

Constitutional Amendments – Councillors’ Code of Conduct and Councillor Complaints Procedure

Purpose

- 1.1 This report proposes several amendments to the Council Constitution, relating to the Councillors’ Code of Conduct and the procedure for the consideration of complaints against councillors.
- 1.2 The recommendation in respect of the Councillors’ Code of Conduct follows the publication of a Model Member Code of Conduct by the Local Government Association in December 2020 and subsequent consultation with the Standards Committee.
- 1.3 The constitution of a hearings panel sub-committee of the Standards Committee is also proposed, to ensure consistency with the Councillor Complaints Procedure when a complaint progresses to a hearing.

Council previously agreed the adoption of a Hearings and Pre-Hearings Process in July 2020, following an external review of the procedure by Weightmans LLP.

Recommendations

- 2.1 To agree amendments to the Councillors’ Code of Conduct detailed at Appendix 2, incorporating elements of the Local Government Association Model Member Code of Conduct, as recommended by the Standards Committee.
- 2.2 To constitute a Hearings Panel Sub Committee for the consideration of complaints against councillors that have progressed to a hearing, following an investigation.
- 2.3 To adopt amendments to the Articles of the Constitution and Scheme of Delegations, as detailed at Appendix 4 of the report, to give effect to recommendation 2.2.

Reasons

- 3.1 To ensure consistency in the application and interpretation of the Councillors’ Code of Conduct, by providing clarity to councillors and members of the public of the standards of behaviour expected.
- 3.2 To ensure that complaints against councillors that progress to a hearing are considered in accordance with the Pre-Hearing and Hearings Processes previously agreed by Council.

Supporting information

LGA Model Member Code of Conduct

- 4.1 In June 2020, the Local Government Association (LGA) conducted a consultation to gather views on a draft [Model Member Code of Conduct](#). Derby City Council responded to the consultation and the LGA model code was published in December 2020.
- 4.2 The Monitoring Officer undertook an exercise to compare the Councillors' Code of Conduct with the [Model Member Code of Conduct](#) published by the LGA. The results of this exercise and suggested actions were considered by the Standards Committee at its meeting on 23 March 2021, and are also attached at Appendix 1 to this report.
- 4.3 The Standards Committee resolved to delegate authority to the Monitoring Officer, in consultation with the Chair of the Standards Committee and Independent Persons, to prepare amendments to the Councillors' Code of Conduct that reflect the suggested actions agreed by the committee and detailed in Appendix 1.
- 4.4 The proposed amendments are detailed at Appendix 2 and reflect wording or thresholds provided in the [LGA Model Member Code of Conduct](#). Recommended alterations are highlighted within the document and are summarised as follows:
 - Clarification of the scope of the Councillors' Code of Conduct, including application to online communications and social media.
 - Guidance notes in respect of when a councillor is or isn't considered to be undertaking council business or acting in their capacity as a councillor.
 - Guidance note to define treating others with respect.
 - Guidance note to define bringing the office of councillor into disrepute.
 - Reduction of the limit over which gifts and hospitality must be declared from £100 to £50.
 - Recommendation to declare any significant gifts or hospitality that have been declined.
 - Guidance note detailing recommended practice in respect of declaration of gifts or hospitality.
 - Requirement to disclose 'Other Registerable Interests' (including unpaid directorships; membership of any body in which a member holds a position of general control or management; and, membership of any body exercising functions of a public nature, directed to charitable purposes or whose principal purposes include the influence of public opinion or policy).

Amendments to the Councillor Complaints Procedure

- 4.6 In February 2020, the Monitoring Officer requested that Weightmans LLP conduct an external review of the procedures for the assessment and review of allegations of breaches of the Councillors' Code of Conduct.

- 4.7 The Standards Committee considered the proposals in July 2020 and recommended that the Councillor Complaints Procedure be amended by the adoption of a pre-hearing process and a hearings procedure. The amendments to the procedures were agreed by Council at its meeting on 22 July 2020.
- 4.8 The current Councillor Complaints Procedure is provided at Appendix 3 to this report. In circumstances where a complaint has been investigated; where the investigator concludes that there has been a failure to comply with the Councillors' Code of Conduct; and, the Monitoring Officer is unable to reach an informal resolution, the complaint will be progressed to a hearing under the agreed processes.
- 4.9 Appendix 4 details proposed amendments to the Articles of the Constitution and the Scheme of Delegations to constitute a Hearings Panel sub-committee of the Standards Committee, as referred to in the Hearings Procedure.

Members of the Hearings Panel sub-committee will be drawn from members of the Standards Committee in the first instance, although substitutes will be permitted in circumstances where prior involvement in a complaint has been declared.

The Chair of the Hearings Panel sub-committee will be appointed by the Monitoring Officer prior to commencement of the pre-hearing process, following consultation with members of the Hearings Panel.

- 4.10 The constitution of a sub-committee is considered necessary to provide the Monitoring Officer with sufficient flexibility to convene a panel whose members hold no prior involvement in the matter under consideration. This is to avoid circumstances where a member of the Standards Committee may be: a) the subject of a complaint, b) the complainant, c) a witness to an incident that has resulted in a complaint being made.

Public/stakeholder engagement

- 5.1 The Chair of the Standards Committee and Independent Persons were consulted on the proposed amendments between 6 and 10 September 2021.
- 5.2 Council previously adopted amendments to the Councillor Complaints Procedure in July 2020, to introduce a Pre-Hearings Process and Hearings Procedure.

Other options

- 6.1 **Councillors' Code of Conduct** – to not incorporate elements of the LGA Model Member Code of Conduct and adopt locally agreed provisions instead.
- 6.2 **Councillor Complaints Procedure** – to retain the existing constitutional arrangements whereby hearings are considered by the Standards Committee.

This option was discounted as it is not consistent with the Pre-Hearing Process and Hearing Procedure adopted in July 2020.

Financial and value for money issues

7.1 None directly arising.

Legal implications

8.1 Under section 27 of the Localism Act 2011, the Council is required to have a Code of Conduct for its councillors and to establish and maintain arrangements for dealing with complaints about their conduct.

Climate implications

9.1 None directly arising.

Other significant implications

10.1 Consistency in the application and interpretation of the Councillors' Code of Conduct provided by the LGA Model Member Code of Conduct will allow the Monitoring Officer or their representative greater access to peer support when investigating complaints against councillors.

This report has been approved by the following people:

Role	Name	Date of sign-off
Legal		
Finance		
Service Director(s)	Emily Feenan, Monitoring Officer	
Report sponsor	Simon Riley, Strategic Director	
Other(s)	Steven Mason, Democratic Services Officer	

Background papers:	
List of appendices:	Appendix 1 – Model Councillor Code of Conduct Response Matrix Appendix 2 – Draft amendments to the Councillors' Code of Conduct Appendix 3 – Councillor Complaints Procedures Appendix 4 – Draft amendments to the Council Constitution