

<b>Report To:</b>	<b>STANDARDS AND PERSONNEL APPEALS COMMITTEE</b>
<b>Date:</b>	<b>19 MARCH 2024</b>
<b>Heading:</b>	<b>MEMBERS' CODE OF CONDUCT REVIEW</b>
<b>Executive Lead Member:</b>	<b>N/A</b>
<b>Ward/s:</b>	<b>N/A</b>
<b>Key Decision:</b>	<b>N/A</b>
<b>Subject to Call-In:</b>	<b>N/A</b>

Purpose of Report

To provide an overview of the Internal Audit review of the Members' Code of Conduct and identify and agree actions within the remit of the Committee in line with the recommendations of the report.

## Recommendation(s)

### **Committee is asked to:**

- 1. Note the overview of the internal audit review of the Members' Code of Conduct outlined in the report;**
- 2. Give consideration to:**
  - a) requesting the Independent Person make an annual report to Council setting out their view on standards at the Council**
  - b) whether the requirement for political proportionality should apply to the Standards and Personnel Appeals Committee and whether to make a recommendation to suspend proportionality to Council**
  - c) recruiting co-opted Members to the Standards and Personnel Appeals Committee**
  - d) aligning information on disclosure of interests with the LGA's Model Code of Conduct as part of its review of the Members' Code of Conduct**
  - e) reviewing and updating the Member/Officer Protocol to ensure it remains consistent with other parts of the Constitution**
  - f) ensuring arrangements are made for all Members to complete their mandatory ethical standards training**
  - g) reviewing and updating the Member Complaints Process and the Complaints Form**
  - h) recruiting a second Independent Person to ensure resilience**

## Reasons for Recommendation(s)

It is good practice for the Council's governance arrangements to be reviewed and tested regularly against best practice. The Members' Code of Conduct and associated processes and procedures form a part of this governance framework. The Members' Code of Conduct was last reviewed and an amended version adopted during 2021 taking into account the LGA's Model Code of Conduct. It is considered appropriate for the Council to review the Code of Conduct regularly and in order to inform this process a review of arrangements against best practice was undertaken by Internal Audit. The recommendations seek to implement the suggested improvements.

## Alternative Options Considered

The recommendations are based on the Internal Audit review report and findings and have been accepted by the Monitoring Officer as reasonable in order to ensure best practice and continual development and improvement. As such, it is recommended to approve the actions outlined, however, the Committee will have scope as part of the implementation of those actions to consider options and alternatives.

## Detailed Information

### **Background**

Robust Corporate Governance ensures organisations are doing the right things in the correct manner in an open, honest, inclusive and accountable way. Good governance leads to good management, performance and outcomes. The Council has a framework of policies and procedures in place which collectively make up its governance arrangements.

It is good practice for the Council's governance arrangements to be reviewed and tested regularly against best practice. The Monitoring Officer requested a review by Internal Audit focused on the Members' Code of Conduct and related processes and arrangements against best practice to inform the planned review by the Committee of current arrangements.

The Internal Audit review was able to provide a reasonable level of assurance. There is a generally sound system of governance, risk management and control in place with some issues, non-compliance or scope for improvement being identified.

The report will:

- ❖ Set out the positive assurance identified
- ❖ Identify minor risks for consideration by the Committee
- ❖ Identify control weaknesses and areas for improvement
- ❖ Seek approval for improvement actions to assist with the Committee's review of the current Members' Code of Conduct and related arrangements

## **Positive Assurance**

The following adequate controls were identified by Internal Audit to be in operation:

### Members' Code of Conduct

- The Members' Code of Conduct formed part of the Council's Constitution and was last revised and adopted by the Council at the May 2021 Annual General Meeting. The Code was subject to biannual review and we confirmed this review was on the Standards and Personnel Appeals Committee workplan for December 2023 onwards.
- Further guidance on declaration of interests had been circulated to Members by the Monitoring Officer.
- A publicly available Register of Member Interests was held on the Council's website. All declarations had been refreshed following the May 2023 elections and, for a sample of 6 continuing Members, there was an audit trail demonstrating that declarations had been periodically refreshed and guidance had been sought from Democratic Services as necessary.
- The standard agendas for all committees provided for the declaration of interests by Members.

### Handling Complaints

- The Member Complaints Process set out that prior to the formal assessment of a complaint, the Monitoring Officer must be satisfied that the complaint met a number of criteria:
  - That it is against one of more named Members of the Authority or an Authority within their jurisdiction.
  - That it is about a Member who was in office at the time of the alleged conduct and the Code of Conduct was in force at the time.
  - That if proven, it would be a breach of the Code under which the Member was operating at the time of the alleged misconduct.
  - That the Member was acting in their official capacity when the alleged conduct took place.

- Following this, an assessment should be made in consultation with the Independent Person of the appropriate action to take. This could be:
  - Refer the matter for investigation.
  - Resolve the complaint informally with other action.
  - Take no further action.
- The Member Complaints Process set out a number of relevant factors the Monitoring Officer could consider when determining the appropriate action to take.
- A sample of 4 complaints were considered and found that, in one case, the complaint did not meet the initial criteria and the reasons for this were clearly communicated to the complainant. In a further case one element of the complaint was assessed and it was determined that no further action would be taken as records indicated that the alleged incident had not taken place. Again, this decision was clearly communicated to the complainant.
- The Standards and Personnel Appeals Committee had a Hearings Sub-Committee which comprised a maximum of 3 Members selected by the Monitoring Officer. The Sub-Committee considered complaints referred to it by the Monitoring Officer in consultation with the Independent Person. There had been no standards hearings in recent history.
- The most recent internal investigation took place in 2019. The majority of complaints passing the initial review stage were dealt with through informal resolution. Discussion with the Monitoring Officer confirmed that there were a number of options in place for appropriate persons to carry out an investigation should this be necessary.

#### Standards Committee

- A Standards and Personnel Appeals Committee was in place and met quarterly.
- The terms of reference for the Standards and Personnel Appeals Committee covered the duty to promote and maintain high standards, including the delegation "*To promote and maintain high standards of conduct by Members and Officers.*" The Committee's workplan clearly included activities related to this duty, for example the reviews of Members' training and the Members' Code of Conduct and related documents.

#### **Minor Risk Issues**

During the course of the audit, Internal Audit identified control issues which are considered to pose only a minor risk to the Council. As such, these were not raised as formal recommendations.

#### Handling Complaints

The Independent Person had not been asked to submit an annual report to full Council setting out their view on standards at the Council, to provide assurance on governance arrangements. There is a risk that Members will not be sufficiently informed of the Council's status with regard to standards.

**Committee is asked to consider requesting the Independent Person make an annual report to Council setting out their view on standards at the Council.**

#### Standards Committee

Proportionality - Members had not given full consideration to the impact of the political bias of the Standards and Personnel Appeals Committee. 6 of the 7 members of the Committee were from the ruling party based upon political proportionality rules, as such it was suggested that there is a risk of low public confidence that complaints will be dealt with impartially, which may cause reputational damage to the Council.

**Internal Audit suggested the Committee gives consideration to whether the requirement for political proportionality should apply to the Standards and Personnel Appeals Committee and whether to make a recommendation to suspend proportionality to Council.** Suspending proportionality could contribute to increasing public confidence that any complaints brought to the Hearings Sub-Committee will be dealt with impartially.

Co-opted Members - There are no co-opted Members on the Standards and Personnel Appeals Committee. Although there was approval for up to 2 Members, previous attempts at recruitment had been unsuccessful. If there are no co-opted Members on the Standards and Personnel Appeals Committee there is a risk that this further reduces the perception of political neutrality.

Internal Audit suggest that the **Committee considers trying to recruit co-opted Members to the Standards and Personnel Appeals Committee.**

## **Recommendations for Improvements**

The recommendations are summarised as follows:

### Members' Code of Conduct

Best practice expects that the Members' Code of Conduct would be in accordance with the Local Government Association (LGA) Model Code of Conduct and incorporate best practice recommendations of the Committee for Standards on Public Life.

The Members' Code of Conduct had been substantially revised in May 2021 to incorporate elements of the LGA Model Code of Conduct, following a series of Standards and Personnel Appeals Committee Working Group meetings. A review of the Members' Code of Conduct and related documents including the Member Complaints Process and the Member/Officer Protocol was included in the Standards and Personnel Appeals Committee Workplan for 2023/24.

A detailed review of the Members' Code of Conduct was undertaken by Internal Audit which identified some inconsistencies with the LGA Model Code of Conduct relating to the disclosure of interests, which the Standards and Personnel Appeals Committee should consider when conducting its review. Specifically:

- Differences in terminology and the nature of Other Registerable Interests.
- Differences in the impact of Other Registerable Interests and Non-Registerable Interests in meetings.

**The Committee is asked to consider aligning information on disclosure of interests with the LGA's Model Code of Conduct as part of its review of the Members' Code of Conduct.**

### Member/Officer protocol

The Council's Member/Officer Protocol was dated 2015 and as such is due a review to ensure it remained consistent with other parts of the Constitution and maintained current best practice. A review of the Member/Officer Protocol was included in the Standards and Personnel Appeals Committee Workplan for 2023/24. Having considered the current Member/Officer Protocol Internal Audit identified some ambiguity and lack of detail in the arrangements for Members contacting officers to request information. This ambiguity has already been dealt with via the introduction of the Member/Officer Communication Protocol at the end of December 2023.

**The Committee is asked to review and updated the Member/Officer Protocol to ensure it remains consistent with other parts of the Constitution.**

#### Training on the Members' Code of Conduct

Members are periodically reminded by email from the Monitoring Officer of their responsibilities under the Code of Conduct and that the Members' Code of Conduct is prescribed mandatory training. This includes a requirement for Code of Conduct/Ethical Governance training to be completed at the point of election and on subsequent re-election(s). A Member induction programme was delivered immediately following the May 2023 elections. The "*Being a Councillor*" and "*Ethical Governance*" sessions covered ethical standards, the Members' Code of Conduct, Member/Officer relationships, declaration of interests, gifts and hospitality, and how breaches of the Members' Code of Conduct were dealt with. These sessions were delivered in conjunction with the LGA.

Training registers confirmed that 27 out of the 35 Members had attended the "*Being a Councillor*" training and 22 of the 35 Members had attended the "*Ethical Governance*" training. Arrangements for mop up sessions have not yet been made. Further targeted training on the Code of Conduct had been provided to Members of the Standards and Personnel Appeals Committee and all relevant Members had attended.

**Committee is asked to ensure arrangements are made for all Members to complete their mandatory ethical standards training.**

#### Gifts and Hospitality

It is expected that all Members would disclose any gifts and hospitality offered to them in accordance with the Code of Conduct and there is a Register of Gifts and Hospitality in place. The declaration form requires certification by the Chief Executive, Chief Finance Officer or Monitoring Officer. Members are periodically reminded by the Monitoring Officer about the requirement to declare any offers of gifts or hospitality received and it was also included in the Member induction training in May 2023.

The Standards and Personnel Appeals Committee receives an update regarding any declarations of gifts and hospitality at each meeting. There had been no entries on the Register in 2023/24, the last entry being in April 2022. Internal Audit found that it was not clear from the report presented to the Committee whether this offer of hospitality had been accepted or declined and recommended that this was made clear in future reports.

Quarterly reports to Committee in future will confirm whether any gifts and hospitality reported were accepted or declined.

#### Handling Complaints

It is expected that the Member Complaints Process would incorporate best practice guidance and recommendations from the LGA and the Committee on Standards in Public Life. The Member Complaints Process was last updated in May 2018 and as such would benefit from review. A review was included in the Standards Committee Workplan for 2023/24.

Consideration had been given to incorporating best practice recommendations of the Committee for Standards on Public Life into the Member Complaints Process. An update on progress was presented to Members in June 2022, demonstrating that the Standards and Personnel Appeals Committee was appraised of the recommendations and was considering how they could be incorporated.

The Member Complaints Process was reviewed against the LGA's "*Guidance on Member Model Code of Conduct Complaints Handling*" and the best practice recommendations of the Committee for Standards on Public Life and Internal Audit identified several aspects the Council may wish to strengthen to better align its process with best practice, for example the publishing of decisions made on complaints. Detailed comments have been passed to the Monitoring Officer for discussion with the Standards and Personnel Appeals Committee as part of the review.

It is expected that the Member Complaints Process would be easily accessible to the public and facilitated by a readily accessible and up to date complaint form. The Member Complaints Process could be accessed through a simple search of the Council's website. However, the Member Complaint form which accompanied the Process, contained out of date information and had not been reviewed for some time.

There is only limited information on target timescales for resolving complaints documented in the Member Complaints Process. The process stated that the assessment decision would normally be taken within 20 working days of receipt of a complaint. However, timeframes were not defined for:

- Implementing any informal resolution.
- Completion of an investigation.
- The convening of a hearing following a final investigation report.

Data on these timeframes was also not routinely collated for monitoring purposes.

It is expected that the decision-making process is impartial. There is no provision in the Member Complaints Process for considering at the assessment stage whether the Monitoring Officer had any conflicts of interest and how to proceed if such a situation should arise. In practice conflicts of interest are considered, for example one of the sample of complaints examined had been delegated to an alternative officer due to a conflict of interest. It is suggested that as part of the review of the process, to set out what should happen where there is a conflict of interest.

**The Committee is asked to review and updated the Member Complaints Process and the Complaints Form.**

#### Recording of Complaints

It is expected that all complaints and the progress against them would be adequately recorded. There is no central database maintained for the recording of Member complaints, electronic folders relating to individual complaints are however maintained. A sample of 5 complaints were considered by Internal Audit to confirm that the complaints process had been correctly followed. The recording of progress of complaints and management of documentation relating to them needs improvement.

A database will be set up whereby the progress of complaints can be recorded and monitored and all documentation and correspondence relating to complaints is retained in a logical electronic filing system.

### Independent Person

The Council had appointed an Independent Person, who had been in post for approximately 10 years. There is only one Independent Person actively in post. If there is only one Independent Person in post, there is a risk that in the case of absence of this person, Member complaints cannot be progressed in compliance with the Member Complaints process.

**The Committee is asked to consider recruiting a second Independent Person to ensure resilience.**

### Standards Committee

It is expected that the Standards and Personnel Appeals Committee receives regular updates on complaints. Quarterly reports are presented to the Standards and Personnel Appeals Committee detailing progress of complaints in the period. The Annual Ethical Governance Update presented to the Committee also sets out the number of complaints received in the year and how that compared with previous years. However, this report did not provide further detail to inform Members overall understanding of complaints, for example:

- The number of complaints dismissed at initial review stage
- A breakdown of complaints addressed through no action, informal resolution and investigation
- A breakdown of complaints by Code of Conduct obligation breached
- Average time taken to resolve complaints

Going forward, additional information will be presented in the Annual Ethical Governance Update to the Standards and Personnel Appeals Committee

### Implications

Corporate Plan:

To ensure we deliver high-quality public services we have adopted a set of corporate values which underpin the successful delivery of our priorities. How we work is as important as what we do. The Council's values are:

- People Focussed;
- Honest;
- Proud;
- Ambitious.

Legal:

Section 27 of the Localism Act 2011 (the Act) placed a duty on the Council to promote and maintain high standards of conduct. Section 28 of the Act requires the Council to adopt a Members' Code of Conduct. Sections 29 – 33 of the Act make provisions regarding Interests. [RLD 08/03/2024]

Finance: No direct financial implications arising from this report. [PH 11/03/2024].

Budget Area	Implication
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General Fund – Revenue Budget	N/A
General Fund – Capital Programme	N/A
Housing Revenue Account – Revenue Budget	N/A
Housing Revenue Account – Capital Programme	N/A

**Risk:**

<b>Risk</b>	<b>Mitigation</b>
Failure to take into account legislative and best practice requirements regarding standards of ethical behaviour.	The reporting and work of the Committee demonstrates the Council’s commitment to maintaining high levels of ethical behaviour and incorporates work plan items to address the identified risk.

**Human Resources:**

No significant HR implications. [KB 08/03/2024]

**Environmental/Sustainability:**

There are no environmental/sustainability issues outlined in the report.

**Equalities:**

Equalities issues will be taken into account as part of the implementation of the recommendations.

**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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