained further and the Council's functioning and reputation will be damaged. It further concluded that more effort needs to be made to respect political difference and to find areas of mutual agreement.

The LGA recommended as follows:

- Develop a protocol so that the Chief Executive and his officers at all levels can and should challenge unreasonable behaviours of Members as and when they occur.
- Consider new opportunities for Group Leaders to meet, outside of Full Council meetings.
- Remind Group Leaders of their responsibilities in ensuring their Members behave courteously and reasonably to Officers.
- Review the local Code of Conduct.
- Consider a local sanctions approach.
- Introduce regular compulsory training for all Members on the local Code of Conduct.
- Clarify the arrangements for Members' access to information to ensure that reasonable expectations are met.
- Revisit the composition of the Standards and Personnel Appeals Committee and consider whether perceptions of greater impartiality would be achieved by an independent external chair or vice-chair.
- Ensure there is clarity about Standards and Personnel Appeals Committee processes and that it is understood that these processes are equally applicable to all Members.
- Speed up the process of investigating complaints against Members and ensure that timescales are communicated to Members.

In response to the LGA's recommendations, the Standards and Personnel Appeals Committee, at its meeting on 16 March 2015 approved a revised Member/Officer Protocol, an amended Members' Code of Conduct, and revised Complaints and Hearing processes for approval by Council.

The Standards and Personnel Appeals Committee's recommendations and revised documentation were presented to and approved at the Council AGM on 21 May 2015.

A progress update was presented to this Committee on 20 July 2016. Members noted the status of the recommendations and the outstanding issues and requested that a report assessing the outcomes of the implementation of the LGA recommendations be presented to its meeting in March 2016 (Minute SP.4 refers).

A table setting out the progress made in relation to the LGA's recommendations including the work carried out since July 2015 is attached to the report as Appendix 1.

Members will note that all recommendations have been actioned. In particular, Committee is asked to note that the Group Leaders have met a number of times since the last report in July 2015. The meeting is to become the "Cross Party Update Meeting" to enable the single non-aligned Member to attend.

The Group will meet every three months (or additionally as required). The next meeting is due to take place on 7 March 2016 and will consider the adoption of a Terms of Reference. The draft Terms of Reference includes a provision for the meeting to informally discuss and monitor the ethical conduct of Members.

There are two recommendations which are not yet complete. The first relates to training which is dealt with later in the report, the second relates to the recruitment of co-optees. The Committee on 11 January 2016 confirmed that a further recruitment process should be carried out. Preparations are underway for the interviews to be held on 7 April 2016 in the event that suitable applicants come forward.

### Assessing the Impact of the Implementation of the LGA's Recommendations

Since the introduction of the new Member/Officer Protocol, no complaints regarding Member conduct have been received from Officers.

General feedback from Officers is positive and there is a belief that relationships and behaviours between Officers and Members has improved. A staff survey carried out during the summer of 2015 appears to bear this out: 29% of Officers completing the survey were of the opinion that officers are treated fairly and respectfully, compared to 23% in a comparable survey in 2013, this shows an increase of 6%. Additionally, the survey carried out in 2013 saw 30% of responding Officers saying they felt Members did not treat them fairly and with respect, but by 2015 it is pleasing to note that this had reduced to 20%, a drop of 10%.

The Trade Unions contributed their comments to the Committee Report in March 2015. The redrafted Member/Officer Protocol was welcomed by the Trade Unions. The Unions were pleased to see the redrafted Protocol and believed the guidelines would offer increased assistance and support to officers faced with addressing incidences of unacceptable behaviour by Members, towards them, in the workplace

The Unions have been asked for their comments in relation to the impact of the implementation of the LGA's recommendations. The comments of UNISON are set out below:

*"Thank you for consulting the trade union on Ethical Governance.*

*The trade union welcomed the proposals when they were introduced.*

*The Trade Union commented at the time that whilst some officers had felt intimidated by the behaviour of some members, most officers have a good working relationship with members and that meetings were conducted with mutual respect and courtesy.*

*We are unaware of any recent incidents of unacceptable behaviour and we believe that the Code of Conduct adopted, together with the introduction of access protocols has created a more structured relationship between officers and members, which has been beneficial and that mutual respect and courtesy prevails."*

The re-introduction of a Cross Party Members meeting is a positive step forward to encourage respect for political differences between Members and a means of ensuring greater information sharing is in place.

## Complaint History

In light of the fact that the Standards and Personnel Appeals Committee has a large number of new Councillors sitting on it, the Committee also previously requested some more detailed information relating to the history of Code of Conduct complaints at the Council.

The following charts pull together the information available to give Members a better understanding of the volume and outcomes of complaints made against Councillors from 2004 to the present time.

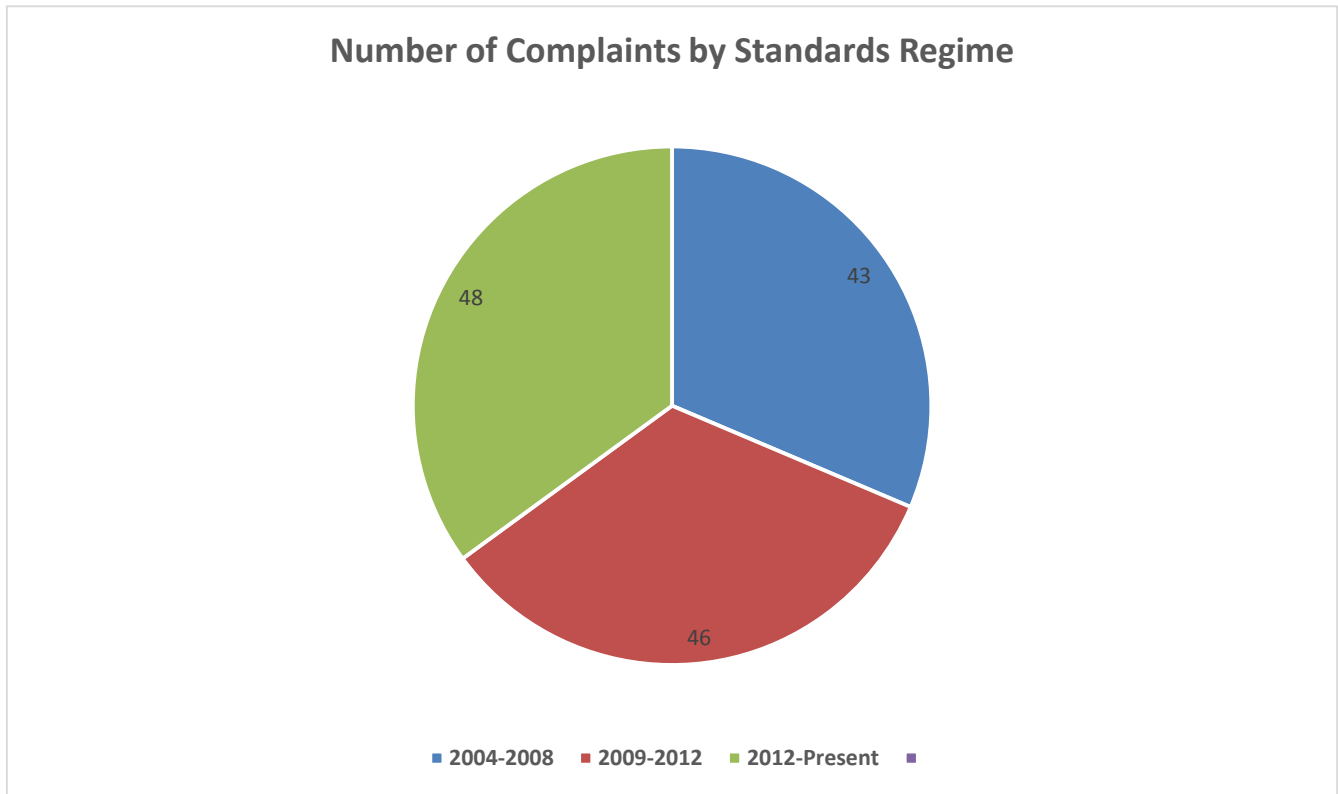
Table 1 below, shows the number of complaints received per year during the period 2004 – 2015. Members will note that the only year that no complaints were made about Member behaviour was 2011. There was a spike in 2006 of 27 complaints. The average over the period is 11.4 complaints per year.

**Table 1 – Total Number of Complaints Received by Year.**



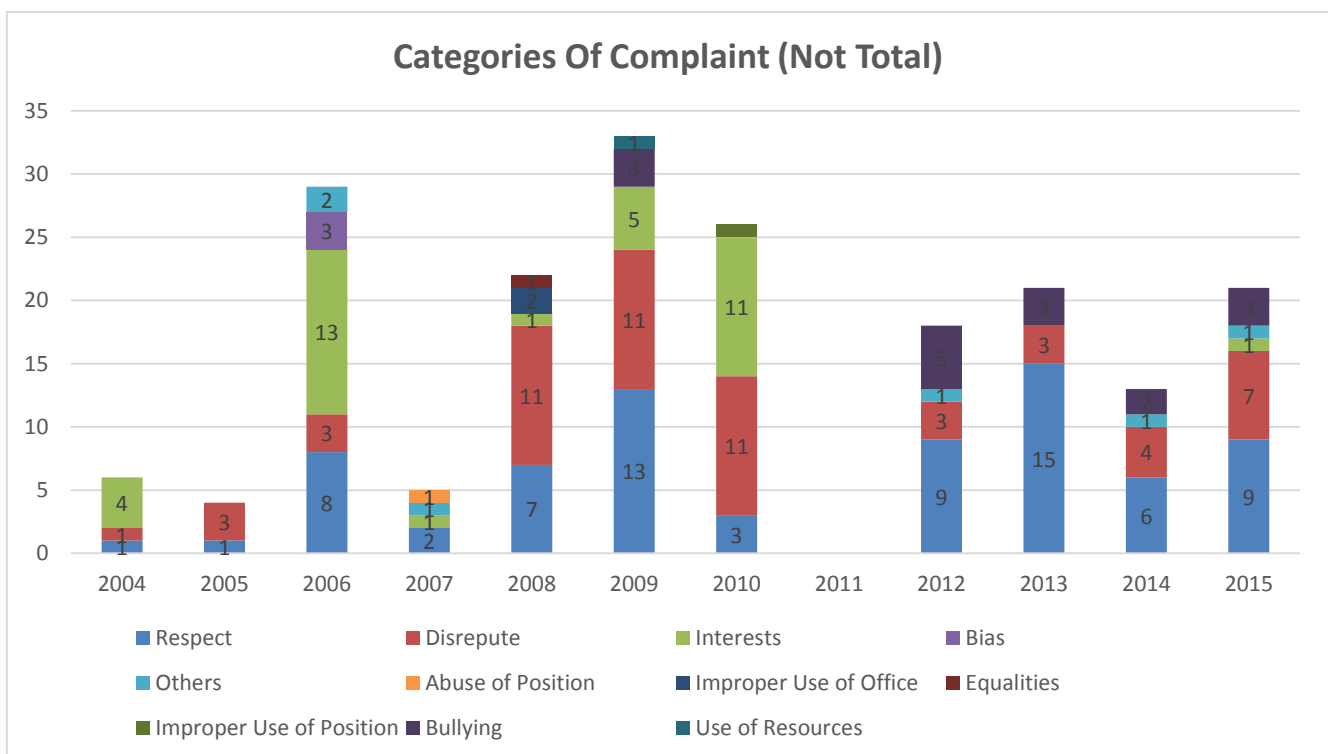
The Member complaints system has been through three statutory changes over the years. The initial system introduced by the Local Government Act 2000 saw complaints made to and dealt with by the Standards Board for England (SBE). In 2008 this changed so that complaints were dealt with locally and only in serious situations would the SBE carry out an investigation. From 2012 (following the Localism Act 2011) there has been a fully devolved system in place where the Code of Conduct and systems are all set locally and crucially the statutory sanctions (including suspension and disqualification) were repealed. The data for Ashfield shows no appreciable difference in complaint levels during any of these different systems, the level of complaints is largely the same throughout.

**Table 2 – Number of Complaints by Standards Regime**



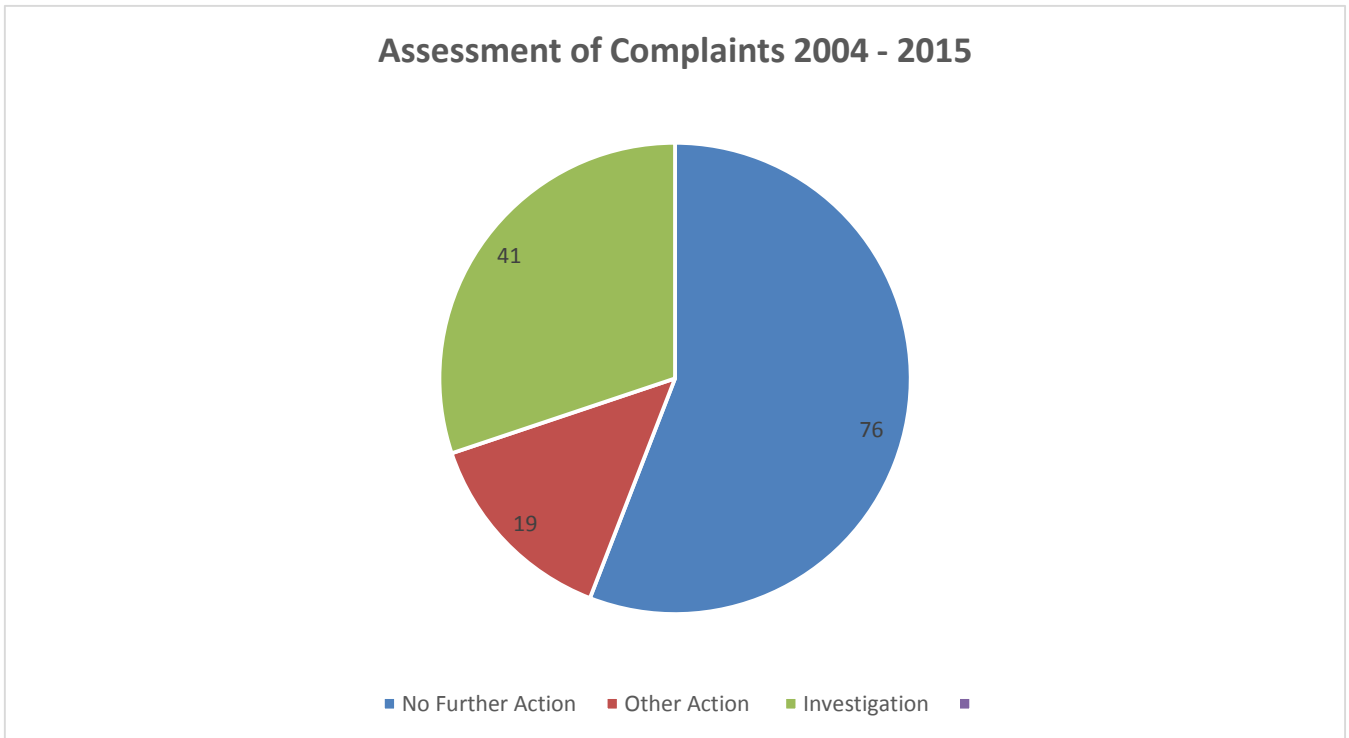
In order to try to identify a trend in the types of complaints being made, Table 3 below shows the categories of complaints received. Complaints often involve multiple categories of complaint. The categories relate to the breaches of the Code of Conduct which were alleged. During the years 2004-2010 there were significant numbers of complaints relating to alleged failure to declare interests, in recent years, this does not appear to be a continuing problem. Complaints relating to disrespect and disrepute have been made through out.

**Table 3 – Categories of Complaint**



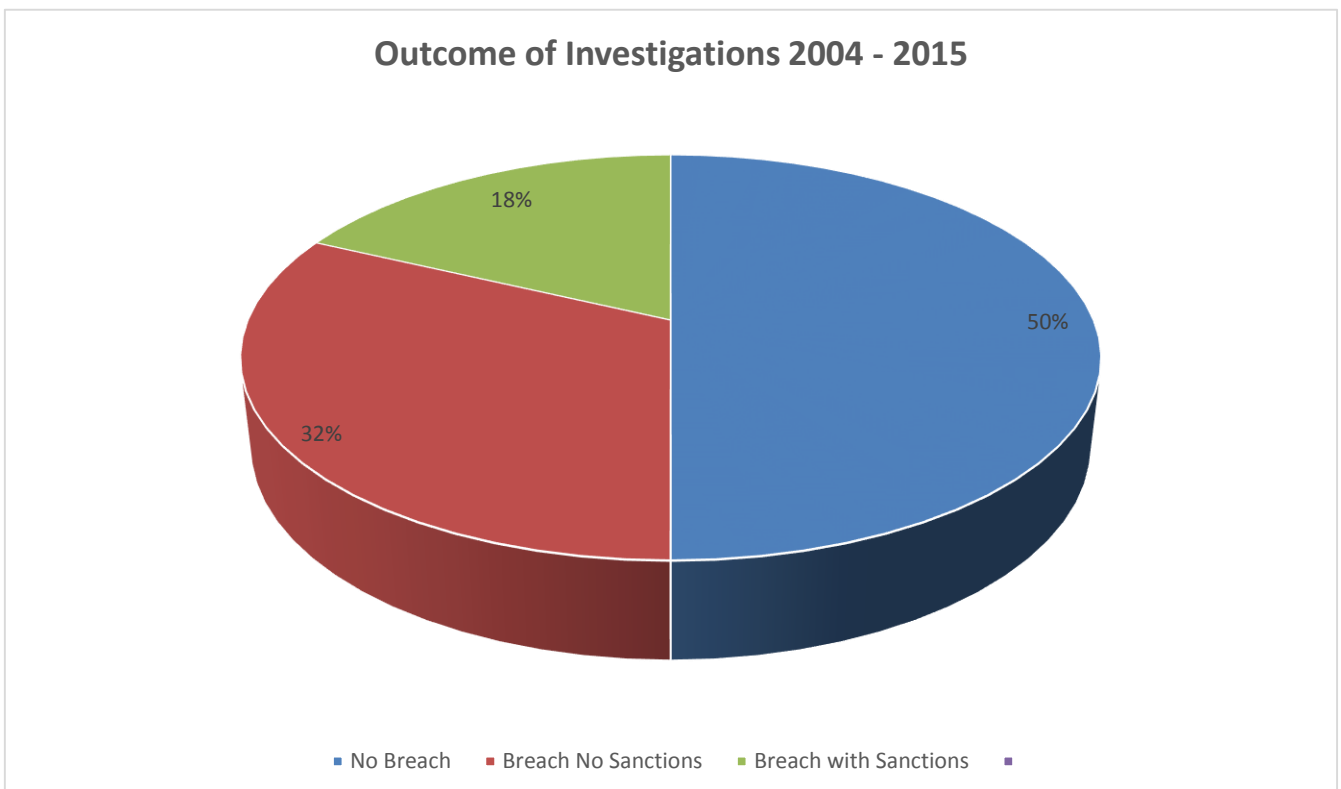
When a complaint is received an assessment decision is made relating to what action, if any, to take regarding the complaint. There are three options available, to take no action, to take other action (such as mediation, guidance) or to carry out an investigation. Table 4 below shows that over half of the complaints made are not taken forward to an investigation (56% - no further action); 30% of complaints have been investigated.

**Table 4 – Assessment of Complaints**



Of the investigations concluded, 50% found that there has been no breach of the Code of Conduct by the Member. Of those where a breach was found, the majority saw no sanctions being given.

**Table 5 – Outcome of Investigations**



## **Training Update**

An update report regarding training was presented to the Committee in October 2015.

The Council approved the Committee's recommendation to amend the Code of Conduct to identify safeguarding training as mandatory. A further safeguarding session was held on 10 February 2016; 17 Members have still not undertaken safeguarding training after two opportunities to attend.

A report was taken to the Group Leaders (now Cross Party Update Meeting) on 12 November 2015. They confirmed that training sessions with low confirmed attendance (below 10) should generally be cancelled – as a result sessions have been cancelled on two occasions. The Group Leaders also asked that a link between attendance at training and an element of the Members' Allowance be explored as part of the review of allowances which will be undertaken this year.

The Monitoring Officer has been asked to explore the possibility of dual hatted Members attending training at just one Authority where there is a requirement to attend the same training at both Authorities (for example, equalities and safeguarding). The Monitoring Officer will explore this as part of a wider piece of work to introduce a Members' Training Strategy and new training programme over the next six months.

### Mandatory Training

Mandatory training remains outstanding on the following Committees:

- Code of Conduct and Ethical Governance Training
- Equalities and Diversity Training
- Chairs Training
- Licensing Training
- Standards Committee Training
- Safeguarding - training for 17 Members remains outstanding following a second session held on 10 February 2016.

Officers will be arranging sessions to ensure all Members have a further opportunity to attend the mandatory training elements.

**All** Councillors on the Planning Committee have been trained. A number of Councillors who are not currently members of the Committee have also attended training to enable them to attend the Committee as a substitute if required.

### Non-Mandatory Training

As set out above, two training sessions have been cancelled due to less than 10 Members confirming their attendance in advance. Media skills training was attended by 12 Members and the Finance and Budgets session was attended by 10 Members.

## **6. IMPLICATIONS**

### **Corporate Plan:**

Effective working relationships within and across the organisation are fundamental to the delivery of the Corporate Plan.

### **Legal:**

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

### **Financial:**

There are financial implications relating to the provision of training for Elected Members, the costs of which can be contained within existing budgets.

### **Health and Well-Being / Environmental Management and Sustainability:**

There are no Health and Well-Being or Environmental Management and Sustainability implications associated with this monitoring report.

### **Human Resources:**

The Council must be mindful of the Duty of Care owed to Members and Officers.

### **Diversity/Equality:**

The various processes and policies take account of diversity and equality requirements and reasonable adjustment or assistance will be given as needed.

### **Community Safety:**

There are no Community Safety implications associated with this report.

### **Other Implications:**

Trade Union comments are incorporated into the body of the report above.

## **BACKGROUND PAPERS**

None

## **REPORT AUTHOR AND CONTACT OFFICER**

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| <b>LGA RECOMMENDATION</b>  | <b>ACTIONS TAKEN -<br/>REPORTED TO COMMITTEE<br/>IN JULY 2015</b>  | <b>FURTHER ACTIONS<br/>TAKEN</b>  |
|--|--|---|
| <p>Develop a protocol so that the Chief Executive and his officers at all levels can and should challenge unreasonable behaviours of Members as and when they occur.</p> | <p>The Council at the AGM on 21 May 2015 adopted a new Member/Officer Protocol which incorporates provisions which allow Officers to challenge unreasonable Member behaviours.</p> <p>The Protocol has been rolled out to managers for them to cascade to their teams.</p> <p>Members were made aware of the protocol as part of the induction training.</p> | <p>None.</p>  |
| <p>Consider new opportunities for Group Leaders to meet, outside of Full Council meetings.</p>   | <p>The Leader of the Council has written to the Group Leaders inviting them to a meeting in September 2015.</p>  | <p>The Group Leaders have met on a number of occasions.</p> <p>The meeting is to become the “Cross Party Update Meeting” to also enable the single unaligned Member to attend. The group will meet every three months with additional meetings as required.</p> <p>A meeting of the group is due to take place on 7 March and will consider (and adopt if agreed) a Terms of Reference which establishes the purpose of the meeting and who is to attend.</p> |

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|---|---|--|
| Remind Group Leaders of their responsibilities in ensuring their Members behave courteously and reasonably to Officers. | <p>Elements of this were incorporated into the induction training.</p> <p>It is intended that the role of Group Leaders in respect of ethical conduct will be discussed as part of the Group Leaders Meetings.</p>  | The draft Terms of Reference for the Cross Party Update Meeting provides for an informal opportunity to discuss and monitor the ethical conduct of Members.  |
| Review the local Code of Conduct.   | The Council adopted a revised Code of Conduct at the AGM on 21 May 2015.  | None   |
| Consider a local sanctions approach.  | Following considerable research the Standards and Personnel Appeals Committee recommended that the Council did not change the sanctions previously approved. Council agreed with this recommendation.   | No further changes are recommended at this time. To be kept under review.  |
| Introduce regular compulsory training for all Members on the local Code of Conduct.                                     | <p>Mandatory training on the Code of Conduct took place on 14 May 2015. 31 Members attended the training. A mop up session will be organised to train the 4 Councillors who were unable to attend.</p> <p>The revised Code of Conduct deals in detail with mandatory training and the consequence of failing to attend.</p> <p>Induction training, some of which is mandatory (eg. Equalities), is ongoing.</p> | <p>A further update report regarding training was presented to the Committee in October 2015.</p> <p>The Council approved the Committee's recommendation to amend the Code of Conduct to identify Safeguarding training as mandatory.</p> <p>A report was taken to the Group Leaders (now Cross Party Update Meeting) on 12 November 2015. They confirmed that training sessions</p> |

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|--|--|---|
|  |  | with low confirmed attendance (below 10) should generally be cancelled – this has occurred on two occasions since. The Group Leaders have also asked that a link between attendance at training and an element of the Member's Allowance be explored as part of the review of allowances.   |
| Clarify the arrangements for Members' access to information to ensure that reasonable expectations are met.  | Access to Information rules and processes are detailed (including a flowchart) in the Member/Officer Protocol which was approved at the AGM on 21 May 2015.  | None  |
| Revisit the composition of the Standards and Personnel Appeals Committee and consider whether perceptions of greater impartiality would be achieved by an independent external chair or vice-chair | <p>At the AGM on 21 May 2015 the Council approved the appointment of 2 Co-opted Members to the Standards and Personnel Appeals Committee and arrangements for their appointment.</p> <p>The Standards and Personnel Appeals Committee did not recommend their appointment as committee chair/vice-chair due to the fact that co-optees are unable to vote.</p> | <p>A recruitment process took place during September/October 2015. Unfortunately no applications were received.</p> <p>The Committee on 11 January 2016 confirmed that a further process should be run. Preparations are underway for interviews to take place on 7 April in the event that suitable applications are received.</p> |

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| <p>Ensure there is clarity about Standards and Personnel Appeals Committee processes and that it is understood that these processes are equally applicable to all Members.</p> | <p>The Complaints and Hearing procedures were reviewed and revised versions were approved at the AGM on 21 May 2015.</p>  | <p>None</p> |
| <p>Speed up the process of investigating complaints against Members and ensure that timescales are communicated to Members.</p>  | <p>The Complaints and Hearing procedures were reviewed and revised versions were approved at the AGM on 21 May 2015. Timescales were introduced as part of these revised processes.</p> | <p>None</p> |

# Agenda Item 5

**REPORT TO:** STANDARDS AND PERSONNEL APPEALS COMMITTEE      **DATE:** 14 MARCH 2016

**HEADING:** QUARTERLY COMPLAINTS MONITORING REPORT

**PORTFOLIO HOLDER:** N/A

**KEY DECISION:** NO      **SUBJECT TO CALL-IN:** NO

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## 1. PURPOSE OF REPORT

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

## 2. 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 1 January 2016 and ending on 4 March 2016.

## 3. REASONS FOR RECOMMENDATION(S)

To reflect good practice.

## 4. ALTERNATIVE OPTIONS CONSIDERED (with reasons why not adopted)

No alternative options are considered appropriate.

## 5. BACKGROUND

This report outlines in the Appendix the number of complaints of alleged Member misconduct outstanding and a summary overview of the status of new and ongoing complaints.

There have been no new complaints received since an update was last provided to the Committee in January 2016.

The two complaints which are under investigation are nearing conclusion. A verbal update will be given to the Committee.

Of the four complaint which are awaiting assessment all 4 complaints will be assessed on 4 March 2015 and a verbal update presented to Committee.

## 6. 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 implications associated with this monitoring report.

**Financial:**

There are no financial implications associated with this monitoring report.

**Health and Well-Being / Environmental Management and Sustainability:**

There are no Health and Well-Being or Environmental Management and Sustainability implications associated with this monitoring report.

**Human Resources:**

There are no HR implications associated with this monitoring report.

**Diversity/Equality:**

There are no Diversity/Equality implications associated with this monitoring report.

**Community Safety:**

There are no Community Safety implications associated with this monitoring report.

**Other Implications:**

None.

**BACKGROUND PAPERS**

None

**REPORT AUTHOR AND CONTACT OFFICER**

**Ruth Dennis**  
**ASSISTANT CHIEF EXECUTIVE (GOVERNANCE)**  
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**QUARTERLY UPDATE OF COMPLAINTS FROM 1 JANUARY 2016 TO 4 MARCH 2016**

| <b>REFERENCE</b> | <b>DATE COMPLAINT RECEIVED BY MONITORING OFFICER</b> | <b>COMPLAINANT TYPE</b> | <b>COMPLAINT ABOUT A DISTRICT OR PARISH COUNCILLOR</b> | <b>ALLEGED BREACH</b>   | <b>LOCAL ASSESSMENT DECISION (MONITORING OFFICER IN CONSULTATION WITH INDEPENDENT PERSON)</b>   | <b>DATE OF ASSESSMENT DECISION</b> |
|------------------|--|-------------------------|--|---|---|------------------------------------|
| ADAC2014-03      | 20 March 2014  | District Councillor     | District Councillor                                    | 2.1 Respect<br>2.2 Contrary to high standards of conduct<br>2.7 Disrepute | Referred for investigation. The draft report was sent to relevant parties for their comments by 4 January 2016. No comments were received by the deadline.<br><br>The final report has been issued and will be considered by the Monitoring Officer and the Independent Person on 4 March 2016. | 16 February 2015                   |
| ADC2015-02       | 4 March 2015   | Public                  | District Councillor                                    | Breach of requirements to declare interests                               | Referred for investigation. Further witness interviews have been completed. The draft report has been sent to   | 29 May 2015                        |

|               |  |        |                     |  |   |  |
|---------------|--|--------|---------------------|--|---|--|
|               |  |        |                     | 2.7 Disrepute<br>3 – acting in a manner to gain benefit<br>Pre-determination | the relevant parties for comments (to be received by 7 March 2016). An update will be given at committee. |  |
| ADC2015-09(a) | 14 December 2015   | Public | District Councillor | 2.1 Respect<br>2.2 Contrary to high standards of conduct.                    | Assessment is due to take place on 4 March 2016. An update will be given at Committee.                    |  |
| ADC2015-09(b) | 14 December 2015   | Public | District Councillor | 2.1 Respect<br>2.2 Contrary to high standards of conduct.                    | Assessment is due to take place on 4 March 2016. An update will be given at Committee.                    |  |
| ADC2015-10    | Initial information received 18 December 2015<br>Further information received on 20 January 2016 | Public | District Councillor |  | Assessment is due to take place on 4 March 2016. An update will be given at Committee.                    |  |
| ADC2015-11    | Initial information  | Public | District Councillor |  | Assessment is due to take place on 4 March 2016. An   |  |

|  |  |  |  |  |                                    |  |
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|  | received 18 December 2015<br>Further information received on 20 January 2016 |  |  |  | update will be given at Committee. |  |
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| <b>REPORT TO:</b>            | <b>STANDARDS AND<br/>PERSONNEL APPEALS<br/>COMMITTEE</b> | <b>DATE:</b>               | <b>14 MARCH 2016</b> |
| <b>HEADING:</b>              | <b>ANNUAL REVIEW OF THE WHISTLEBLOWING POLICY</b>        |                            |                      |
| <b>PORTFOLIO<br/>HOLDER:</b> | <b>N/A</b>   |                            |                      |
| <b>KEY DECISION:</b>         | <b>NO</b>  | <b>SUBJECT TO CALL-IN:</b> | <b>NO</b>            |

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## 1. PURPOSE OF REPORT

To provide the Committee with an annual update as required by paragraph 9.1 of the Council's Whistleblowing Policy.

## 2. RECOMMENDATION(S)

The Committee is recommended to:

- a) Note the review of the Whistleblowing Policy and how it has operated in the preceding 12 months; and
- b) Approve the revised policy annexed to the report.

## 3. 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 Committee's Terms of Reference as set out in Part 3, Paragraph 1.8 of the Constitution

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

## 4. ALTERNATIVE OPTIONS CONSIDERED (with reasons why not adopted)

None as this is a requirement of the Constitution.

## 5. BACKGROUND

The Committee last reviewed the policy at its meeting on 20 July 2015 and approved minor changes to the document.

Paragraph 9.1 of the 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 (in a form which does not endanger your confidentiality) and will report these to the Standards Committee once a year. The Whistleblowing Policy will also be reviewed on a bi-annual basis."*

### Application of Policy

During the past 12 months there has been 1 reported incidence of whistleblowing drawn to the Monitoring Officer's attention. The complaint was investigated and management recommendations were made following the outcome of the investigation. The complaint related to accuracy of recording of time and the taking of leave.

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

| <b>YEAR</b>               | <b>TOTAL NUMBER OF COMPLAINTS</b> | <b>NO FURTHER ACTION</b> | <b>MANAGEMENT RECOMMENDATIONS</b> | <b>DISCIPLINARY INVESTIGATION</b> |
|---------------------------|-----------------------------------|--------------------------|-----------------------------------|-----------------------------------|
| <b>2010</b>               | 4                                 | 1                        | 2                                 | 1                                 |
| <b>2011</b>               | 0                                 | N/A                      | N/A                               | N/A                               |
| <b>2012</b>               | 3                                 | 0                        | 2                                 | 1<br>(action taken)               |
| <b>2013</b>               | 1                                 | 0                        | 0                                 | 1<br>(action taken)               |
| <b>2014</b>               | 4                                 | 1                        | 1                                 | 3<br>(2 with action taken)        |
| <b>2015</b>               | 2                                 | 1                        | 1                                 | 0                                 |
| <b>2016<br/>(to date)</b> | 0                                 | N/A                      | N/A                               | N/A                               |

The Committee previously asked for information regarding the types of complaints made in order to identify trends and enable the Committee, if appropriate, to make recommendations.

From the information available, the complaints can be analysed as follows:

| <b>TYPE OF COMPLAINT</b>   | <b>NUMBER OF COMPLAINTS</b> |
|--|-----------------------------|
| Time recording failures – which challenge that flexi time, TOIL and annual leave has been taken when not accrued | 5                           |
| Failure to follow systems/processes  | 2                           |
| Issues relating to line management   | 1                           |
| Working whilst off sick  | 1                           |
| Inappropriate comments   | 1                           |
| Data Protection Breach   | 1                           |

As can be seen, the only recurring trend appears to be in relation to time recording by staff. In 2013 as part of an investigation, the Monitoring Officer made 10 corporate recommendations to improve time recording systems and remind staff of their responsibilities. These were implemented. Following further similar complaints in 2014, further corporate recommendations were made and reminders given to all staff about time recording.

### Review of Policy

An interim review of the policy has been undertaken. No substantive changes are recommended, however amendments have been suggested in order to provide a revised policy reference and to provide updated contacts now that internal audit arrangements are provided by the Central Midlands Audit Partnership.

The proposed changes have been marked in yellow on the Whistleblowing Policy document attached at Appendix A.

## **6. 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.

### **Financial:**

The recommendations in the report have no direct financial implications.

### **Health and Well-Being / Environmental Management and Sustainability:**

The recommendations in the report have no direct Health and Well-Being/Environmental Management and Sustainability implications.

### **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.

### **Diversity/Equality:**

Equality and Diversity issues are taken into account as part of dealing with each individual complaint and will vary according to the complaint and the parties involved.

### **Community Safety:**

The recommendations in the report have no direct community safety implications.

**Other Implications:**

None identified.

**BACKGROUND PAPERS**

None.

**REPORT AUTHOR AND CONTACT OFFICER**

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**& MONITORING OFFICER**  
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## Whistleblowing Policy

### Version Control

| Version Number       | Detail                    |
|----------------------|---------------------------|
| Original             | January 2008              |
| Revised V1           | January 2011              |
| Revised V2 due       | 1 <sup>st</sup> July 2013 |
| Revised V2 (Website) | 25 February 2014          |
| Revised V3           | 14th April, 2014          |
| Revised V4           | 20 July 2015              |
| Draft V5             | 4 March 2016              |

# **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 Service 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 Service Director. If this is not appropriate you should contact:

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

| Position                         | Contact<br>(External) | E-mail  |
|----------------------------------|-----------------------|---|
| Deputy Chief Executive           | (01623) 457200        | d.greenwood@ashfield-dc.gov.uk                    |
| <b>Head of Audit Partnership</b> | <b>(01332) 643280</b> | <b>richard.boneham@centralmidlandsaudit.co.uk</b> |

- 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
- the Audit Commission's confidential public interest disclosure line 03034448346
- relevant professional bodies or regulatory organisations
- your solicitor
- the Police

If you raise concerns outside the Council you should ensure that it is to one of these prescribed 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 once a year. The Whistleblowing Policy will also be reviewed on bi-annual basis.

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**REPORT TO:** STANDARDS AND PERSONNEL APPEALS COMMITTEE      **DATE:** 14 MARCH 2016

**HEADING:** POLITICALLY RESTRICTED POSTS

**PORTFOLIO HOLDER:**

**KEY DECISION:** NO      **SUBJECT TO CALL-IN:** NO

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## 1. PURPOSE OF REPORT

To seek approval from the Committee for a revised list of the posts that are considered to be politically restricted following consultation with the Trade Unions.

## 2. RECOMMENDATION(S)

To approve the attached list of Politically Restricted Posts in accordance with the requirements of the Local Government and Housing Act 1989 and associated regulations.

## 3. REASONS FOR RECOMMENDATION(S)

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

## 4. ALTERNATIVE OPTIONS CONSIDERED (with reasons why not adopted)

None considered. The Council is under a duty to comply with the legislation.

## 5. INTRODUCTION

Members will recall a report being presented to the Committee at its meeting on 11 January 2016 to consider a draft revised list of politically restricted posts. Members delegated authority to the Monitoring Officer to consult with the Trade Unions in respect of the draft list and report back to this Standards and Personnel Appeals Committee (Minute SP.20 refers).

As a reminder to Members, the legislation regarding politically restricted posts is to be found in Part 1 of the Local Government and Housing Act 1989 (LGHA 1989) with further details in the Local Government (Political Restrictions) Regulations 1990 and amended in the Local Democracy, Economic Development and Construction Act 2009. The aim of this legislation is to ensure the political impartiality of local government employees who hold posts involving duties of a politically sensitive nature.

The effect of including a local authority employee on the list of 'politically restricted posts' is to prevent that individual from having any active political role either in or outside the workplace. Politically restricted employees will automatically be disqualified from standing for or holding elected office and these restrictions are incorporated as terms in the employee's contract of employment under section 3 Local Government (Politically Restricted Posts) Regulations 1990. It is left to the discretion of each authority whether or not to reinstate an employee who resigns his post and then consequently fights and loses an election.

In accordance with the resolution of the Committee, the Trade Unions have both been consulted in relation to the draft list of Politically Restricted Posts.

UNISON commented as follows:

*“Thank you for consulting the trade union in regard to politically restricted posts.*

*We are satisfied that the Monitoring Officer has applied the restrictions in accordance with the legislation.*

*This legislation has been in place since 1989 and the Trade Union find it as unpalatable now as we did then. The principle of restriction based upon salary levels and the restrictions on an individual’s political activity purely because of their earnings from a local authority is an affront to democracy.”*

GMB commented as follows:

*“GMB appreciates being consulted on the list of politically restricted posts. The Union has no comments in relation to the draft list.”*

Having consulted with the Trade Unions and them having no objections to the posts identified, approval is therefore sought in respect of the attached list.

## **6. IMPLICATIONS**

### **Corporate Plan:**

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

### **Legal:**

Politically restricted posts are governed by legislation set out in the body of the report and the draft list has been developed taking the statutory criteria into account.

### **Financial:**

There are no financial implications arising from this report.

### **Health and Well-Being / Environmental Management and Sustainability:**

There are no health and well-being / environmental management and sustainability implications arising from this report.

### **Human Resources:**

The review of politically restricted posts has been undertaken with Human Resources following the Job Evaluation Process.

### **Diversity/Equality:**

The review of politically restricted posts has been carried out in accordance with legislation and consideration of the Council’s commitment to equality and diversity implications.

### **Community Safety:**

There are no community safety implications arising from this report

**Other Implications:**

The Trade Unions have been consulted and their comments are incorporated into the main body of the report.

**REPORT AUTHOR AND CONTACT OFFICER**

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## ASHFIELD DISTRICT COUNCIL

### LIST OF POLITICALLY RESTRICTED POSTS

#### **1. Specified Posts:**

- Chief Executive
- Deputy Chief Executive
- Assistant Chief Executive (Governance) and Monitoring Officer
- Service Director - Corporate Services
- Service Director – Environment
- Interim Service Director Housing
- Interim Service Director Economy

#### **2. Posts paid at or above a certain level**

All posts where the remuneration level is or exceeds the 'spinal column point' 44 on the NJC for Local Government Services scales, will be automatically included on the list of politically restricted posts (Local Government (Politically Restricted Posts) (No. 2) Regulations 1990).

- Corporate Manager Finance
- Corporate Planning and Building Control Manager
- Corporate Performance Manager
- Principal Solicitor
- Democracy Manager
- Environmental Health Manager
- Transport Services Manager
- Locality & Community Empowerment Manager
- Service Lead - Waste and Environment
- Strategic Housing & Development Manager
- Asset Manager
- Corp Man (Revenues & Customer Services)
- Business Continuity & Sustainability Manager
- Interim ICT Manager
- ICT Manager
- Building Control & Land Charges Manager
- Principal Design & Asset Officer
- Communications Manager
- Locality Team Leader
- Forward Planning Team Manager
- Community Protection Manager
- Senior Solicitor

#### **3. "Sensitive" posts**

##### *Definition*

- giving advice on a regular basis to the authority itself, to any committee or sub-committee of the authority or to any joint committee on which the authority are represented; or where the authority are operating executive arrangements, to the executive of the authority; to any committee of that executive or to any member of that executive who is also a member of the authority;

- giving advice on a regular basis speaking on behalf of the authority on a regular basis to journalists or broadcasters.
  - Scrutiny Manager
  - Democracy Team Leader
  - Democratic Services Officer
  - Assistant Solicitor
  - Legal Executive
  - Communications Officer

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