

<b>Report To:</b>	<b>STANDARDS AND PERSONNEL APPEALS COMMITTEE</b>	<b>Date:</b>	<b>28 MARCH 2018</b>
<b>Heading:</b>	<b>ANNUAL ETHICAL GOVERNANCE REVIEW</b>		
<b>Portfolio Holder:</b>	<b>NOT APPLICABLE</b>		
<b>Ward/s:</b>	<b>NOT APPLICABLE</b>		
<b>Key Decision:</b>	<b>NO</b>		
<b>Subject to Call-In:</b>	<b>NO</b>		

### Purpose of Report

To give the Committee an overview of the work of the Standards and Personnel Appeals Committee during 2017/2018.

### Recommendation(s)

**Committee is asked to:**

1. Note the progress made in relation to the agreed work plan;
2. Consider future work plan items;
3. Consider whether to proceed with a further attempt to appoint Independent Co-optees to the Standards and Personnel Appeals Committee;
4. Consider whether to appoint representatives from the two Parish Councils to the Committee either instead of, or addition to, the Independent Co-optees;
5. Note the number of Member complaints received during the year as summarised in the report;
6. Note the update in relation to Members' Development;
7. Note the position in relation to Member DBS checks;
8. Note the position in relation to attendance at meetings;
9. Consider and make a recommendation to Council in respect of the Independent Persons;
10. Consider and provide comments in relation to the Standards in Public Life consultation.

### 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 – 2017/2018**

At its meeting in July 2017, the Committee agreed a programme of work for the 2017/2018 year.

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

<b>Proposed Work Item</b>	<b>Timeframe</b>	<b>Progress</b>
<b>1. Quarterly Complaint Update</b> <ul style="list-style-type: none"><li>A report to committee to keep it updated in respect of new and ongoing complaints made relating to the conduct of Members.</li></ul>	July 2017 October 2017 (meeting cancelled) December 2017 March 2018	Reports have been submitted to each Committee meeting and Members have commented on the information provided.  The time taken to deal with complaints remains a concern.
<b>2. Review of the Members' Code of Conduct Complaints Process</b> <ul style="list-style-type: none"><li>The LGA Peer Challenge suggested a review of the complaints process to address politically motivated and trivial complaints.</li></ul>	December 2017	A Cross Party Working Group has met on a number of occasions to consider the complaints process and other issues.  A report is presented to this Committee meeting elsewhere on the agenda.
<b>3. Review of Politically Restricted Posts</b> <ul style="list-style-type: none"><li>It is good practice to ensure the list is kept up to date – it is advisable to review the list following Management restructures since the list was last reviewed in March 2016</li></ul>	December 2017	A report is presented to this Committee meeting elsewhere on the agenda.
<b>4. Review of Co-opted Members and Independent Person Arrangements</b>	March 2018	The details are contained within this report for consideration.

<p><b>5. Whistleblowing Policy</b></p> <ul style="list-style-type: none"> <li>Annual report to consider amendments (if required) to the policy and to monitor the application of the policy</li> </ul>	<p>March 2018</p>	<p>A report is presented to this Committee meeting elsewhere on the agenda.</p>
<p><b>6. Annual Review</b></p> <ul style="list-style-type: none"> <li>Report to consider the work of the Committee over the year compared to the Work Programme</li> <li>To consider an overview of the ethical governance of the Council</li> </ul>	<p>March 2018</p>	<p>This report.</p>
<p><b>7. Constitution Review</b></p> <ul style="list-style-type: none"> <li>Consideration of proposed amendments to the Constitution for recommendation to Council</li> </ul>	<p>March 2018</p>	<p>A report is presented to this Committee meeting elsewhere on the agenda.</p>

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 or in progress for completion shortly.

**Committee is therefore asked to:**

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

### **Independent Co-optees**

At the AGM on 21 May 2015 the Council approved the recommendations of this Committee to appoint 2 Independent Co-opted Members to the Standards and Personnel Appeals Committee. The first recruitment process was carried out during Autumn 2015. When this did not produce any applications, the Committee on 11 January 2016 confirmed that a further recruitment process should be carried out. A process took place during March/April 2016 and again no applications were received.

The Working Group has suggested that the Council may wish to seek representation from the Parish Councils to the Committee this could be instead of, or in addition to, the Independent Co-optees. The Working Group considered this may be of benefit in light of the high number of Member complaints received during 2017/2018 regarding Parish Councillors. A number of Councils have representatives from the Parish Councils in their area sitting on their Standards Committees. These representatives would have the status of a non-voting Co-optee.

**Committee is therefore asked to:**

- Consider whether to proceed with a further attempt to appoint Independent Co-optees to the Standards and Personnel Appeals Committee; *(Note that a recommendation to no longer seek Independent Co-opted Members will require Council approval)*
- Consider whether to appoint representatives from the two Parish Councils to the Committee either instead of, or addition to, the Independent Co-optees; *(Note that a recommendation to seek Parish Council representative on the Committee will require Council approval)*

### Summary of Member Complaints Received during 2017/2018

As Monitoring Officer I have received **18** formal complaints during 2017 and **12** during 2018 (to date) regarding the behaviour of Councillors. Of these 30 complaints:

- 7 complaints relate to District Councillors during 2017
- 1 complaint relates to District Councillors during 2018 to date
- 11 complaints relate to Parish Councillors during 2017
- 11 complaints relates to Parish Councillors during 2018 (to date)

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 to date	12

The progress in relation to the complaints made during 2017/2018 is dealt with in another report presented to this Committee meeting.

**Committee is therefore asked to note the number of Member complaints received during the year.**

### Members' Development

Following the approval of the Member Development Strategy in September 2017, all Members were contacted on 3 separate occasions and asked to complete a training needs survey. In total only 6 responses were received. Going forward, I would suggest another e-mail circulation in preparation for the new Council year (2018/19), with responses collated between April and May (possibly using a telephone survey for those who do not respond via e-mail).

All mandatory training has continued to be delivered as required during the past 12 months and will continue during the 2018/19 Council year.

A full programme of training needs is in development in preparation for the induction programme for Members following the 2019 Elections to ensure that all new Councillors are adequately trained alongside training for existing Councillors based on their self identified needs from the survey. A

cross party working group has been suggested to consider and develop the induction programme with meetings of this group likely to start from September onwards.

**Committee is therefore asked to note the update in relation to Members’ Development.**

**Member DBS checks**

The Committee will recall that as part of its work plan during 2016/2017 this Committee recommended that Council adopt a Policy on Disclosure and Barring Service “DBS” Checks for Councillors. Council approved the policy on 8 December 2016. The policy was effective from 25 May 2017. The Policy requires all Councillors to undergo standard level DBS checks with Councillors bearing the cost of their DBS check. The Policy is to be reviewed every two years or when legislative changes occur. The Policy will be due for review during 2018/2019 and the Committee may wish to add this to next year’s work plan.

To date 29 Members have completed DBS Checks with 6 remaining outstanding. Democratic Services have actively worked with Members to ensure the checks have taken place.

**Committee is therefore asked to note the position in relation to Member DBS checks.**

**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) - June 2017 to February 2018**

Members with 100% attendance	6
Members with attendance between 90% and 99%	12
Members with attendance between 80% and 89%	8
Members with attendance between 70% and 79%	8
Members with less than 70% attendance	1

	<b>Quarter 1</b>	<b>Quarter 2</b>	<b>Quarter 3</b>
Authorised absences	1 for close family bereavement 2 for family emergency 3 for illness	1 for close family bereavement 1 for medical operation 11 for illness	11 for illness

No apologies given for absence	5	11	6
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Reasons for absences for the first three quarters:

Reason	Number of times
Bereavement (Authorised)	2
Family Emergency (Authorised)	2
Medical Operation (Authorised)	1
Work Commitment (Unauthorised)	13
Illness (Authorised)	25
Personal (Unauthorised)	30
Holiday (Unauthorised)	9
Other engagement (Unauthorised)	2
No reasons for absence (Unauthorised)	22

Assessment for the payment of the Performance Special Responsibility Allowance will occur during June 2018 and will be reported to the next available Committee thereafter.

During consideration of this policy last year it was perceived initially that this was occurring frequently, however, statistics did not demonstrate this to be the case. Members will recall asking me to monitor the number of Councillors leaving committee meetings early during the current municipal year. I can report that out of 66 meetings held during the year to date, only 10 Councillors have left a meeting early, before its conclusion. As such I would invite Members to conclude that this does not appear to be a significant issue requiring further action.

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

**Independent Person**

The Council currently retains two individuals to act as Independent Persons who assist the Monitoring officer in considering complaints received in relation to member conduct. The Council is required to appoint an Independent Person to consult with in relation to complaints pursuant to the Localism Act 2011. Hazel Salisbury was appointed to the role in 2012 and Neil Stent appointed in 2013. Both individuals are retained on payment of the sum of £1,000 per year and this cost is shared with Mansfield District Council (50:50 in respect of Hazel Salisbury and 70:30 in respect of Neil Stent -ADC agreed to pay 70% due to having a significantly higher number of complaints to process at the time of the appointment). A second Independent Person was appointed to the role to avoid potential conflicts arising.

Since their appointment, both Independent Persons have built up experience and knowledge of considering Member complaints. They have each adopted a flexible and pragmatic approach with the Council in considering the complaints and the arrangement works well. It is therefore proposed to retain both Hazel Salisbury and Neil Stent for a further two years at the same £1000 annual retention fee. If approved the Council will seek to share this cost with Mansfield District Council, on

either the same or better terms as before and discussions with their Monitoring Officer have indicated that this is highly likely to be acceptable.

The Council could conduct a recruitment exercise to “test the market” for alternative provision, however this would be both a lengthy and costly process and it is considered highly unlikely that anyone with the same level of experience and knowledge of Ashfield District Council policies, procedures and complaints is likely to apply.

**The Committee is therefore asked to consider and make a recommendation to Council in respect of the Independent Persons.**

## **Review of Local Government Ethical Standards: Stakeholder Consultation**

The Committee on Standards in Public Life is undertaking a review of local government ethical standards.

As part of this review, the Committee is holding a public stakeholder consultation. The consultation is open from 12:00 on Monday 29 January 2018 and closes at 17:00 on Friday 18 May 2018.

### Terms of reference

The terms of reference for the review are to:

1. Examine the structures, processes and practices in local government in England for:
  - a. Maintaining codes of conduct for local councillors;
  - b. Investigating alleged breaches fairly and with due process;
  - c. Enforcing codes and imposing sanctions for misconduct;
  - d. Declaring interests and managing conflicts of interest; and
  - e. Whistleblowing.
2. Assess whether the existing structures, processes and practices are conducive to high standards of conduct in local government;
3. Make any recommendations for how they can be improved; and
4. Note any evidence of intimidation of councillors, and make recommendations for any measures that could be put in place to prevent and address such intimidation.

The review will consider all levels of local government in England, including town and parish councils, principal authorities, combined authorities (including Metro Mayors) and the Greater London Authority (including the Mayor of London).

### Consultation questions

The Committee invites responses to the following consultation questions:

- a. Are the existing structures, processes and practices in place working to ensure high standards of conduct by local councillors? If not, please say why.
- b. What, if any, are the most significant gaps in the current ethical standards regime for local government?

- c. Are local authority adopted codes of conduct for councillors clear and easily understood? Do the codes cover an appropriate range of behaviours? What examples of good practice, including induction processes, exist?
- d. A local authority has a statutory duty to ensure that its adopted code of conduct for councillors is consistent with the Seven Principles of Public Life and that it includes appropriate provision (as decided by the local authority) for registering and declaring councillors' interests. Are these requirements appropriate as they stand? If not, please say why.

#### *Investigations and decisions on allegations*

- e. Are allegations of councillor misconduct investigated and decided fairly and with due process?
  - i. What processes do local authorities have in place for investigating and deciding upon allegations? Do these processes meet requirements for due process? Should any additional safeguards be put in place to ensure due process?
  - ii. Is the current requirement that the views of an Independent Person must be sought and taken into account before deciding on an allegation sufficient to ensure the objectivity and fairness of the decision process? Should this requirement be strengthened? If so, how?
  - iii. Monitoring Officers are often involved in the process of investigating and deciding upon code breaches. Could Monitoring Officers be subject to conflicts of interest or undue pressure when doing so? How could Monitoring Officers be protected from this risk?

#### *Sanctions*

- f. Are existing sanctions for councillor misconduct sufficient?
  - i. What sanctions do local authorities use when councillors are found to have breached the code of conduct? Are these sanctions sufficient to deter breaches and, where relevant, to enforce compliance?
  - ii. Should local authorities be given the ability to use additional sanctions? If so, what should these be?

#### *Declaring interests and conflicts of interest*

- g. Are existing arrangements to declare councillors' interests and manage conflicts of interest satisfactory? If not please say why.
  - i. A local councillor is under a legal duty to register any pecuniary interests (or those of their spouse or partner), and cannot participate in discussion or votes that engage a disclosable pecuniary interest, nor take any further steps in relation to that matter, although local authorities can grant dispensations under certain circumstances. Are these statutory duties appropriate as they stand?
  - ii. What arrangements do local authorities have in place to declare councillors' interests, and manage conflicts of interest that go beyond the statutory requirements? Are these satisfactory? If not, please say why.

#### *Whistleblowing*



- h. What arrangements are in place for whistleblowing, by the public, councillors, and officials?  
Are these satisfactory?

*Improving standards*

- i. What steps could *local authorities* take to improve local government ethical standards?  
j. What steps could *central government* take to improve local government ethical standards?

*Intimidation of local councillors*

- k. What is the nature, scale, and extent of intimidation towards local councillors?  
i. What measures could be put in place to prevent and address this intimidation?

**The Committee is therefore asked to consider and provide comments in relation to the Standards in Public Life consultation.**

**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:**

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
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:**

None.

**Background Papers**

None.

**Report Author and Contact Officer**

**Ruth Dennis**

**DIRECTOR OF LEGAL AND GOVERNANCE**

**MONITORING OFFICER**

**[r.dennis@ashfield.gov.uk](mailto:r.dennis@ashfield.gov.uk)**

**01623 457009**