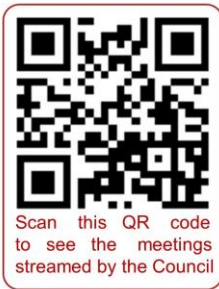


Public Document Pack



**North East
Derbyshire**
District Council

Our Ref: NC/AJD
Contact: Nicola Calver
Tel: 01246 217753
Email: nicola.calver@ne-derbyshire.gov.uk
Date: Thursday, 11 February 2021

To: **Members of the Standards Committee**

Please attend a meeting of the Standards Committee to be held on **Wednesday, 24 February 2021 at 2.00 pm**. The meeting will be held through virtual meeting software. Access credentials to the meeting will be sent to you under separate cover. The public parts of the meeting will be streamed from the Council's website on its 'You Tube' channel.

Virtual Attendance and Hybrid Meetings

I have provided the Leader and Deputy Leader with advice on the holding of "hybrid" meetings outlining the risks including to employees dealing with the Chamber and to Members. Hybrid meetings are those where some attendance is in person in the Council Chamber and some is virtual. I would encourage you all to attend virtually. Accordingly if you attend in person you will be deemed to have accepted the following disclaimer as applying.

Risk Assessment Disclaimer

When attending this meeting in person, I confirm that I have read and understood the contents of each of the following risk assessments and agree to act in line with its content.

- ☐ RA – Return to Work Mill Lane Covid 19 V13
- ☐ Mill Lane Coronavirus Control Measures V8

Both documents have been emailed to Members and are available on the Modern.Gov App library.

The same advice is given to officers who are also encouraged to participate in the meeting remotely.

Yours sincerely



Joint Head of Corporate Governance and Monitoring Officer

Members of the Committee

Councillor P Antcliff
Councillor W Armitage (Chair)
Councillor D Hancock
Councillor P Kerry (Vice-Chair)
Councillor H Liggett
Councillor K Rouse
Councillor D Ruff
Councillor R Welton

P Coleman - Parish Council Representative
D Skinner – Parish Council Representative

For further information about this meeting please contact: Nicola Calver 01246 217753

A G E N D A

1 Apologies for Absence

2 Declarations of Interest

Members are requested to declare the existence and nature of any disclosable pecuniary interests and/or other interests, not already on their register of interests, in any item in the agenda and withdraw from the meeting at the appropriate time.

3 Minutes of Last Meeting (Pages 4 - 6)

To approve as a correct record and the Chair to sign the Minutes of the Standards Committee held on 9 December 2020.

4 Joint Whistleblowing Policy Annual Report (Pages 7 - 19)

Report of the Joint Head of Corporate Governance & Monitoring Officer

5 Independent Remuneration Panel (Pages 20 - 23)

Report of the Joint Head of Corporate Governance & Monitoring Officer

6 Local Government Association Model Code of Conduct (Pages 24 - 44)

Report of the Joint Head of Corporate Governance & Monitoring Officer

7 Code of Practice - Vacating Office (Pages 45 - 51)

Report of the Joint Head of Corporate Governance & Monitoring Officer

8 Protocol for Audio and Visual Footage of Meetings (Pages 52 - 56)

Report of the Joint Head of Corporate Governance & Monitoring Officer

9 Review of the Constitution Part 4 (Pages 57 - 66)

- (a) Contract Procedure Rules (RFQs)
- (b) Extraordinary Council Meetings
- (c) Delegations to EH Officers
- (d) Section 85 Delegation
- (e) JCG Terms of Reference
- (f) Constitution Delegation

10 Complaints Update

11 Work Programme (Pages 67 - 68)

12 Urgent Business

To consider any other matter which the Chair is of the opinion should be considered as a matter of urgency.



***We speak
your language***

Polish

Mówimy Twoim językiem

French

Nous parlons votre langue

Spanish

***Hablamos su
idioma***

Slovak

***Rozprávame Vaším
jazykom***

Chinese

我们会说你的语言

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217753**

If you require an adjustment to enable you to participate in or access the meeting please contact the Governance Team at least 72 hours before the meeting starts.

STANDARDS COMMITTEE

MINUTES OF MEETING HELD ON WEDNESDAY, 9 DECEMBER 2020

Present:

Councillor William Armitage (Chair)
Councillor Pat Kerry (Vice-Chair)

Councillor Pat Antcliff
Councillor Heather Liggett
Pat Coleman

Councillor David Hancock
Councillor Diana Ruff
Councillor Richard Welton

Also Present:

S Sternberg	Joint Head Of Service - Corporate Governance & Monitoring Officer
K Shiliitto	Solicitor & Deputy Monitoring Officer
L Ingram	Legal Team Manager - Contentious Team
R Pope	Customer Services Manager
N Calver	Governance Manager
A Bryan	Governance Team

STA/20 /20-21 Apologies for Absence

Apologies had been received from Councillor K Rouse.

STA/21 /20-21 Declarations of Interest

Members are requested to declare the existence and nature of any disclosable pecuniary interests and/or other interests, not already on their register of interests, in any item on the agenda and withdraw from the meeting at the appropriate time.

There were no interests declared at the meeting.

STA/22 /20-21 Minutes of Last Meeting

RESOLVED – That the Minutes of the Standards Committee held on 23 September 2020 be approved as a correct record and signed by the Chair.

STA/23 /20-21 Local Government & Social Care Ombudsman Annual Review Letter

The Customer Service Manager presented to the Committee the Local Government and Social Care Ombudsman (LGSCO) Annual Review Letter. The Council had received its Annual Review Letter from the Local Government and Social Care Ombudsman on 22 July 2020 and it was attached to the report at Appendix 1. The Review Letter contained information on the number of complaints and enquiries that had been referred to the Ombudsman, including details of the complaints that had been upheld or referred back for a local resolution for the period 1 April 2019 to 31 March 2020.

The Customer Service Manager reported that there had been no complaints or enquiries made to the LGSCO for this period. This compared favourably with the previous year when there had been three complaints referred to the LGSCO.

A member of the Committee commented that to show such small figures as percentages for comparison was a distortion and could be misleading, although it was also noted that the report was positive.

RESOLVED – That the Annual Review letter of the Local Government & Social Care Ombudsman be noted.

**STA/24
/20-21** **Committee for Standards in Public Life Questionnaire**

The Monitoring Officer presented the report which highlighted the progress to date and the draft responses in relation to the Committee for Standards in Public Life local government ethical standards 15 best practice recommendations. The Monitoring Officer spoke about the 15 best practice recommendations and the proposed response to each.

Members of the Committee considered the proposed questionnaire responses and asked for a comment regarding preventing trivial or malicious allegations to be included. The Monitoring Officer confirmed that she would consider the matter and bring some criteria for trivial or malicious allegations back to the Committee.

Regarding who should make a complaint about the conduct of a parish councillor towards a parish clerk it was suggested that where there was one, the parish council leader should be able to make the complaint rather than the chair of the parish council.

RESOLVED –

- (1) That the Committee note the progress to date and the draft responses in relation to the Committee for Standards in Public Life local government ethical standards 15 best practice recommendations questionnaire be approved for submission.
- (2) That a report on criteria for trivial or malicious allegations against Councillors be submitted to a future meeting of the Committee.

(Monitoring Officer)

**STA/25
/20-21** **Review of the Constitution - Part 3**

The Standards Committee considered a report which set out areas for review within the Council's Constitution for consideration by the Standards Committee prior to submission as part of the review of the Constitution to Council for adoption.

The Committee was asked to give consideration to the following proposals for review outlined in Appendix 1, 2 and 3 to the report.

(a) JCG Terms of Reference

The Committee was asked to consider amendments to the JCG Terms of Reference. Following a review of the Terms of Reference the only change had been to remove reference to the Chief Executive and old officer titles.

(b) Call-in of Key Decisions

The Committee was asked to consider the call-in procedure, which was due for review.

(c) Delegations Scheme

The Committee was asked to consider a change to the constitution, which had been set out in a report to Council on 16 November 2020. This was regarding the recruitment of Independent Persons and gave the Monitoring Officer delegated authority to start a recruitment process for the appointment of an Independent Person.

RESOLVED – That the Standards Committee approved and submits to Council amendments to the Constitution as detailed in the report.

(Governance Manager)

STA/26 **Complaints Update - Verbal**
/20-21

The Committee received a verbal update from the Joint Head of Corporate Governance and Monitoring Officer on Member complaints.

It was reported that there were currently 14 complaints, eight of which had been closed with no further action and the remaining six were nearing closure. Of these 14 complaints, eight were in respect of Parish Councillors and six in respect of District Councillors.

STA/27 **Work Programme**
/20-21

Members gave consideration to the Work Programme for the Committee for the remainder of the municipal year. Members were reminded that this was a live and changing document and could be adapted to the needs of the Committee.

RESOLVED – That the Work Programme be noted.

STA/28 **Urgent Business (public session)**
/20-21

Members were advised that there was no urgent business to be discussed in the public session at this meeting of the Standards Committee.

North East Derbyshire District Council

Standards Committee

24 February 2021

Joint Whistleblowing Policy – Annual Report

Report of the Head of Corporate Governance and Monitoring Officer

This report is open

Purpose of the Report

- To provide an annual update to Members on use of the Joint Whistleblowing Policy.

1 Report Details

- 1.1 Whistleblowing is a report from an employee, member or other person about suspected wrongdoing within the organisation. The Public Interest Disclosure Act 1998 requires employers to refrain from dismissing workers and employees or subjecting them to any other detriment because they have made a protected disclosure.
- 1.2 Whistleblowing policies should foster a climate of openness and transparency in which individuals in the workplace do not feel that they will be victimised, harassed or suffer any reprisals if they raise concerns about wrongdoing within the organisation. The Government expects all public bodies to have adequate whistleblowing procedures in place.
- 1.3 North East Derbyshire District Council and Bolsover District Council currently have in place a Joint Whistleblowing Policy. The Councils are committed to updating Policies on a regular basis to ensure that they are fit for purpose, and the last review took place in February 2020.
- 1.4 The Joint Whistleblowing Policy has been reviewed in February 2021 and no changes are recommended other than housekeeping amendments (shown in tracked changes on Appendix 1).
- 1.5 In accordance with the Joint Whistleblowing Policy, the Monitoring Officer has overall responsibility for the maintenance and operation of the Policy, and will maintain a record of concerns raised and the outcomes. The Monitoring Officer is also required to report as necessary to both Councils on instances of Whistleblowing. There have been no instances to report for the 20/21 Municipal Year.

2 Conclusions and Reasons for Recommendation

- 2.1 The Joint Whistleblowing Policy has been reviewed to ensure that it remains fit for purpose and it is concluded that the existing version is satisfactory and up to date with current legislation and best practice.

2.2 There are no instances of Whistleblowing to report to Members.

3 Consultation and Equality Impact

3.1 There are no equalities issues arising from this report.

3.2 Standards Committee have the responsibility to oversee the Joint Whistleblowing Policy and arrangements and are required to make recommendations to Council to amend the Policy as appropriate.

4 Alternative Options and Reasons for Rejection

4.1 None.

5 Implications

5.1 Finance and Risk Implications

None.

5.2 Legal Implications including Data Protection

The legal implications in relation to whistleblowing are contained within the policy.

5.3 Human Resources Implications

None.

6 Recommendations

6.1 That Standards Committee:

- a) agree the current Joint Whistleblowing Policy is fit for purpose; and
- b) note that no instances of Whistleblowing have been made since the 2020 Annual Review of the Joint Whistleblowing Policy.

7 Decision Information

Is the decision a Key Decision? A Key Decision is an executive decision which has a significant impact on two or more District wards or which results in income or expenditure to the Council above the following thresholds: <i>BDC:</i> <i>Revenue - £75,000</i> <input type="checkbox"/> <i>Capital - £150,000</i> <input type="checkbox"/> <i>NEDDC:</i> <i>Revenue - £100,000</i> <input type="checkbox"/> <i>Capital - £250,000</i> <input type="checkbox"/> <input checked="" type="checkbox"/> <i>Please indicate which threshold applies</i>	No
Is the decision subject to Call-In? (Only Key Decisions are subject to Call-In)	No
Has the relevant Portfolio Holder been informed	Yes
District Wards Affected	All
Links to Corporate Plan priorities or Policy Framework	All

11 Document Information

Appendix No	Title	
1	Whistleblowing Policy	
Report Author		Contact Number
Nicola Calver, Governance Manager		01246 217753

Bolsover District and North East Derbyshire District Council

Joint Whistleblowing Policy



**North East
Derbyshire**
District Council

CONTROL SHEET FOR JOINT WHISTLEBLOWING POLICY

Policy Details	Comments/Confirmation (to be updated as the document progresses)
Policy title	Joint Whistleblowing Policy
Current status –	Agreed 2020 version, with housekeeping changes only.
Location of Policy –	Corporate Governance
Member route for approval	Standards, then Council
Cabinet Member (if applicable)	N/A
Equality Impact Assessment (approval date)	N/A
Partnership Involvement (if applicable)	N/A
Final Policy approval route (i.e. Executive/Council Committee)	Council
Date Policy approved	18/05/20 (NED) and 23/05/19 (BDC)
Date Policy due for review	Annually
Date Policy forwarded to Strategy and Performance (to include on Intranet and Internet, if applicable to the public)	

JOINT WHISTLEBLOWING POLICY

1. Introduction

- 1.1 Employees are often the first to realise that there may be something seriously wrong within a local authority. However, they may not express their concerns because they feel that speaking up would be disloyal to their colleagues or to the Councils. They may also fear harassment or victimisation. In these circumstances employees may feel that it is easier to ignore the concern, rather than report what may just be a suspicion of malpractice.
- 1.2 The Councils are committed to the highest possible standards of openness, probity and accountability. In line with that commitment the Councils encourage employees, Members and others with serious concerns about any aspect of the Councils work to come forward and voice those concerns. It is recognised that certain cases will have to proceed on a confidential basis.
- 1.3 Whistleblowing is the term used when someone who works in or for an organisation raises a concern about a possible fraud, crime, danger or other serious risk that could threaten customers, colleagues, the public or the organisation's own reputation. For example instances of theft from the Councils, accepting or offering a bribe, and failure by colleagues to adhere to Health & Safety directives could all be the subject of a Whistleblow.
- 1.4 This policy document makes it clear that concerns can be raised without fear of victimisation, subsequent discrimination or disadvantage. This Whistleblowing Policy is intended to encourage and enable employees to raise concerns within either Council in person, rather than overlooking a problem or using other methods to report concerns.
- 1.5 This policy applies to Council employees and other workers, including freelance staff, temporary and agency staff, trainers, volunteers, consultants, contractors, employees of another Local Authority with whom the Councils have entered into joint working arrangements and Members.
- 1.6 This policy also applies to all employees in organisations who work in partnership with the Councils and suppliers who wish to raise a concern.
- 1.7 The Public Interest Disclosure Act 1998 protects Council employees who report concerns from subsequent harassment, victimisation and other unfair treatment. Potential informants should feel reassured that it is illegal for the Councils to consider any action against them should their concerns not prove to be verifiable.

2. Aims and Scope of this Policy

2.1 This policy aims to:-

- encourage persons to feel confident in raising serious concerns that they may have about practices and procedures
- provide avenues to raise those concerns and receive feedback on any action taken
- allow persons to take the matter further if they are dissatisfied with the Council's response
- reassure employees that they will be protected from possible reprisals or victimisation if they have made any disclosure

2.2 Areas covered by the Whistleblowing Policy include:-

- criminal or other misconduct
- breaches of the Council's Standing Orders or Financial Regulations
- contravention of the Council's accepted standards, policies or procedures
- disclosures relating to miscarriages of justice
- health and safety risks
- damage to the environment
- unauthorised use of public funds
- fraud, bribery and corruption
- sexual, physical and/or verbal abuse of any person or group
- other unethical conduct
- the concealment of any of the above

2.3 Any concerns about any aspect of service provision or the conduct of officers or Elected Members of either Council, or others acting on behalf of either Council, can be reported under the Whistleblowing Policy. This may be about something that:-

- Makes you feel uncomfortable in terms of known standards, your experience or the standards you believe the Council subscribes to; or
- Is against the Council's constitution and policies; or
- Falls below established standards of practice; or
- Amounts to improper conduct

3. When this Policy may not be appropriate

3.1 This policy is not a substitute for the Council's other policies and procedures on such matters as personal grievances, bullying and harassment, health and safety, safeguarding issues (children and/or adults) or complaints. It should also not be used to raise matters relating to an employee's own terms and conditions of service.

3.2 It is important to know the difference between a 'Whistleblow' and a 'grievance.' A Whistleblow has a public interest aspect to it, as it puts others at risk.

- 3.3 A grievance by contrast has no public interest factors, as it is a complaint about a particular employment situation. A grievance should be reported using the Grievance Policy, not this policy.
- 3.4 For example, a member of staff being formally interviewed on capability grounds, without previously having had any indication that their performance was not acceptable, may lead to a grievance complaint being made. Whilst a member of staff who observes colleagues sharing/selling confidential data to un-authorised others, should lead to a Whistleblow.
- 3.5 The policy is not to be used by members of the public to pursue complaints about services. These should be dealt with through the Councils Complaints Procedures.
- 3.6 This Policy is not to be used by members of the public to pursue complaints against councillors conduct. They should direct complaints in the first instance to the Monitoring Officer who will deal with their complaints under the Members Code of Conduct procedure.

4. Safeguards against Harassment or Victimisation

- 4.1 The Councils recognise 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. However, the Councils will not tolerate any form of harassment or victimisation, and will take appropriate action to protect persons who have made a disclosure.
- 4.2 The Councils are committed to good practice and high standards and endeavours to be supportive of persons who raise concerns under this Policy.
- 4.3 In all cases, the provisions of The Public Interest Disclosure 1998 (PIDA) will be adhered to.
- 4.4 The Enterprise & Regulatory Reform Act 2013 (ERRA) introduced a Public Interest test requirement on Whistleblowers. In order to receive the protection of PIDA, Whistleblowers will now have to show that they reasonably believe that the disclosure they are making is in the public Interest.

5. Confidentiality

- 5.1 All concerns will be treated in confidence and the identity of the person raising the concern will not be revealed without his or her consent (subject to any legal requirements or decisions). At the appropriate time, however, the person may be expected to come forward as a witness.

6. Anonymous Allegations

- 6.1 This policy encourages you to put your name to any allegation wherever possible and receive the protection of PIDA as anonymous complaints are likely to be difficult to deal with effectively.

6.2 Concerns expressed anonymously will be considered at the discretion of the Council. In exercising this discretion the factors to be taken into account would include:-

- The seriousness of the issues raised
- The credibility of the concern; and
- The likelihood of confirming the allegation from attributable sources.

7. Untrue Allegations & Legal Protection

7.1 If you are a Council employee you are given legal protection by the Public Interest Disclosure Act 1998. You will qualify for this protection if you reasonably believe that the disclosure is in the public Interest.

7.2 If you make what is known as a “qualifying disclosure” under the 1998 Act to your employer or certain other persons/bodies, it will be unlawful for the Councils to subject you to any detriment (such as denial of promotion or withdrawal of a training opportunity), or to dismiss you, because of the disclosure.

7.3 Qualifying disclosures are disclosures of information where a Council employee reasonably believes (and it is in the public interest) that one or more of the following matters is either happening, has taken place, or is likely to happen in the future.

- A criminal offence
- The breach of a legal obligation
- A miscarriage of justice
- A danger to the health and safety of any individual
- Damage to the environment
- Deliberate attempt to conceal any of the above.

7.4 Compensation may be awarded to you by an Employment Tribunal if the Councils breach the 1998 Act, following a successful claim for ‘detrimental treatment’.

8. How to raise a Concern under this Policy

8.1 Concerns may be raised normally in writing. Persons who wish to raise a concern should provide details of the nature of the concern or allegation in the following format:

- The background and history of the concern giving names, dates and places where possible.
- The reason why you are particularly concerned about the situation.
- Submit any relevant evidence or documentation.

8.2 The earlier you express the concern the easier it is to take action.

8.3 Although you are not expected to prove beyond reasonable doubt the truth of an allegation, you will need to demonstrate to the person contacted that there are reasonable grounds for your concern.

8.4 Employees may choose to be represented by a colleague or Trade Union representative.

Employees

- 8.5 Employees should normally raise concerns in the first instance with their Line Manager. Alternatively, dependent upon the nature, seriousness and sensitivity of the issues involved and the person suspected of malpractice you could approach;
- the Service Manager whom you feel would be the most appropriate
 - Internal Audit
 - the Head of Paid Service (responsible Officer for Safeguarding)
 - the Monitoring Officer
 - The Section 151 Officer
- 8.6 You may choose to contact a Prescribed Person. Prescribed persons, as prescribed under the Public Interest Disclosure Act 1998, are independent bodies or individuals that can be approached by whistleblowers where an approach to their employers would not be appropriate. Prescribed persons, which usually have an authoritative relationship with the whistleblowers' organizations, can be regulatory or legislative bodies, central government departments, arm's length bodies or charities and include all Members of Parliament. You may also contact the "Public Concern at Work" helpline if you wish to remain anonymous. The telephone number for this service is: 020 7404 6609.

Other Persons (including Elected Members)

- 8.7 Other persons can contact any of the following officers of the Councils directly:
- the Service Manager whom you feel would be the most appropriate
 - Internal Audit
 - the Head of Paid Service (responsible Officer for safeguarding)
 - the Monitoring Officer
 - The Section 151 Officer
- 8.8 Officers of the Councils can be contacted in writing, by telephone or by going through one of the Contact Centres. You can contact the Councils through your elected Councillor if this is preferable or more convenient.
- 8.9 You may also choose to contact a body external to the Council such as the External Auditor or the Police or a Prescribed Person.

9 How the Council will respond to a concern raised under this Policy

- 9.1 The Officer with whom the concern was initially raised will respond in writing within ten working days:
- acknowledging that the concern has been received
 - indicating how it is proposed to deal with the matter
 - stating whether any initial enquiries have been made
 - supplying information on what support is available and stating whether further investigations will take place and if not, why not

- 9.2 Concerns raised under this Policy will be investigated by the investigating officer who will be appointed at the Council's discretion.
- 9.3 When conducting the investigation, the investigating officer may involve:-
- Internal Audit
 - Legal & Governance Services
 - Human Resources
 - the Police (in some circumstances the Council will have no choice but to inform the Police if it believes a criminal offence has been committed and may do so without informing the whistle blower)
 - an external auditor
 - The Monitoring Officer
 - The S 151 Officer
 - The Head of Paid Service (responsible Officer for safeguarding)
 - Any other person at the discretion of the investigating officer
- 9.4 The investigating officer should in the first instance inform any employee who is the subject of a Whistleblowing allegation of the allegation before a decision is taken as to what will happen with it. If the investigating officer determines that this would not be appropriate in the circumstances then he should seek guidance from the Monitoring Officer who may advise not to inform the employee at this stage of the process.
- 9.5 The investigating officer will make initial enquiries to decide whether an investigation is appropriate and if so what form it should take having regard to the law and the public interest.
- 9.6 If the investigating officer decides that a disciplinary investigation is the appropriate course of action to take, he/she will advise Human Resources who will instruct an appropriate person to conduct the disciplinary investigation and ensure that the investigation is carried out in accordance with the Councils' Disciplinary Policy.
- 9.7 Some concerns may be resolved by agreed action without the need for investigation.
- 9.8 It may be necessary to take urgent action before any investigation is completed.
- 9.9 The Council will take steps to minimise any difficulties that persons may experience as a result of raising a concern. For instance, if he or she is required to give evidence in criminal or disciplinary proceedings the Council will arrange for advice to be given about the procedure (but not about what answers to give).
- 9.10 The Councils accept that persons need to be assured that the matter has been properly addressed. Subject to legal constraints, the Council will inform the Whistleblower of the progress and outcome of any investigation.
- 9.11 It is important for persons to understand that making a Whistleblowing allegation doesn't give them anonymity, but does give them protection from harassment or victimisation.

10 The Responsible Officer

- 10.1 The Monitoring Officer has overall responsibility for the maintenance and operation of this Policy, and will maintain a record of concerns raised and the outcomes. This record will be in a form which does not compromise confidentiality and substantially in the form attached.
- 10.2 The Monitoring Officer will report as necessary to the Councils.
- 10.3 The Investigating Officer must inform the Monitoring Officer of the receipt of a concern raised under this Policy, how they intend to deal with it and how the matter was concluded.

11. How the Matter Can Be Taken Further

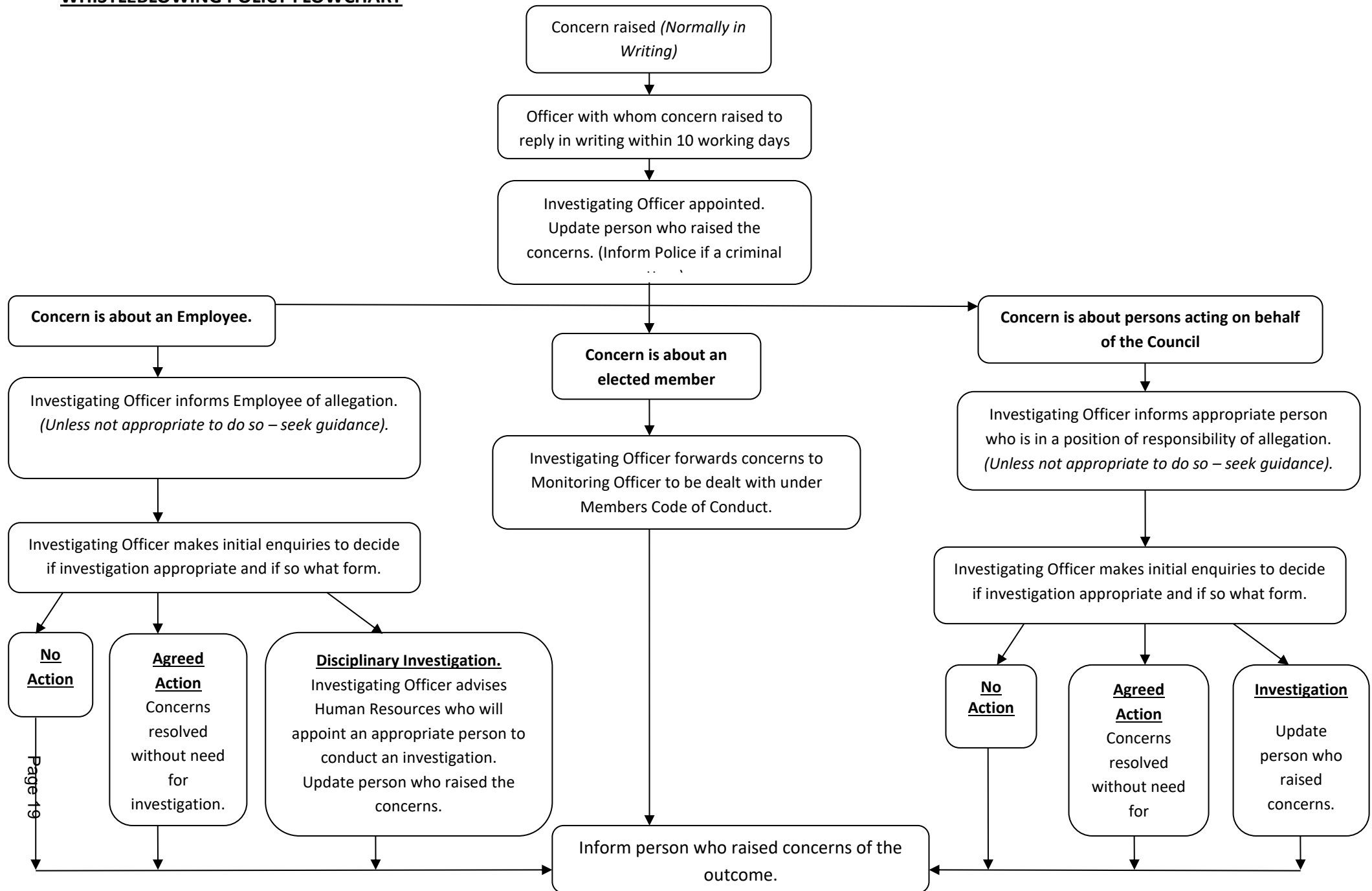
- 11.1 This Policy is intended to provide a process within the Councils, through which appropriate persons may raise concerns. If at the conclusion of this process the person is not satisfied with any action taken or feels that the action taken is inappropriate, the following are suggested as further referral points:
- the Councils external auditor
 - Your Trade Union
 - Your local Citizens Advice Bureau
 - Relevant professional body or regulatory organisation
 - A relevant voluntary organisation
 - The Police
 - Your Solicitor
 - The Audit Commission
- 11.2 Advice should be taken before making an external disclosure and the internal procedure should normally have been followed first.
- 11.3 The Councils would not normally expect Whistleblowers to make disclosures to the press.

12. Whistleblowing Register

- 12.1 The Monitoring Officer in accordance with the Joint Whistle Blowing Policy of Bolsover District Council and North East Derbyshire District Council has overall responsibility for the maintenance and operation of this Policy, and will maintain a record of concerns raised and the outcomes. This record will be in a form which does not compromise confidentiality and substantially in the form below.

Number	Council	Details	Outcome
1/20xx			

WHISTLEBLOWING POLICY FLOWCHART



North East Derbyshire District Council

Standards Committee

24 February 2021

INDEPENDENT REMUNERATION PANEL

Report of the Joint Head of Corporate Governance & Monitoring Officer

Classification: This report is public

Report By: Governance Manager, Nicola Calver

Contact Officer: Nicola Calver – 01246 217753
nicola.calver@ne-derbyshire.gov.uk

PURPOSE / SUMMARY

This report briefs the Standards Committee on the necessity for calling an Independent Remuneration Panel to consider Members' Allowances and consider and provide opinion on options for appropriate appointees.

RECOMMENDATIONS

1. That the necessity to call an Independent Remuneration Panel be noted; and
2. Options for appointees to an Independent Remunerations be considered.

Approved by the Portfolio Holder – Cllr Mark Foster

IMPLICATIONS

Finance and Risk: Yes ☐ No ☒

Details:

On Behalf of the Section 151 Officer

Legal (including Data Protection): Yes ☒ No ☐

Details:

Members' Allowances for Councillors elected to North East Derbyshire District Council are managed within the provisions of the Local Government and Housing Act 1989 S18, and the Local Authorities (Members' Allowances) Regulations 2003 (SI1021/2003).

On Behalf of the Solicitor to the Council

Staffing: Yes ☐ No ☒
Details:

On behalf of the Head of Paid Service

DECISION INFORMATION

Decision Information	
Is the decision a Key Decision? A Key Decision is an executive decision which has a significant impact on two or more District wards or which results in income or expenditure to the Council above the following thresholds: BDC: Revenue - £75,000 <input type="checkbox"/> Capital - £150,000 <input checked="" type="checkbox"/> NEDDC: Revenue - £100,000 <input type="checkbox"/> Capital - £250,000 <input type="checkbox"/> <input checked="" type="checkbox"/> Please indicate which threshold applies	No
Is the decision subject to Call-In? (Only Key Decisions are subject to Call-In)	No
District Wards Significantly Affected	None
Consultation: Leader / Deputy Leader <input type="checkbox"/> Cabinet / Executive <input type="checkbox"/> SAMT <input type="checkbox"/> Relevant Service Manager <input checked="" type="checkbox"/> Members <input type="checkbox"/> Public <input type="checkbox"/> Other <input type="checkbox"/>	Yes Details: Portfolio Holder and Chair of Standards

Links to Council Ambition (BDC)/Council Plan (NED) priorities or Policy Framework including Climate Change, Equalities, and Economics and Health implications.

[Click here to enter text.](#)

REPORT DETAILS

1 Background

- 1.1 It is best practice, where Members' Allowances are Index Linked to staff pay, to review the levels of allowance every 4 years. Therefore it is timely to call an IRP to consider levels of Allowances for NED Members.
- 1.2 In previous years the IRP has consisted of 3 persons, chosen for one or more of the following reasons:
- A respected person within the community not affiliated with public office;
 - A person with good understanding of socio-economic matters;
 - A person wholly independent, without any personal links to any Member of the Authority.
- 1.3 On the principals above, the Monitoring Officer and her team are tasked to appoint 3 persons to act as this panel.

2. Details of Proposal

- 2.1 Standards Committee are asked to consider some of the options for the types of persons who may be appropriate and offer opinion on suitability. Please note that this is not an exhaustive list.

The options for discussion are:

- A member of the clergy;
 - Any current or former head-teacher or Senior Leadership Team representative from a school within the district;
 - A representative from the Chesterfield Chamber of Commerce;
 - An Independent Person appointed or previously appointed by another Authority;
 - A former co-opted Member;
 - A senior person from within the social enterprise community;
 - A senior representative from the local NHS Trust;
 - A senior representative from Derbyshire Police
- 2.2 Standards Committee are asked to note that no remuneration is offered to the IRP bar any travel expenses that may be incurred – this is to ensure that the Panel is entirely unbiased. The meetings for the IRP to consider allowances for this exercise will be virtual.

3 Reasons for Recommendation

- 3.1 Standards Committee are asked to offer opinion on the options available as a means of consultation with Members on this matter. After this the process will be managed by the Monitoring Officer and her team.

4 Alternative Options and Reasons for Rejection

4.1 None

DOCUMENT INFORMATION

Appendix No	Title
Background Papers (These are unpublished works which have been relied on to a material extent when preparing the report. They must be listed in the section below. If the report is going to Cabinet (NEDDC) or Executive (BDC) you must provide copies of the background papers)	

North East Derbyshire District Council

Standards Committee

24 February 2021

The Local Government Association Model Code of Conduct

Report of the Joint Head of Corporate Governance & Monitoring Officer

This report is public

Purpose of the Report

- As Members are aware, the Local Government Association consulted upon a model Members' Code of Conduct last year. This had been produced following the Committee for Standards in Public Life's review and report upon ethical Standards.
- The Committee looked at the draft and responded to the consultation. The draft itself was close to the District's Code with some additions. Unfortunately this is not the case with the Codes of Conduct adopted by the Parish Councils in the District.

1 Report Details

- 1.1 Attached to the report is the Local Government Association Model Code of Conduct (Appendix 1).
- 1.2 The stated purpose of the Code of Conduct is to protect Councillors by modelling the behaviour expected of Councillors, providing a personal check and balance and setting out the type of conduct that could lead to action being taken against Councillors.
- 1.3 It is also to protect the public, Councillors, Officers and the reputation of local government.
- 1.4 The changes include that the Code of Conduct will apply when you are acting as a Councillor which may include when
 - You misuse your position as a Councillor
 - Your actions would give the impression to a reasonable member of the public with knowledge of all the facts that you are acting as a Councillor.
- 1.5 This clearly is seeking to extend the applicability of the Code of Conduct and is understandable. As many Members have said to me, they are Councillors 24/7. This is the way many of the public see it too. The public have great difficulty understanding that what they see as wrongful behaviour doesn't come under the Code because it happened outside of the Councillor duties.
- 1.6 The Code covers all types of contact including (presumably post Covid 19) face to face meetings, emails, telephone and social media. The latter is the source of many

complaints. There is guidance in the Constitution on Social Media already. With the change in applicability the advice and the careful use of social media becomes even more important.

- 1.7 As can be seen the model places a lot more emphasising on bullying and bringing the Council into disrepute. It also requires Councillors to undertake Code of Conduct training provided by the Council, to cooperate with any investigation and/or determination, not to intimidate witnesses in such investigations/hearings and to comply with any sanction imposed at a hearing. This has been a problem in some Councils. This would allow a second breach to be dealt with, the evidence of the refusal being clear. This would not require the cooperation of the Councillor.
- 1.8 In terms of adopting the new Code of Conduct, I propose to discuss the model with Members at this meeting and then to draft a version for North East Derbyshire District Council for the Standards Committee in 26th April. The Committee could then recommend adoption to the Annual Meeting of the Council in May. In addition all Parish and Town Councils could be informed at that point that a new Code of Conduct is being recommended to be adopted by the Council.
- 1.9 The other issue is training for all Members and Parish and Town Councils.
- 1.10 For District Councillors, a mid-term induction programme is being organised for May. This would be in the period after the Annual Meeting. This will include Code of Conduct training and will also be virtual as well as face to face if possible.
- 1.11 For Parish and Town Councils, a programme will be developed involving the Parish Council Liaison Meeting.
- 1.12 In addition, it should be noted that the Local Government Association is offering training.

2 Conclusions and Reasons for Recommendation

- 2.1 That Members should discuss the model code and any changes and additions they would wish to see to assist the Monitoring Officer with drafting.
- 2.2 That the Monitoring Officer present a North East Derrbyshire District Council draft Members Code of Conduct for discussion at Standards Committee on 26th April in order that a draft can be recommended from Standards Committee to the Annual Meeting of Council for adoption. It is undoubtedly good practice to adopt the mode albeit with the Council's own modifications.

3 Consultation and Equality Impact

- 3.1 At this stage, the consultation is with the Standards Committee.
- 3.2 Equalities issues have been dealt with in the model Code.

4 Alternative Options and Reasons for Rejection

- 4.1 To keep the current Code. This would be not to follow good practice and is not therefore recommended.

5 Implications

5.1 Finance and Risk Implications

5.1.1 None

5.2 Legal Implications including Data Protection

5.2.1 The Council is required to adopt a Code of Conduct by law. Up to now this can be any Code the Council chooses. However a model Code from the Local Government Association represents good practice and should be adopted.

5.3 Human Resources Implications

5.3.1 It is part of the role of the Monitoring Officer as defined in the legislation to provide you with advice on your Code of Conduct.

6 Recommendations

6.1 That Members consider the model Code of Conduct and make recommendations to the Monitoring Officer for changes or inclusions

6.2 That the Monitoring Officer provide a draft North East Derbyshire District Council Members Code of Conduct to the Standards Committee on 26th April.

7 Decision Information

Is the decision a Key Decision? A Key Decision is an executive decision which has a significant impact on two or more District wards or which results in income or expenditure to the Council above the following thresholds: <i>BDC:</i> <i>Revenue - £75,000</i> <input type="checkbox"/> <i>Capital - £150,000</i> <input type="checkbox"/> <i>NEDDC:</i> <i>Revenue - £100,000</i> <input type="checkbox"/> <i>Capital - £250,000</i> <input type="checkbox"/> <input checked="" type="checkbox"/> <i>Please indicate which threshold applies</i>	No
Is the decision subject to Call-In? (Only Key Decisions are subject to Call-In)	No
Has the relevant Portfolio Holder been informed	Not applicable. This is a Standards Committee responsibility.
District Wards Affected	None
Links to Corporate Plan priorities or Policy Framework	All indirectly

8 Document Information

Appendix No	Title
1	Local Government Association Model Code of Conduct
Background Papers (These are unpublished works which have been relied on to a material extent when preparing the report. They must be listed in the section below. If the report is going to Cabinet (NEDDC) or Executive (BDC) you must provide copies of the background papers)	
Report Author	Contact Number
Sarah Sternberg	01246 242414

Local Government Association

Model Councillor Code of Conduct 2020

Joint statement

The role of councillor across all tiers of local government is a vital part of our country's system of democracy. It is important that as councillors we can be held accountable and all adopt the behaviors and responsibilities associated with the role. Our conduct as an individual councillor affects the reputation of all councillors. We want the role of councillor to be one that people aspire to. We also want individuals from a range of backgrounds and circumstances to be putting themselves forward to become councillors.

As councillors, we represent local residents, work to develop better services and deliver local change. The public have high expectations of us and entrust us to represent our local area; taking decisions fairly, openly, and transparently. We have both an individual and collective responsibility to meet these expectations by maintaining high standards and demonstrating good conduct, and by challenging behaviour which falls below expectations.

Importantly, we should be able to undertake our role as a councillor without being intimidated, abused, bullied or threatened by anyone, including the general public.

This Code has been designed to protect our democratic role, encourage good conduct and safeguard the public's trust in local government.

Introduction

The Local Government Association (LGA) has developed this Model Councillor Code of Conduct, in association with key partners and after extensive consultation with the sector, as part of its work on supporting all tiers of local government to continue to aspire to high standards of leadership and performance. It is a template for councils to adopt in whole and/or with local amendments.

All councils are required to have a local Councillor Code of Conduct.

The LGA will undertake an annual review of this Code to ensure it continues to be fit-for-purpose, incorporating advances in technology, social media and changes in legislation. The LGA can also offer support, training and mediation to councils and councillors on the application of the Code and the National Association of Local Councils (NALC) and the county associations of local councils can offer advice and support to town and parish councils.

Definitions

For the purposes of this Code of Conduct, a “councillor” means a member or co-opted member of a local authority or a directly elected mayor. A “co-opted member” is defined in the Localism Act 2011 Section 27(4) as “a person who is not a member of the authority but who

- a) is a member of any committee or sub-committee of the authority, or;
- b) is a member of, and represents the authority on, any joint committee or joint sub-committee of the authority;

and who is entitled to vote on any question that falls to be decided at any meeting of that committee or sub-committee”.

For the purposes of this Code of Conduct, “local authority” includes county councils, district councils, London borough councils, parish councils, town councils, fire and rescue authorities, police authorities, joint authorities, economic prosperity boards, combined authorities and National Park authorities.

Purpose of the Code of Conduct

The purpose of this Code of Conduct is to assist you, as a councillor, in modelling the behaviour that is expected of you, to provide a personal check and balance, and to set out the type of conduct that could lead to action being taken against you. It is also to protect you, the public, fellow councillors, local authority officers and the reputation of local government. It sets out general principles of conduct expected of all councillors and your specific obligations in relation to standards of conduct. The LGA encourages the use of support, training and mediation prior to action being taken using the Code. The fundamental aim of the Code is to create and maintain public confidence in the role of councillor and local government.

General principles of councillor conduct

Everyone in public office at all levels; all who serve the public or deliver public services, including ministers, civil servants, councillors and local authority officers; should uphold the [Seven Principles of Public Life](#), also known as the Nolan Principles.

Building on these principles, the following general principles have been developed specifically for the role of councillor.

In accordance with the public trust placed in me, on all occasions:

- I act with integrity and honesty
- I act lawfully
- I treat all persons fairly and with respect; and
- I lead by example and act in a way that secures public confidence in the role of councillor.

In undertaking my role:

- I impartially exercise my responsibilities in the interests of the local community
- I do not improperly seek to confer an advantage, or disadvantage, on any person
- I avoid conflicts of interest
- I exercise reasonable care and diligence; and
- I ensure that public resources are used prudently in accordance with my local authority's requirements and in the public interest.

Application of the Code of Conduct

This Code of Conduct applies to you as soon as you sign your declaration of acceptance of the office of councillor or attend your first meeting as a co-opted member and continues to apply to you until you cease to be a councillor.

This Code of Conduct applies to you when you are acting in your capacity as a councillor which may include when:

- you misuse your position as a councillor
- Your actions would give the impression to a reasonable member of the public with knowledge of all the facts that you are acting as a councillor;

The Code applies to all forms of communication and interaction, including:

- at face-to-face meetings
- at online or telephone meetings
- in written communication
- in verbal communication
- in non-verbal communication
- in electronic and social media communication, posts, statements and comments.

You are also expected to uphold high standards of conduct and show leadership at all times when acting as a councillor.

Your Monitoring Officer has statutory responsibility for the implementation of the Code of Conduct, and you are encouraged to seek advice from your Monitoring Officer on any matters that may relate to the Code of Conduct. Town and parish councillors are encouraged to seek advice from their Clerk, who may refer matters to the Monitoring Officer.

Standards of councillor conduct

This section sets out your obligations, which are the minimum standards of conduct required of you as a councillor. Should your conduct fall short of these standards, a complaint may be made against you, which may result in action being taken.

Guidance is included to help explain the reasons for the obligations and how they should be followed.

General Conduct

1. Respect

As a councillor:

1.1 I treat other councillors and members of the public with respect.

1.2 I treat local authority employees, employees and representatives of partner organisations and those volunteering for the local authority with respect and respect the role they play.

Respect means politeness and courtesy in behaviour, speech, and in the written word. Debate and having different views are all part of a healthy democracy. As a councillor, you can express, challenge, criticise and disagree with views, ideas, opinions and policies in a robust but civil manner. You should not, however, subject individuals, groups of people or organisations to personal attack.

In your contact with the public, you should treat them politely and courteously. Rude and offensive behaviour lowers the public's expectations and confidence in councillors.

In return, you have a right to expect respectful behaviour from the public. If members of the public are being abusive, intimidatory or threatening you are entitled to stop any conversation or interaction in person or online and report them to the local authority, the relevant social media provider or the police. This also applies to fellow councillors, where action could then be taken under the Councillor Code of Conduct, and local authority employees, where concerns should be raised in line with the local authority's councillor-officer protocol.

2. Bullying, harassment and discrimination

As a councillor:

2.1 I do not bully any person.

2.2 I do not harass any person.

2.3 I promote equalities and do not discriminate unlawfully against any person.

The Advisory, Conciliation and Arbitration Service (ACAS) characterises bullying as offensive, intimidating, malicious or insulting behaviour, an abuse or misuse of power through means that undermine, humiliate, denigrate or injure the recipient. Bullying might be a regular pattern of behaviour or a one-off incident, happen face-to-face, on social media, in emails or phone calls, happen in the workplace or at work social events and may not always be obvious or noticed by others.

The Protection from Harassment Act 1997 defines harassment as conduct that causes alarm or distress or puts people in fear of violence and must involve such conduct on at least two occasions. It can include repeated attempts to impose unwanted communications and contact upon a person in a manner that could be expected to cause distress or fear in any reasonable person.

Unlawful discrimination is where someone is treated unfairly because of a protected characteristic. Protected characteristics are specific aspects of a person's identity defined by the Equality Act 2010. They are age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex and sexual orientation.

The Equality Act 2010 places specific duties on local authorities. Councillors have a central role to play in ensuring that equality issues are integral to the local authority's performance and strategic aims, and that there is a strong vision and public commitment to equality across public services.

3. Impartiality of officers of the council

As a councillor:

3.1 I do not compromise, or attempt to compromise, the impartiality of anyone who works for, or on behalf of, the local authority.

Officers work for the local authority as a whole and must be politically neutral (unless they are political assistants). They should not be coerced or persuaded to act in a way that would undermine their neutrality. You can question officers in order to understand, for example, their reasons for proposing to act in a particular way, or the content of a report that they have written. However, you must not try and force them to act differently, change their advice, or alter the content of that report, if doing so would prejudice their professional integrity.

4. Confidentiality and access to information

As a councillor:

4.1 I do not disclose information:

- a. given to me in confidence by anyone**
- b. acquired by me which I believe, or ought reasonably to be aware, is of a confidential nature, unless**
 - i. I have received the consent of a person authorised to give it;**
 - ii. I am required by law to do so;**
 - iii. the disclosure is made to a third party for the purpose of obtaining professional legal advice provided that the third party agrees not to disclose the information to any other person; or**
 - iv. the disclosure is:**
 - 1. reasonable and in the public interest; and**
 - 2. made in good faith and in compliance with the reasonable requirements of the local authority; and**
 - 3. I have consulted the Monitoring Officer prior to its release.**

4.2 I do not improperly use knowledge gained solely as a result of my role as a councillor for the advancement of myself, my friends, my family members, my employer or my business interests.

4.3 I do not prevent anyone from getting information that they are entitled to by law.

Local authorities must work openly and transparently, and their proceedings and printed materials are open to the public, except in certain legally defined circumstances. You should work on this basis, but there will be times when it is required by law that discussions, documents and other information relating to or held by the local authority must be treated in a confidential manner. Examples include personal data relating to individuals or information relating to ongoing negotiations.

5. Disrepute

As a councillor:

5.1 I do not bring my role or local authority into disrepute.

As a Councillor, you are trusted to make decisions on behalf of your community and your actions and behaviour are subject to greater scrutiny than that of ordinary members of the public. You should be aware that your actions might have an adverse impact on you, other councillors and/or your local authority and may lower the public's confidence in you or your local authority's ability to discharge your/its functions. For example, behaviour that is considered dishonest and/or deceitful can bring your local authority into disrepute.

You are able to hold the local authority and fellow councillors to account and are able to constructively challenge and express concern about decisions and processes undertaken by the council whilst continuing to adhere to other aspects of this Code of Conduct.

6. Use of position

As a councillor:

6.1 I do not use, or attempt to use, my position improperly to the advantage or disadvantage of myself or anyone else.

Your position as a member of the local authority provides you with certain opportunities, responsibilities, and privileges, and you make choices all the time that will impact others. However, you should not take advantage of these opportunities to further your own or others' private interests or to disadvantage anyone unfairly.

7. Use of local authority resources and facilities

As a councillor:

7.1 I do not misuse council resources.

7.2 I will, when using the resources of the local or authorising their use by others:

- a. act in accordance with the local authority's requirements; and**
- b. ensure that such resources are not used for political purposes unless that use could reasonably be regarded as likely to facilitate, or be conducive to, the discharge of the functions of the local authority or of the office to which I have been elected or appointed.**

You may be provided with resources and facilities by the local authority to assist you in carrying out your duties as a councillor.

Examples include:

- office support
- stationery
- equipment such as phones, and computers
- transport
- access and use of local authority buildings and rooms.

These are given to you to help you carry out your role as a councillor more effectively and are not to be used for business or personal gain. They should be used in accordance with the purpose for which they have been provided and the local authority's own policies regarding their use.

8. Complying with the Code of Conduct

As a Councillor:

8.1 I undertake Code of Conduct training provided by my local authority.

8.2 I cooperate with any Code of Conduct investigation and/or determination.

8.3 I do not intimidate or attempt to intimidate any person who is likely to be involved with the administration of any investigation or proceedings.

8.4 I comply with any sanction imposed on me following a finding that I have breached the Code of Conduct.

It is extremely important for you as a councillor to demonstrate high standards, for you to have your actions open to scrutiny and for you not to undermine public trust in the local authority or its governance. If you do not understand or are concerned about the local authority's processes in handling a complaint you should raise this with your Monitoring Officer.

Protecting your reputation and the reputation of the local authority

9. Interests

As a councillor:

9.1 I register and disclose my interests.

Section 29 of the Localism Act 2011 requires the Monitoring Officer to establish and maintain a register of interests of members of the authority .

You need to register your interests so that the public, local authority employees and fellow councillors know which of your interests might give rise to a conflict of interest. The register is a public document that can be consulted when (or before) an issue arises. The register also protects you by allowing you to demonstrate openness and a willingness to be held accountable. You are personally responsible for deciding whether or not you should disclose an interest in a meeting, but it can be helpful for you to know early on if others think that a potential conflict might arise. It is also important that the public know about any interest that might have to be disclosed by you or other councillors when making or taking part in decisions, so that decision making is seen by the public as open and honest. This helps to ensure that public confidence in the integrity of local governance is maintained.

You should note that failure to register or disclose a disclosable pecuniary interest as set out in **Table 1**, is a criminal offence under the Localism Act 2011.

Appendix B sets out the detailed provisions on registering and disclosing interests. If in doubt, you should always seek advice from your Monitoring Officer.

10. Gifts and hospitality

As a councillor:

- 10.1 I do not accept gifts or hospitality, irrespective of estimated value, which could give rise to real or substantive personal gain or a reasonable suspicion of influence on my part to show favour from persons seeking to acquire, develop or do business with the local authority or from persons who may apply to the local authority for any permission, licence or other significant advantage.**
- 10.2 I register with the Monitoring Officer any gift or hospitality with an estimated value of at least £50 within 28 days of its receipt.**
- 10.3 I register with the Monitoring Officer any significant gift or hospitality that I have been offered but have refused to accept.**

In order to protect your position and the reputation of the local authority, you should exercise caution in accepting any gifts or hospitality which are (or which you reasonably believe to be) offered to you because you are a councillor. The presumption should always be not to accept significant gifts or hospitality. However, there may be times when such a refusal may be difficult if it is seen as rudeness in which case you could accept it but must ensure it is publicly registered. However, you do not need to register gifts and hospitality which are not related to your role as a councillor, such as Christmas gifts from your friends and family. It is also important to note that it is appropriate to accept normal expenses and hospitality associated with your duties as a councillor. If you are unsure, do contact your Monitoring Officer for guidance.

Appendices

Appendix A – The Seven Principles of Public Life

The principles are:

Selflessness

Holders of public office should act solely in terms of the public interest.

Integrity

Holders of public office must avoid placing themselves under any obligation to people or organisations that might try inappropriately to influence them in their work. They should not act or take decisions in order to gain financial or other material benefits for themselves, their family, or their friends. They must disclose and resolve any interests and relationships.

Objectivity

Holders of public office must act and take decisions impartially, fairly and on merit, using the best evidence and without discrimination or bias.

Accountability

Holders of public office are accountable to the public for their decisions and actions and must submit themselves to the scrutiny necessary to ensure this.

Openness

Holders of public office should act and take decisions in an open and transparent manner. Information should not be withheld from the public unless there are clear and lawful reasons for so doing.

Honesty

Holders of public office should be truthful.

Leadership

Holders of public office should exhibit these principles in their own behaviour. They should actively promote and robustly support the principles and be willing to challenge poor behaviour wherever it occurs.

Appendix B Registering interests

Within 28 days of becoming a member or your re-election or re-appointment to office you must register with the Monitoring Officer the interests which fall within the categories set out in **Table 1 (Disclosable Pecuniary Interests)** which are as described in “The Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012”. You should also register details of your other personal interests which fall within the categories set out in **Table 2 (Other Registerable Interests)**.

“Disclosable Pecuniary Interest” means an interest of yourself, or of your partner if you are aware of your partner's interest, within the descriptions set out in Table 1 below.

"Partner" means a spouse or civil partner, or a person with whom you are living as husband or wife, or a person with whom you are living as if you are civil partners.

1. You must ensure that your register of interests is kept up-to-date and within 28 days of becoming aware of any new interest, or of any change to a registered interest, notify the Monitoring Officer.
2. A ‘sensitive interest’ is as an interest which, if disclosed, could lead to the councillor, or a person connected with the councillor, being subject to violence or intimidation.
3. Where you have a ‘sensitive interest’ you must notify the Monitoring Officer with the reasons why you believe it is a sensitive interest. If the Monitoring Officer agrees they will withhold the interest from the public register.

Non participation in case of disclosable pecuniary interest

4. Where a matter arises at a meeting which directly relates to one of your Disclosable Pecuniary Interests as set out in **Table 1**, you must disclose the interest, not participate in any discussion or vote on the matter and must not remain in the room unless you have been granted a dispensation. If it is a ‘sensitive interest’, you do not have to disclose the nature of the interest, just that you have an interest. Dispensation may be granted in limited circumstances, to enable you to participate and vote on a matter in which you have a disclosable pecuniary interest.
5. Where you have a disclosable pecuniary interest on a matter to be considered or is being considered by you as a Cabinet member in exercise of your executive function, you must notify the Monitoring Officer of the interest and must not take any steps or further steps in the matter apart from arranging for someone else to deal with it

Disclosure of Other Registerable Interests

6. Where a matter arises at a meeting which **directly relates** to one of your Other Registerable Interests (as set out in **Table 2**), you must disclose the interest. You may speak on the matter only if members of the public are also allowed to speak at the meeting but otherwise must not take part in any discussion or vote on the matter and must not remain in the room unless you have been granted a dispensation. If it is a ‘sensitive interest’, you do not have to disclose the nature of the interest.

Disclosure of Non-Registerable Interests

7. Where a matter arises at a meeting which **directly relates** to your financial interest or well-being (and is not a Disclosable Pecuniary Interest set out in Table 1) or a financial interest or well-being of a relative or close associate, you must disclose the interest. You may speak on the matter only if members of the public are also allowed to speak at the meeting. Otherwise you must not take part in any discussion or vote on the matter and must not remain in the room unless you have been granted a dispensation. If it is a 'sensitive interest', you do not have to disclose the nature of the interest.
8. Where a matter arises at a meeting which **affects** –
 - a. your own financial interest or well-being;
 - b. a financial interest or well-being of a relative, close associate; or
 - c. a body included in those you need to disclose under Other Registrable Interests as set out in **Table 2**

you must disclose the interest. In order to determine whether you can remain in the meeting after disclosing your interest the following test should be applied

9. Where a matter **affects** your financial interest or well-being:
 - a. to a greater extent than it affects the financial interests of the majority of inhabitants of the ward affected by the decision and;
 - b. a reasonable member of the public knowing all the facts would believe that it would affect your view of the wider public interest

You may speak on the matter only if members of the public are also allowed to speak at the meeting. Otherwise you must not take part in any discussion or vote on the matter and must not remain in the room unless you have been granted a dispensation.

If it is a 'sensitive interest', you do not have to disclose the nature of the interest.

10. Where you have a personal interest in any business of your authority and you have made an executive decision in relation to that business, you must make sure that any written statement of that decision records the existence and nature of your interest.

Table 1: Disclosable Pecuniary Interests

This table sets out the explanation of Disclosable Pecuniary Interests as set out in the [Relevant Authorities \(Disclosable Pecuniary Interests\) Regulations 2012](#).

Subject	Description
Employment, office, trade, profession or vocation	Any employment, office, trade, profession or vocation carried on for profit or gain. [Any unpaid directorship.]
Sponsorship	Any payment or provision of any other financial benefit (other than from the council) made to the councillor during the previous 12-month period for expenses incurred by him/her in carrying out his/her duties as a councillor, or towards his/her election expenses. This includes any payment or financial benefit from a trade union within the meaning of the Trade Union and Labour Relations (Consolidation) Act 1992.
Contracts	Any contract made between the councillor or his/her spouse or civil partner or the person with whom the

	<p>councillor is living as if they were spouses/civil partners (or a firm in which such person is a partner, or an incorporated body of which such person is a director* or a body that such person has a beneficial interest in the securities of*) and the council —</p> <p>(a) under which goods or services are to be provided or works are to be executed; and</p> <p>(b) which has not been fully discharged.</p>
Land and Property	<p>Any beneficial interest in land which is within the area of the council.</p> <p>‘Land’ excludes an easement, servitude, interest or right in or over land which does not give the councillor or his/her spouse or civil partner or the person with whom the councillor is living as if they were spouses/civil partners (alone or jointly with another) a right to occupy or to receive income.</p>
Licenses	<p>Any licence (alone or jointly with others) to occupy land in the area of the council for a month or longer</p>
Corporate tenancies	<p>Any tenancy where (to the councillor’s knowledge)—</p> <p>(a) the landlord is the council; and</p> <p>(b) the tenant is a body that the councillor, or his/her spouse or civil partner or the person with whom the councillor is living as if they were spouses/civil partners is a partner of or a director* of or has a beneficial interest in the securities* of.</p>
Securities	<p>Any beneficial interest in securities* of a body where—</p> <p>(a) that body (to the councillor’s knowledge) has a place of business or land in the area of the council; and</p> <p>(b) either—</p> <p>(i) the total nominal value of the securities* exceeds £25,000 or one hundredth of the total issued share capital of that body; or</p> <p>(ii) if the share capital of that body is of more than one class, the total nominal value of the shares of any one class in which the councillor, or his/her spouse or civil partner or the person with whom the councillor is living as if they were</p>

	spouses/civil partners has a beneficial interest exceeds one hundredth of the total issued share capital of that class.
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* 'director' includes a member of the committee of management of an industrial and provident society.

* 'securities' means shares, debentures, debenture stock, loan stock, bonds, units of a collective investment scheme within the meaning of the Financial Services and Markets Act 2000 and other securities of any description, other than money deposited with a building society.

Table 2: Other Registrable Interests

You have a personal interest in any business of your authority where it relates to or is likely to affect:

- a) any body of which you are in general control or management and to which you are nominated or appointed by your authority
- b) any body
 - (i) exercising functions of a public nature
 - (ii) any body directed to charitable purposes or
 - (iii) one of whose principal purposes includes the influence of public opinion or policy (including any political party or trade union)

Appendix C – the Committee on Standards in Public Life

The LGA has undertaken this review whilst the Government continues to consider the recommendations made by the Committee on Standards in Public Life in their report on [Local Government Ethical Standards](#). If the Government chooses to implement any of the recommendations, this could require a change to this Code.

The recommendations cover:

- Recommendations for changes to the Localism Act 2011 to clarify in law when the Code of Conduct applies
- The introduction of sanctions
- An appeals process through the Local Government Ombudsman
- Changes to the Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012
- Updates to the Local Government Transparency Code
- Changes to the role and responsibilities of the Independent Person
- That the criminal offences in the Localism Act 2011 relating to Disclosable Pecuniary Interests should be abolished

The Local Government Ethical Standards report also includes Best Practice recommendations. These are:

Best practice 1: Local authorities should include prohibitions on bullying and harassment in codes of conduct. These should include a definition of bullying and harassment, supplemented with a list of examples of the sort of behaviour covered by such a definition.

Best practice 2: Councils should include provisions in their code of conduct requiring councillors to comply with any formal standards investigation and prohibiting trivial or malicious allegations by councillors.

Best practice 3: Principal authorities should review their code of conduct each year and regularly seek, where possible, the views of the public, community organisations and neighbouring authorities.

Best practice 4: An authority's code should be readily accessible to both councillors and the public, in a prominent position on a council's website and available in council premises.

Best practice 5: Local authorities should update their gifts and hospitality register at least once per quarter, and publish it in an accessible format, such as CSV.

Best practice 6: Councils should publish a clear and straightforward public interest test against which allegations are filtered.

Best practice 7: Local authorities should have access to at least two Independent Persons.

Best practice 8: An Independent Person should be consulted as to whether to undertake a formal investigation on an allegation, and should be given the option to

review and comment on allegations which the responsible officer is minded to dismiss as being without merit, vexatious, or trivial.

Best practice 9: Where a local authority makes a decision on an allegation of misconduct following a formal investigation, a decision notice should be published as soon as possible on its website, including a brief statement of facts, the provisions of the code engaged by the allegations, the view of the Independent Person, the reasoning of the decision-maker, and any sanction applied.

Best practice 10: A local authority should have straightforward and accessible guidance on its website on how to make a complaint under the code of conduct, the process for handling complaints, and estimated timescales for investigations and outcomes.

Best practice 11: Formal standards complaints about the conduct of a parish councillor towards a clerk should be made by the chair or by the parish council, rather than the clerk in all but exceptional circumstances.

Best practice 12: Monitoring Officers' roles should include providing advice, support and management of investigations and adjudications on alleged breaches to parish councils within the remit of the principal authority. They should be provided with adequate training, corporate support and resources to undertake this work.

Best practice 13: A local authority should have procedures in place to address any conflicts of interest when undertaking a standards investigation. Possible steps should include asking the Monitoring Officer from a different authority to undertake the investigation.

Best practice 14: Councils should report on separate bodies they have set up or which they own as part of their annual governance statement and give a full picture of their relationship with those bodies. Separate bodies created by local authorities should abide by the Nolan principle of openness and publish their board agendas and minutes and annual reports in an accessible place.

Best practice 15: Senior officers should meet regularly with political group leaders or group whips to discuss standards issues.

The LGA has committed to reviewing the Code on an annual basis to ensure it is still fit for purpose.

North East Derbyshire District Council

Standards Committee

24 February 2021

CODE OF PRACTICE – VACATING OFFICE

Report of the Joint Head of Corporate Governance & Monitoring Officer

Classification: This report is public

Report By: Nicola Calver, Governance Manager

Contact Officer: Nicola Calver – 01246 217753
nicola.calver@ne-derbyshire.gov.uk

PURPOSE / SUMMARY

To give consideration to a proposed code of practice for the application of the 6 month rule, notification processes and other means by which a member can vacate public office.

RECOMMENDATIONS

- 1 That Standards Committee consider and approve the proposed Code of Practice for District Councillors vacating office.
-

IMPLICATIONS

Finance and Risk: Yes ☐ No ☒

Details:

On Behalf of the Section 151 Officer

Legal (including Data Protection): Yes ☒ No ☐

Details:

Legal implications have been made clear in the context of the code of practice which includes complying with the Local Government and Housing Act 1989 Section 1, the Representation of the Peoples Act 1983, and Sections 85 and 86 of the Local Government Act 1972.

On Behalf of the Solicitor to the Council

Staffing: Yes ☐ No ☒
Details:

On behalf of the Head of Paid Service

DECISION INFORMATION

Decision Information	
Is the decision a Key Decision? A Key Decision is an executive decision which has a significant impact on two or more District wards or which results in income or expenditure to the Council above the following thresholds: BDC: Revenue - £75,000 <input type="checkbox"/> Capital - £150,000 <input checked="" type="checkbox"/> NEDDC: Revenue - £100,000 <input type="checkbox"/> Capital - £250,000 <input type="checkbox"/> <input checked="" type="checkbox"/> Please indicate which threshold applies	No
Is the decision subject to Call-In? (Only Key Decisions are subject to Call-In)	No
District Wards Significantly Affected	None
Consultation: Leader / Deputy Leader <input type="checkbox"/> Cabinet / Executive <input type="checkbox"/> SAMT <input type="checkbox"/> Relevant Service Manager <input type="checkbox"/> Members <input type="checkbox"/> Public <input type="checkbox"/> Other <input type="checkbox"/>	Standards Committee are consulted in their consideration of this report. Details: Click here to enter text.

Links to Council Ambition (BDC)/Council Plan (NED) priorities or Policy Framework including Climate Change, Equalities, and Economics and Health implications.

REPORT DETAILS

1 **Background** (reasons for bringing the report)

- 1.1 It has been identified that the authority does not currently have a documented code of practice for managing the processes when a Member vacates office, although there is a way of working that has been in place. This code of practice documents and gives context to those arrangements.

2. Details of Proposal or Information

- 2.1 Attached at Appendix 1 is a proposed code of practice for consideration by Standards Committee.

3 Reasons for Recommendation

- 3.1 It is good practice to have a code of practice to refer to ensure the consistent application of a process, but also that all involved can understand the context behind the process.

4 Alternative Options and Reasons for Rejection

- 4.1 No alternative options are offered, the code of practice is brought for consideration by the Standards Committee.

DOCUMENT INFORMATION

Appendix No	Title
1	Code of Practice: District Councillors Vacating Office
Background Papers (These are unpublished works which have been relied on to a material extent when preparing the report. They must be listed in the section below. If the report is going to Cabinet (NEDDC) or Executive (BDC) you must provide copies of the background papers)	

Appendix 1

Code of Practice **Application of the 6 Month Rule and Notification Processes and other** **means of vacating office**

1. Context

- 1.1 The LGHA 1989 S.1 sets out specific reasons around disqualification from office for Council Members. Those Members who qualify for office in accordance with statutory rules relating to elections, whilst they still qualify, will continue to serve for their term of office unless they:
- Are employed by the Local Authority
 - Are subject to bankruptcy orders;
 - Have, within 5 years before being elected, or at any time since being elected, been convicted in the UK, Channel Island, or Isle of Man of any offense and have not received a sentence of imprisonment (suspended or not) for a period of not less than three months without the option of a fine;
 - Are disqualified under Part II of the Representation of the Peoples Act 83;
 - are employed under the direction of various local authority committee, boards or the greater London Authority; or
 - are a teacher in a school maintained by the local authority.
- 1.2 Members can also vacate office where they choose to do so through resignation or sadly, when they die during their term of office.
- 1.3 Members cannot be administratively removed or suspended from office.
- 1.4 The LGA 1972 S.85 expressly provides that where a Council Member fails throughout a period of six consecutive months from the date of their last attendance to attend any meeting of the Authority, then, subject to certain exceptions, they cease to be a Member of the Authority.
- 1.5 When a Member ceases to hold office, the Monitoring Officer is required by law to declare the office vacant under S.86 of the LGA 1972. This is in all cases apart from where a failure to attend meetings was for a reason approved before the expiration of the 6 month period (dispensation).
- 1.6 In the case of Executive or Cabinet Members, a further requirement is made by law for attendance at Executive or Cabinet Meetings within a 6 month period.

2. Application of the Law by this Authority

- 2.1 When a Member ceases to hold office in all circumstances as detailed above, the Monitoring Officer is required by law to declare the office vacant under S.86 of the LGA 1972.

2.2 This will also result in the issue of an Election notice which will be triggered at the same time in all circumstances, apart from where a Member dies. There will be a delay in this case in sympathy for the family and as a respectful act of the Authority.

2.3 It is every Member's legal responsibility to comply with the law.

In respect of the 6 Month Rule:

2.4 There is no requirement within the Law for an officer of the relevant authority to notify the Member concerned of the approach of the expiration of the 6 month or a dispensation period. This is because an assumption cannot be made that the Member will default.

2.5 The interpretation of 'any meeting of the Authority' is loosely defined in law, and this Authority clarifies that the following apply:

- Meetings of Council, Committees or Sub Committees (either as an appointed, substitute or visiting Member)
- Officially established Working Groups (of which they are a Member)
- Meeting of an Outside Body for which the Member is appointed by Council
- In all circumstances, the Member must be recorded as present.

2.4 The interpretation of 'six consecutive months' is defined in law, and this Authority clarifies that the following applies:

- The six months' commence from the day following the last attendance
- The six months' do not include any dispensation period, and begins before and continue after this period.

2.5 Dispensations can be requested directly by the Councillor concerned to the Monitoring Officer or her Deputy, stating reasons for requiring a period of absence.

3. Dispensation Process

3.1 A request for dispensation, or extension for dispensation is made in writing to the Monitoring Officer or her Deputy from the Member concerned.

3.2 This request must be made 6 weeks in advance of the expiration of the 6 month or granted dispensation period. This is to ensure that Council are offered the opportunity to consider the dispensation request at a formal meeting.

3.3 The Governance Manager will submit a dispensation request report on the Member's behalf to the next ordinary meeting of Council if it takes place within the 6 week period. Where it does not, the authority has delegated power for the Monitoring Officer to either authorise a short term dispensation

to the date of the next Council meeting or to call an Extraordinary meeting of Council to consider the request. Is this last bit right?

- 3.4 Where a request is submitted after the 6 week window has expired, the Monitoring Officer is delegated responsibility to consider dispensations in consultation with the Chair of the Council and make a decision which applies until the next meeting of Council can consider it.
- 3.5 Where the Monitoring Officer makes a decision in regard to the application of this process, this decision will be published in line with the Delegated Decision protocol. It will be exempt in line with The Local Government (Access to Information) Act 1985, Local Government Act 1972, Part 1, Schedule 12A.

4. Monitoring of Attendance

- 4.1 The Mod.Gov system monitors attendance for all Members where they are marked as present at Meetings of the Authority. This will not include any Outside Body attendances.
- 4.2 Members are able to view their attendance statistics through the public pages on the website.
- 4.3 Group Leaders may request information on attendance statistics from the Governance Team.
- 4.4 The Governance Team do monitor attendance, however they will not approach a Member in regard to expiry of the 6 month rule. This is the Member's legal responsibility and this cannot be shouldered by the Local Authority.

5. When a Member Ceases to be a Member any longer

- 5.1 The Monitoring Officer will notify the Council of the vacancy and notify the Member concerned (or their family at an appropriate time following a death in service).
- 5.2 The Electoral Services Manager will issue the vacancy notice.
- 5.3 The Governance Manager will stop any allowances paid from the date of vacating office. ICT equipment will be recovered and access to Council systems stopped.

- 5.4 The Members details will be sensitively removed from the Council website and systems where it relates to any ongoing matters. Historical information will remain in accordance with the 6 year retention requirements.
- 5.5 Where a Member sadly dies in office, the civic flag will be raised to half-mast in accordance with the flag raising protocol, and acts of sympathy from the authority will be enacted.

North East Derbyshire District Council

Standards Committee

24 February 2021

CODE OF PRACTICE – AUDIO AND VISUAL FOOTAGE OF MEETINGS

Report of the Joint Head of Corporate Governance & Monitoring Officer

Classification: This report is public

Report By: Nicola Calver, Governance Manager

Contact Officer: Nicola Calver – 01246 217753
nicola.calver@ne-derbyshire.gov.uk

PURPOSE / SUMMARY

To give consideration to a proposed code of practice for audio and visual footage for meetings.

RECOMMENDATIONS

- 1 That Standards Committee consider and approve the proposed Code of Practice for Audio and Visual Footage of Meetings.
-

IMPLICATIONS

Finance and Risk: Yes ☐ No ☒
Details:

On Behalf of the Section 151 Officer

Legal (including Data Protection): Yes ☐ No ☒
Details:

On Behalf of the Solicitor to the Council

Staffing: Yes ☐ No ☒
Details:

On behalf of the Head of Paid Service

DECISION INFORMATION

Decision Information	
<p>Is the decision a Key Decision? A Key Decision is an executive decision which has a significant impact on two or more District wards or which results in income or expenditure to the Council above the following thresholds:</p> <p>BDC: Revenue - £75,000 <input type="checkbox"/> Capital - £150,000 <input checked="" type="checkbox"/></p> <p>NEDDC: Revenue - £100,000 <input type="checkbox"/> Capital - £250,000 <input type="checkbox"/> <input checked="" type="checkbox"/> Please indicate which threshold applies</p>	No
<p>Is the decision subject to Call-In? (Only Key Decisions are subject to Call-In)</p>	No
<p>District Wards Significantly Affected</p>	None
<p>Consultation: Leader / Deputy Leader <input type="checkbox"/> Cabinet / Executive <input type="checkbox"/> SAMT <input type="checkbox"/> Relevant Service Manager <input type="checkbox"/> Members <input type="checkbox"/> Public <input type="checkbox"/> Other <input type="checkbox"/></p>	Standards Committee are consulted in their consideration of this report. Details: Click here to enter text.

<p>Links to Council Ambition (BDC)/Council Plan (NED) priorities or Policy Framework including Climate Change, Equalities, and Economics and Health implications.</p>

REPORT DETAILS

- 1 **Background** (reasons for bringing the report)
 - 1.1 It has been identified that the authority does not currently have a code of practice for managing audio and visual footage of meetings.
2. **Details of Proposal or Information**
 - 2.1 Attached at Appendix 1 is a proposed code of practice for consideration by Standards Committee.

3 Reasons for Recommendation

- 3.1 It is good practice to have a code of practice to refer to ensure the consistent application of a process, but also that all involved can understand the context behind the process.

4 Alternative Options and Reasons for Rejection

- 4.1 No alternative options are offered, the code of practice is brought for consideration by the Standards Committee.

DOCUMENT INFORMATION

Appendix No	Title
1	Code of Practice: Audio and Visual Footage of Meetings
Background Papers (These are unpublished works which have been relied on to a material extent when preparing the report. They must be listed in the section below. If the report is going to Cabinet (NEDDC) or Executive (BDC) you must provide copies of the background papers)	

Appendix 1

Code of Practice **Audio and Visual Footage of Meetings**

1. Context

- 1.1 Every principal Council and its committees and sub-committee meetings must be open to the public, except where the public is excluded in line with Schedule 12A of the Local Government Act 1972.
- 1.2 Public meetings can be recorded by any person present, and we respectfully ask for any recordings to be focused on the persons in public office and not any other public person attending the meeting.
- 1.3 Prior to May 2020 meetings of Council were live streamed to the Council's website and physical access was granted to all Council and Committee meetings for the press and public.

Context for the Pandemic Period

- 1.4 The Coronavirus Act 20 regulations permit virtual meetings to be held up to 7th May 2021.
- 1.5 Virtual meetings are only lawful where members can hear and be heard during proceedings and preferably see and been seen, although the latter is not unlawful.
- 1.6 The regulations also require for remote access to be given to the public and press to enable them to attend or participate in that meeting by electronic means – such as telephone or video conference, live webcasts and live interactive streaming.
- 1.7 Meetings of the Authority can be altered in terms of frequency, rescheduled or cancelled under provision 4 of the Regulations.
- 1.8 The Council's Council Procedure Rules have been amended for the duration of the regulations to allow virtual meeting standing orders.
- 1.9 After the expiry of the regulations or any subsequent extensions or legislation face to face meetings may be recorded or live streamed to the Council's website.

2. Application of the Law by this Authority During the Pandemic Period

- 2.1 This Authority holds its full timetable of meetings, where possible and necessary, via virtual meeting platforms up to 7th May 2021.

- 2.2 Officers will make arrangements to live stream every qualifying meeting to comply with the provision 6(c) of the Regulations.
- 2.3 An etiquette that applies the legislation, and the virtual meeting standing orders have been issued, and will continue to be issued on a regular basis, to Members.
- 2.4 Live Streaming the meeting, and allowing members of the public who are speaking to join the meeting has been deemed as the most practical way in which to comply with the legislation.

Application of the Law by this Authority After the Pandemic Period

- 2.5 Post May 21, or after the expiry of the regulations or any subsequent extensions or primary legislation, face to face, hybrid or virtual meetings may be recorded or live streamed to the Council's website. This code of practice applies also for this.
- 2.6 Standing Orders and the Members Code of Conduct apply after May 21, as they did prior to and during the pandemic period.

Code of Practice

- 3.1 There is no requirement to hold a back catalogue of audio or visual of these meetings. The Authority will leave the video footage up on YouTube to increase access to democracy and transparency of decision making.
- 3.2 Where the footage is exempt this will not be live streamed. Accordingly, where confidential information is accidentally shared, the meeting will be removed and edited and re-uploaded minus the confidential information only. Original footage will always be retained by Governance in these circumstances in accordance with the retention and disposal schedule (6 years).
- 3.3 Where the footage displays behaviour that the Monitoring Officer in consultation with the Chair of Standards deems to be offensive to the public in any way, this will be removed and edited and re-uploaded minus the offensive footage only. Where this can be an editing of sound rather than video this will be actioned. Original footage and audio will always be retained by Governance in these circumstances in accordance with the retention and disposal schedule (6 years). It is not in the best interests of the Authority and its reputation to promote it in a negative light. Political rough and tumble will not be deemed as offensive, this is part of local democracy, however swearing or behaviour that subsequently results in a Standards Complaint will be removed, if even on a temporary basis.
- 3.4 All Members are asked to behave in a manner in accordance with the virtual meeting standing orders and the etiquette or, after the Pandemic, the requirements of the Constitution.

North East Derbyshire District Council

Standards Committee

24 February 2021

Review of the Council's Constitution (Part 4)

Report of the Solicitor to the Council & Monitoring Officer

This report is public

Purpose of the Report

- To consider the list of areas for review within the Council's Constitution for consideration by the Standards Committee prior to submission as part of the Annual Review of the Constitution to Council for adoption.

1 Report Details

- 1.1 The Constitution is the Council's 'rulebook'. It sets out how the Council operates and how it makes decisions. Council approved its latest version of the Constitution at the Annual Council meeting in May 2020.
- 1.2 One of the functions of the Standards Committee is to undertake an annual review of the Council's Constitution to ensure it is up to date and in line with legislation and current circumstances. The following areas were identified by the Committee for review in 2020/21;
- Housing Management Board TOR
 - Town Fund Board TOR
 - Contract Procedure Rules – Contract Formalities
 - Employee Code of Conduct / Employment Rules
 - JCG Terms Of Reference
 - Planning Protocol
 - Minor wording changes or updating of job titles (housekeeping)
- 1.3 The table below sets out how these areas of review, and other matters suggested or referred through the year, will be considered over the municipal year and where the matters need to be considered by other Committees for consultation, these have been identified.

Area for Review	Lead Officer	Dates for Consideration
Housing Management TOR	Governance Manager	Standards Committee July 2020
Town Fund Board TOR	Governance Manager	Standards Committee July 2020
Contract Procedure Rules – Contract Formalities	Monitoring Officer	Standards Committee September 2020

Planning Committee – Ward Members	Governance Manager Head of Planning	Standards Committee September 2020
Contract Procedure Rules – raise level for RFQs	Monitoring Officer and Head of Procurement	Standards Committee February 2021
Extraordinary Council Meetings	Monitoring Officer and Governance Manager	Standards Committee February 2021
Delegation to EH Officers to serve section 215 Town and Country Planning Act 1990 notice	Monitoring Officer and Head of Planning	Standards Committee February 2021
Delegation given to Monitoring Officer to temporarily approve dispensations under the Section 85 Rule	Monitoring Officer and Governance Manager	Standards Committee February 2021
Council JCG Terms of Reference	HR and Organisational Development Manager	JCG February 2021 Standards Committee February 2021
Delegation to Monitoring Officer in regard to reviewing the Constitution	Monitoring Officer and Governance Manager	Standards Committee February 2021
Review of Employee Code of Conduct	HR and Organisational Development Manager	JCG Special meeting TBC* Standards Committee April 2021
Employment Rules	Monitoring Officer and Governance Manager	Standards Committee April 2021
Minor wording changes or updating of job titles (housekeeping)	Governance Officers	Once final draft version produced

1.4 In addition to the above areas for review, during the pandemic a number of changes were taken directly to virtual Council for incorporation in the constitution and bypassed Standards.

- Virtual Meeting Standing Orders
- Disestablishment of the SAJC
- Calendar of Meetings Approval
- Delegations Scheme (Chief Officers)
- Planning Committee Terms of Reference
- Planning Protocol
- Minor Wording Changes or updating of job titles (housekeeping)

- 1.5 The areas for review for this meeting in the above table are detailed in the appendices to the report and set out the proposal and/or rationale and the sections of the Constitution to be amended.

2 Conclusions and Reasons for Recommendation

- 2.1 To ensure the Council has in place a fit for purpose Constitution which complies with English law.

3 Consultation and Equality Impact

- 3.1 The Director of Corporate Resources & Head of Paid Service, Chief Financial Officer, Monitoring Officer and SAMT are consulted at relevant stages of the Constitution Review.
- 3.2 Equality Impact Assessments may be carried out in relation to specific areas of review where the need arises. Details of any equality issues will be address in relation to each area of review.

4 Alternative Options and Reasons for Rejection

- 4.1 Members may consider alternative options to any proposals put forward, where legally permitted.

5 Implications

5.1 Finance and Risk Implications

- 5.1.1 Failure to ensure the Constitution meets legal requirements can leave the Council open to challenge, as does failure to comply with the provisions of the Constitution. It is therefore essential that Constitution is regularly reviewed and given robust oversight.

5.2 Legal Implications including Data Protection

- 5.2.1 The Council is required under the Localism Act 2011 to prepare and keep up-to-date a constitution that contains its standing orders, code of conduct, such other information that the Secretary of State may direct and such other information that the authority considers appropriate.

5.3 Human Resources Implications

- 5.3.1 There are no human resources implications arising from the proposals within this report. Some areas for review may impact on staff. These implications will be addressed in relation to the specific areas for review.

6 Recommendations

- 6.1 That the Committee give consideration to proposals for review and support the submission of the proposals to Council as part of the Constitution Review.

7 Decision Information

Is the decision a Key Decision? A Key Decision is an executive decision which has a significant impact on two or more District wards or which results in income or expenditure to the Council above the following thresholds: BDC: Revenue - £75,000 <input type="checkbox"/> Capital - £150,000 <input type="checkbox"/> NEDDC: Revenue - £100,000 <input type="checkbox"/> Capital - £250,000 <input type="checkbox"/> <input checked="" type="checkbox"/> Please indicate which threshold applies	No
Is the decision subject to Call-In? (Only Key Decisions are subject to Call-In)	No
Has the relevant Portfolio Holder been informed	Yes
District Wards Affected	None
Links to Corporate Plan priorities or Policy Framework	Demonstrating good governance

8 Document Information

Appendix No	Title	
1	Areas for Review – Proposals and Rationale	
2	JCG Terms of Reference	
Background Papers (These are unpublished works which have been relied on to a material extent when preparing the report. They must be listed in the section below. If the report is going to Cabinet (NEDDC) or Executive (BDC) you must provide copies of the background papers)		
None.		
Report Author		Contact Number
Nicola Calver, Governance Manager		01246 217753

Area of Review	Proposal and Rationale	Sections of the Constitution to be revised
Contract Procurement Rules	<p>To raise the level at which a Request for Quotations (RFQs) can be used in place of tenders to £75k. This is currently £50k. This will still require the active involvement of the Procurement Team in Contracts with a value of £10 to £75k.</p> <p>This changes is being suggested to help local businesses that exist to compete for Council work and to help develop future companies. This is particularly important because of the Pandemic's effect on the economy.</p> <p>An RFQ requires the same information as an open tender but is more user friendly and less traumatic than completing a full tender. It has always been agreed that the full tender process is not appropriate for smaller contracts.</p> <p>It is also the advice of the Head of Procurement that this will assist in developing the companies and increasing competition for Council contracts.</p>	<p>Part 4 Contract Procedure Rules (Page 152 number 3, page 156 number 5, page 161 number 17 and page 163 table of the Procurement Rules)</p>
Extraordinary Council Meetings	<p>To add a footnote to 3.3 to clarify that this paragraph does not restrict the agenda to one item of business and that such items as Questions and Motions shall be included on the agenda for any extraordinary meetings.</p> <p>This has been done under the 'housekeeping' process.</p>	<p>Part 4.1 – Council Procedure Rules (Page 70)</p>

<p>Delegation to Environmental Health Officers to serve Section 215 Town and Country Planning Act 1990 notice</p>	<p>Planning Committee/Head of Planning and the Planning Manger – Development Management currently hold a delegation for Planning and development control functions including enforcement for which the Council is responsible in Schedule 1 of the Functions Regulations. It is proposed to extend this delegation to Environmental Health officers who are often the instigators of the need for such action.</p>	<p>Part 3 Functions Scheme (Page 38)</p>
<p>Delegation to Monitoring Officer to temporarily approve dispensations in relation to the S85 Rules.</p>	<p>To add a delegation in relation to Councillor attendance dispensations under Section 85 of the Local Government Act 1972. This is to be able to provide a dispensation only when there is no Council meeting to consider the application before expiry and a dispensation would only be granted until the date of the next Council meeting which would consider the application.</p> <p>Delegation to Head of Corporate Governance and Monitoring Officer</p> <p>The proposed wording of the delegation is:</p> <p>To provide a dispensation under Section 85 of the Local Government Act 1972, where an application for dispensation has been received and there is no Council meeting in the meeting schedule which could consider the application before expiry, a dispensation may be granted until the date of the next Council Meeting which could consider it.</p>	<p>Part 3.1 – Scheme of Delegation for Officers</p>

APPENDIX 1

CJCG Terms of Reference	The Council Joint Consultative Committee have considered their Terms of Reference and proposed housekeeping and minor amendments and propose the tracked changes as set out in Appendix 2.	APPENDIX 2
Review of the Constitution	Each year, as part of the Review of the Constitution report that issued to Council, a delegation is given to the Monitoring Officer to make changes to the Constitution arising from any new legislation, administrative errors or conflicts in interpretation. It is proposed that this be incorporated in to the Delegation Scheme.	Part 3.1 – Scheme of Delegation for Officers

NORTH EAST DERBYSHIRE DISTRICT COUNCIL

COUNCIL JOINT CONSULTATIVE GROUP

TERMS OF REFERENCE

The role of the Council Joint Consultative Group is to oversee the industrial relations framework of the Council and to provide a method of consultation between management and employee/union representatives on matters affecting employees generally.

1 OBJECTIVES

1.1 To bring together Members, Management and Trade Union representatives to:-

- (a) provide a regular basis of consultation and negotiation on matters of principle relating to employee-industrial relations, working and other arrangements and conditions of service affecting employees throughout the Authority which are not reserved for negotiation at national, provincial or other agreed local levels;
- (b) improve service provision and efficiency;
- (c) consider health and safety matters to improve standards of health and safety performance throughout the Authority.

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2 FUNCTIONS

2.1 In achieving the above objectives the following specific matters, which affect employees generally, are appropriate for consideration by the Group:-

- (a) operational and policy issues;
- ~~(b) policies in relation to training;~~
- (c) negotiation on local terms and conditions of service with the exception of those affecting a single department service;
- (d) issues and proposals to promote equality ~~of opportunity~~.

2.2 Informal meetings between Management and Employee representatives may be arranged outside of the scheduled Council Joint Consultative Group to consider policy or legal developments which require changes to policies to be made. Such meetings will take place as and when required. ~~Where policies are shared across the Strategic Alliance with Bolsover District Council, informal meetings may be arranged with representatives across both authorities.~~

2.3 Employee relations and Health and Safety issues within specific services ~~or departments~~ should be raised with the relevant Service managers/Head of Service of the relevant department, and the HR & OD Manager and/or Hhealth and Ssafety

~~Manager~~officer where necessary, to seek a resolution before they are raised at the Council Joint Consultative Group.

3 MEMBERSHIP

3.1 The Group shall include ~~six~~six representatives from Management (Employer Side) including the Leader, Deputy Leader, ~~and relevant Portfolio Member, Head of Paid Service together with the Chief Executive, Executive Director Transformation, a Human Resources representative Manager or their representative~~ and ~~six~~six representatives of employees (Employees' side).

3.2 Both Sides shall appoint their representatives to hold office for one year from the Annual Meeting of the Council. Representatives shall be eligible for re-appointment.

3.3 The Employees' Side shall include ~~six~~six representatives from recognised Trade Unions as follows:-

UNISON – ~~3~~4

GMB – 1

UNITE – ~~2~~4

who shall represent the interests of all the workforce.

3.4 Where possible, not more than one person from any ~~Service~~Section within the ~~Authority~~Council shall attend as a Trade Union representative.

3.5 ~~Full time~~Trade Union officials and ~~departmental~~Service representatives may attend meetings as advisers.

3.6 If a representative of either Side is unable to attend a meeting a substitute representative may attend subject to the terms of these Terms of Reference.

3.7 The Group shall have power to appoint Sub-Groups as necessary.

4 OFFICERS

4.1 At the first meeting in each municipal year a Chair and Vice Chair shall be appointed from among the Group.

4.2 The Chair and Vice Chair shall be from different Sides of the Group and shall alternate each year unless otherwise agreed.

4.3 The Secretary for the Group shall be provided from the Governance team.

5 MEETINGS

5.1 There shall be at least four meetings scheduled each municipal year at quarterly intervals.

5.2 Additional or Special meetings may be called with the agreement of the Chair at the request of either Side submitted through the Secretary.

- 5.3 If a scheduled meeting cannot take place, due to lack of quorum or a reason other than lack of business, the meeting shall be reconvened.
- 5.4 Separate meetings of both Sides shall take place immediately prior to a meeting of the Group.
- 5.5 If there is insufficient business for a meeting it may be cancelled with the agreement of the Chair and Vice Chair.
- 5.6 Three members of each Side shall together constitute a quorum.
- 5.7 Recommendations from the Group shall, wherever possible, be reached by consensus and, where appropriate, the views of both Sides shall be reflected in the Minutes. Where necessary, the Council may still proceed with the Council's decision making processes in accordance with the Constitution, even if consensus cannot be reached.
- 5.8 Items for inclusion on an agenda shall be provided to the Secretary and exchanged between the two Sides not later than three weeks prior to a meeting. Such items must be specific to facilitate investigations and evaluation prior to a meeting. They must be matters which cannot be settled locally with ~~departmental~~ service management. Items with only subject headings may be deferred if insufficient information has been supplied to allow for proper consideration of the matter. Other business not appearing on the agenda will not be discussed unless the Chair agrees that a matter is urgent, in which case the reasons for urgency will be minuted.
- 5.9 Minutes shall be circulated to the Chair and Vice Chair and then circulated to Members of the Group with the agenda for the next meeting, at which they will be approved and signed by the Chair and Vice Chair.

6 WORKING ARRANGEMENTS

- 6.1 To manage its work programme and tasks strategically, the Group may appoint managed Sub-Groups with appropriate membership to undertake specific tasks.
- 6.2 These Sub-Groups will report findings back to the Council JCG, who will consider the findings and any recommendations.

7 TIME OFF ARRANGEMENTS

- 7.1 Employees' Side representatives shall be granted time off work to attend meetings of the Group and reasonable accommodation shall be provided for them to hold pre-meetings.
- 7.2 The six employee representatives shall be entitled to take a maximum of half a day off work (including travelling time) one month before each meeting of the Group to formulate and discuss agenda items.
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NEDDC STANDARDS COMMITTEE WORK PROGRAMME 2020/21

Meeting date	Item	Comments
24 February 2021	Joint Whistleblowing Policy Annual Report	Annual Report
	Independent Remuneration Panel	Need arisen to bring a report before the committee
	Model Member Code of Conduct	Newly published
	Protocol for 6 Month Rule Application	Arising from Council
	Protocol for Audio and Visual Footage of Meetings	Arising from Council
	Review of the Constitution Part 4	Regular Report
	a) Contract procedure Rules (RFQs)	
	b) Extraordinary Council meetings	
	c) Delegations to EH officers	
	d) Section 85 Delegation	
	e) JCG ToR	
	f) Constitution Delegation	
	Complaints Update	Regular Report
	Work Programme	Regular Report

21 April 2021	<p>Scrutiny Arrangements</p> <p>Delegated Decisions</p> <p>Independent Persons Terms of Office</p> <p>RIPA</p> <p>Review of the Constitution Part 5</p> <ul style="list-style-type: none"> a) Review of Employee Code of Conduct b) Budget / Capital Programme Increases c) Employment Rules d) Delegations to officers working with Rykneld <p>Website Review</p> <p>Trivial/Malicious complaints against Councillors (arising from CSPL questionnaire – agreed to take criteria for such complaints to Committee)</p> <p>Work Programme 2020/21 – Achievements</p> <p>Work Programme 2021/22</p>	
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