



**Derby City Council**

# Annual Report of the Standards Committee 2017/18



# The Standards Committee of Derby City Council Annual Report 2017/18

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## **Foreword by the Chair**

This year, the Standards Committee has experienced a broadly similar volume of complaints in relation to Code of Conduct issues as in the previous two years.

Separately, a number of complaints about Elected Members were considered that were connected to the Report in the Public Interest, published in June 2016. These are covered separately, in this report, to those mentioned above.

What I am most proud of during my time as Chair is the review, carried out by the committee, of Derby's standards regime. I made a commitment for this to be done in 2017. I am pleased to report the committee's recommendations were adopted by Council at its meeting on 23 May 2018. I think it is a good thing that we have a new system, although an unproven one, but it will rely on the conduct of our elected members to make it work as any system can be abused, as the previous one was by a few individuals. It is now time to see how this new procedures works, with a review due to be carried out by the committee in 2019.

Finally, I would like to thank all Independent, Co-opted and Elected Members of the Standards Committee and the Council Officers who support its work.

**Councillor Shanker**

Chair of the Standards Committee 2017/18

July 2018

## **The Role of the Standards Committee**

The Standards Committee promotes and maintains the high standards of conduct among Derby City Council's 51 Elected Members and co-opted members.

The Standards Committee role is to:

- play a vital role in promoting and maintaining high standards of conduct by Council Members;
- add to the feeling of ethical well-being in the Authority;
- give the public extra confidence that representatives are acting honourably in accordance with the principles of public life; and
- underpin trust and confidence in local democracy.

The Standards Committee is responsible for the following activities:

- assisting the Elected and Co-opted Members to observe the Members' Code of Conduct;
- advising on and monitoring the operation of the Members' Code of Conduct;
- determining complaints referred by the Monitoring Officer; and
- ensuring Elected and Co-opted Members receive training and advice on matters relating to the Members' Code of Conduct.

## **Members of the Committee 2017/18**

Councillor Shanker – Chair

Councillor Froggatt

Councillor Graves

Councillor A Holmes

Councillor Jackson

Councillor Poulter

Alan Cameron – Independent Person

Stuart Green – Independent Person

Peter Purnell – Co-opted Member

Philip Sunderland – Co-opted Member

## **The Monitoring Officer and Officer Support**

Councils have a statutory duty to designate a Monitoring Officer to ensure the lawfulness and fairness of Council decision making. The Monitoring Officer effectively serves as the guardian of the Council's Constitution and the decision making process. The Monitoring Officer works closely with the Standards Committee to assist it in its role of promoting and maintaining high standards of conduct.

Derby City Council's Monitoring Officer for 2017/18 was the Director of Governance, Janie Berry, who worked closely with Steven Mason, Democratic Services Officer, to support all Members of the Standards Committee and to ensure fairness and consistency in the progression of Code of Conduct related complaints. Janie Berry left the Council in early 2018 and the role of Monitoring Officer has, since April 2018, been performed on an interim basis by Glen O'Connell, pending a corporate restructure.

## **Consideration of Complaints**

As I referred to previously, there has been a broadly similar number of Code of Conduct related complaints received during the 2017/18 municipal year, as in the previous two years.

12 complaints were received during 2017/18 and four complaints were carried over from the 2016/17 municipal year

Of the 16 complaints considered, none of these were upheld and 14 were dismissed. One complaint was resolved by the subject member issuing a letter of apology/explanation to the complainant. One complaint has been carried over to the 2018/19 municipal year.

Summaries of all the complaints considered can be found on the following pages.

## Complaints considered under the Members' Complaints Procedure – 2017/18

Complaint Number	Date Received	Subject Member meets with an Independent Person (IP)	Monitoring Officer (MO) consults with an IP	Outcome of MO consulting with an IP	Date investigation completed	Standards Committee meeting	Outcome of Standards Committee meeting	Decision to parties
<b>10/2016</b>	14.02.17	N/A	09.05.17	Complaint dismissed.	N/A	N/A	N/A	27.06.17

This complaint was made by a member of the public about the conduct of an elected member in relation to alleged behaviour as a ward member. The MO consulted with an IP on 9 May 2017. The complaint was carried over from the 2017/18 municipal year. The MO decided that the complaint did not cross the threshold of seriousness to warrant an investigation.

## Complaints considered under the Members' Complaints Procedure – 2017/18

Complaint Number	Date Received	Subject Member meets with an Independent Person (IP)	Monitoring Officer (MO) consults with an IP	Outcome of MO consulting with an IP	Date investigation completed	Standards Committee meeting	Outcome of Standards Committee meeting	Decision to parties
<b>14/2016</b>	09.03.17	Early 04.17	15.03.17	Complaint dismissed.	N/A	N/A	N/A	30.05.17
<p>This complaint was made by an elected member about the conduct of an elected member in relation to the subject members alleged actions at a meeting of Council. The MO consulted with an IP on 15 March 2017. As per paragraph 2 of the procedure for considering complaints, the subject member took up the right to consult with an IP but no comments from their conversation were fed back to the MO. The complaint was carried over from the 2017/18 municipal year. The MO decided that the complaint did not cross the threshold of seriousness to warrant an investigation.</p>								

## Complaints considered under the Members' Complaints Procedure – 2017/18

Complaint Number	Date Received	Subject Member meets with an Independent Person (IP)	Monitoring Officer (MO) consults with an IP	Outcome of MO consulting with an IP	Date investigation completed	Standards Committee meeting	Outcome of Standards Committee meeting	Decision to parties
<b>15/2016</b>	28.04.17	N/A	10.05.17	Complaint dismissed.	N/A	N/A	N/A	30.05.17

This complaint was made by a member of the public about the conduct of two elected members in relation to allegedly misleading information that appeared in a political newsletter. The MO consulted with an IP on 10 May 2017. The subject members submitted a response to the MO. The complaint was carried over from the 2017/18 municipal year. The MO decided that the complaint did not come within the remit of the Code of Conduct.

## Complaints considered under the Members' Complaints Procedure – 2017/18

Complaint Number	Date Received	Subject Member meets with an Independent Person (IP)	Deputy Monitoring Officer (DMO) consults with an IP	Outcome of DMO consulting with an IP	Date investigation completed	Standards Committee meeting	Outcome of Standards Committee meeting	Decision to parties
<b>16/2016</b>	16.05.17	N/A	18.05.17	DMO sought to resolve the complaint without the need for an investigation.	N/A	N/A	N/A	13.09.17

This complaint was made by a Council employee about the conduct of an elected member in relation to alleged racist comments made in conversation with the complainant. The DMO consulted with an IP on 18 May 2017. The complaint was carried over from the 2017/18 municipal year. On speaking to the subject Member, the DMO was satisfied that the issue arose out of a misunderstanding. The DMO decided to seek to resolve the complaint without the need for an investigation. The subject member issued a letter of apology/explanation to the complainant. The complainant was satisfied with this outcome.

## Complaints considered under the Members' Complaints Procedure – 2017/18

Complaint Number	Date Received	Subject Member meets with an Independent Person (IP)	Deputy Monitoring Officer (DMO) consults with an IP	Outcome of DMO consulting with an IP	Date investigation completed	Standards Committee meeting	Outcome of Standards Committee meeting	Decision to parties
<b>01/2017</b>	28.06.17	N/A	03.07.17	Complaint dismissed.	N/A	N/A	N/A	26.07.17

This complaint was made by a member of the public about the conduct of an elected member in relation to the subject members alleged actions at a Council meeting. The DMO consulted with an IP on 3 July 2017 and decided that the complaint did not cross the threshold of seriousness to warrant an investigation.

## Complaints considered under the Members' Complaints Procedure – 2017/18

Complaint Number	Date Received	Subject Member meets with an Independent Person (IP)	Deputy Monitoring Officer (DMO) consults with an IP	Outcome of DMO consulting with an IP	Date investigation completed	Standards Committee meeting	Outcome of Standards Committee meeting	Decision to parties
<b>02/2017</b>	17.08.17	N/A	21.08.17	That initial enquiries be made.	N/A	N/A	N/A	04.10.17

This complaint was made by an elected member about the conduct of two elected members in relation to their alleged conduct towards the complainant at a private meeting. The DMO consulted with an IP on 21 August 2017 and determined to make initial enquiries with all those present at the meeting. On conclusion of this, the DMO decided that it would not be in the public interest to investigate the complaint further.

## Complaints considered under the Members' Complaints Procedure – 2017/18

Complaint Number	Date Received	Subject Member meets with an Independent Person (IP)	Deputy Monitoring Officer (DMO) consults with an IP	Outcome of DMO consulting with an IP	Date investigation completed	Standards Committee meeting	Outcome of Standards Committee meeting	Decision to parties
<b>03/2017</b>	01.11.17	N/A	09.11.17	Decided to seek further information and clarification.	N/A	N/A	N/A	05.02.18

This complaint was made by an elected member about the conduct of an elected member in relation to the Members' Allowances Scheme. The DMO consulted with an IP and decided to seek further information and clarification from the complainant. On completion of this, the DMO decided that the complaint did not come within the remit of the Code of Conduct.

## Complaints considered under the Members' Complaints Procedure – 2017/18

Complaint Number	Date Received	Subject Member meets with an Independent Person (IP)	Deputy Monitoring Officer (DMO) consults with an IP	Outcome of DMO consulting with an IP	Date investigation completed	Standards Committee meeting	Outcome of Standards Committee meeting	Decision to parties
<b>04/2017</b>	01.11.17	N/A	07.11.17	Decided that an investigation should take place.				

This complaint was made by an elected member about the conduct of an elected member in relation to the alleged misuse of member postage allowances. The DMO consulted with an IP and decided that an investigation should take place. At about the same time, the subject member suffered a bereavement as a result of which, with the consent of the complainant, the process of proceeding to an investigation was suspended for 8 weeks. The complaint was carried over to the 2018/19 municipal year.

## Complaints considered under the Members' Complaints Procedure – 2017/18

Complaint Number	Date Received	Subject Member meets with an Independent Person (IP)	Monitoring Officer (MO) consults with an IP	Outcome of MO consulting with an IP	Date investigation completed	Standards Committee meeting	Outcome of Standards Committee meeting	Decision to parties
<b>05/2017</b>	12.12.17	N/A	18.12.17	Complaint dismissed.	N/A	N/A	N/A	08.01.18

This complaint was made by a member of the public about the conduct an elected member in relation to their alleged conduct at a public meeting at the Council House. The MO consulted with an IP on 18 December 2017 and decided that the complaint should not be investigated because it could be considered to be vexatious, malicious, obsessive or partisan.

## Complaints considered under the Members' Complaints Procedure – 2017/18

Complaint Number	Date Received	Subject Member meets with an Independent Person (IP)	Monitoring Officer (MO) consults with an IP	Outcome of MO consulting with an IP	Date investigation completed	Standards Committee meeting	Outcome of Standards Committee meeting	Decision to parties
<b>06/2017</b>	18.12.17	N/A	27.12.17	Complaint dismissed.	N/A	N/A	N/A	08.01.18

This complaint was made by a member of the public about the conduct an elected member in relation to their alleged conduct at a public meeting at the Council House. The MO consulted with an IP on 27 December 2017 and decided that the complaint should not be investigated because it was broadly similar to a complaint against the same member about the same alleged incident.

## Complaints considered under the Members' Complaints Procedure – 2017/18

Complaint Number	Date Received	Subject Member meets with an Independent Person (IP)	Monitoring Officer (MO) consults with an IP	Outcome of MO consulting with an IP	Date investigation completed	Standards Committee meeting	Outcome of Standards Committee meeting	Decision to parties
<b>07/2017</b>	18.12.17	N/A	27.12.17	Complaint dismissed.	N/A	N/A	N/A	08.01.18

This complaint was made by a member of the public about the conduct an elected member in relation to their alleged conduct at a public meeting at the Council House. The MO consulted with an IP on 27 December 2017 and decided that the complaint should not be investigated because it was broadly similar to a complaint against the same member about the same alleged incident.

## Complaints considered under the Members' Complaints Procedure – 2017/18

Complaint Number	Date Received	Subject Member meets with an Independent Person (IP)	Monitoring Officer (MO) consults with an IP	Outcome of MO consulting with an IP	Date investigation completed	Standards Committee meeting	Outcome of Standards Committee meeting	Decision to parties
<b>08/2017</b>	19.12.17	N/A	27.12.17	Complaint dismissed.	N/A	N/A	N/A	08.01.18

This complaint was made by a member of the public about the conduct an elected member in relation to their alleged conduct at a public meeting at the Council House. The MO consulted with an IP on 27 December 2017 and decided that the complaint should not be investigated because it was broadly similar to a complaint against the same member about the same alleged incident.

## Complaints considered under the Members' Complaints Procedure – 2017/18

Complaint Number	Date Received	Subject Member meets with an Independent Person (IP)	Monitoring Officer (MO) consults with an IP	Outcome of MO consulting with an IP	Date investigation completed	Standards Committee meeting	Outcome of Standards Committee meeting	Decision to parties
<b>09/2017</b>	03.01.18	N/A	05.01.18	Complaint dismissed.	N/A	N/A	N/A	08.01.18

This complaint was made by a member of the public about the conduct an elected member in relation to their alleged conduct at a public meeting at the Council House. The MO consulted with an IP on 5 January 2018 and decided that the complaint should not be investigated because it was broadly similar to a complaint against the same member about the same alleged incident.

## Complaints considered under the Members' Complaints Procedure – 2017/18

Complaint Number	Date Received	Subject Member meets with an Independent Person (IP)	Monitoring Officer (MO) consults with an IP	Outcome of MO consulting with an IP	Date investigation completed	Standards Committee meeting	Outcome of Standards Committee meeting	Decision to parties
<b>10/2017</b>	03.01.18	N/A	05.01.18	Complaint dismissed.	N/A	N/A	N/A	08.01.18

This complaint was made by a member of the public about the conduct an elected member in relation to their alleged conduct at a public meeting at the Council House. The MO consulted with an IP on 5 January 2018 and decided that the complaint did not come within the Code of Conduct.

## Complaints considered under the Members' Complaints Procedure – 2017/18

Complaint Number	Date Received	Subject Member meets with an Independent Person (IP)	Monitoring Officer (MO) consults with an IP	Outcome of MO consulting with an IP	Date investigation completed	Standards Committee meeting	Outcome of Standards Committee meeting	Decision to parties
<b>11/2017</b>	03.01.18	N/A	05.01.18	Complaint dismissed.	N/A	N/A	N/A	08.01.18

This complaint was made by a member of the public about the conduct an elected member in relation to their alleged conduct at a public meeting at the Council House. The MO consulted with an IP on 5 January 2018 and decided that the complaint should not be investigated because it was broadly similar to a complaint against the same member about the same alleged incident.

## Complaints considered under the Members' Complaints Procedure – 2017/18

Complaint Number	Date Received	Subject Member consults with an Independent Person (IP)	Monitoring Officer (MO) consults with an IP	Outcome of MO consulting with an IP	Date investigation completed	Standards Committee meeting	Outcome of Standards Committee meeting	Decision to parties
<b>12/2017</b>	14.02.18	Circa 01.03.18	15.02.18	Decided to seek further information and clarification.	N/A	N/A	N/A	08.03.18

This complaint was made by a member of the public about the conduct an elected member in relation to their alleged conduct towards the complainant. The MO consulted with an IP on 15 February 2018 and decided to seek further information and clarification from the complainant. The subject member requested the support of an IP on 15 February and they had initial contact with each other circa 1 March. On receipt of further information and clarification, the MO decided that the complaint did not come within the remit of the Code of Conduct.

## A New Standards Regime

In 2017, as Cabinet Member with responsibility for governance, I committed to a review of the processes for handling complaints about members. This followed several questions raised by councillors at meetings of Council and consideration of a previous Annual Report of the Standards Committee.

On 27 March 2018 the Standards Committee considered a report on Process for Handling Complaints about Councillors. Following consideration of several options, a preferred option was considered. The committee made some changes to the proposals and recommended a finalised model to Council for its consideration.

The following recommendations were adopted by Council at its meeting on 23 May 2018:

1. To approve the adoption of a new Councillor Complaints Procedure, as attached at Appendix 1 of this report.
2. To approve the adoption of a new Complaints Form, as attached as Appendix 2 of this report.
3. To request that all political groups will establish or review their own Group Complaints Procedures to ensure they are able to deal with complaints that fall outside of the new Procedure.
4. To disapply the necessity for political balance on the Standards Committee as a permitted 'exception', and that the Standards Committee shall henceforward have a composition of:
  - one member per political group on the council;
  - one place reserved for ungrouped members (there are presently none).
5. To approve a variation of Council Procedure Rule CP101 such that appointed members of the Standards Committee are permitted to send group colleagues to attend as substitute members on their behalf.
6. To appoint Mr Peter Purnell and Mr Philip Sunderland as independent persons to the Standards Committee and to establish an Independent Person Advisory Panel.

These new arrangements are to be reviewed in the latter stages of the 2018/19 municipal year.

## **Report in the Public Interest Related Complaints**

On 16th June 2016, Grant Thornton, the Council's External Auditors for the financial years up to and including 31st March 2015, published a Report in the Public Interest.

The Report in the Public Interest reported on a number of governance related issues, most of which were historical in nature.

A number of complaints, into allegations concerning elected members, were received that were connected to this report.

8 complaints, in total, were considered by Wilkin Chapman LLP, appointed by the Monitoring Officer, Janie Berry. Two of these were rejected and the remaining six were investigated in the 2016/17 municipal year. Of those investigated, no breach of the Code of Conduct was found for four and two were carried over to the 2017/18 municipal year.

I can report that no breach was found for the final two complaints carried over.

## **Referrals to the Monitoring Officer Relating to Taxi Licensing Issues**

Any instances of Member interference with Taxi Licensing are recorded and reported to the Monitoring Officer.

On a quarterly basis, the Monitoring Officer reviews the records or sooner if the circumstances, as they present, require earlier intervention.

In order to provide additional oversight, the Monitoring Officer reports the instances which have required her intervention, to the Standards Committee for awareness raising and consideration and comment as necessary.

One of these reports was presented to a meeting of the Standards Committee on 18 July 2017.

## **Appendices**

Appendix 1 - Procedures for the Assessment and Review of Allegations of Breaches of the Members' Code of Conduct

Appendix 2 – Complain about a Councillor Form

## PROCEDURES FOR THE ASSESSMENT AND REVIEW OF ALLEGATIONS OF BREACHES OF THE MEMBERS' CODE OF CONDUCT

### Receipt of complaint and acknowledgement to complainant

1. Complaints will only be considered where the proper complaint form has been completed **in full**, whether electronically or in hard copy, including the screening questions. Complaints will not be considered where the complainant is unprepared to enter the process accepting that the final decision will not be subject to further challenge.
2. Receipt of a completed form will be acknowledged within five working days. Notification that a complaint which has been submitted is incomplete and cannot be progressed will be notified within the same timescale.

### Complainant requests to protect their identity

3. It is normal that subject members will have a right to know the name of the person who is complaining about them. The Monitoring Officer will consider any request made by the complainant to protect their identity.
4. Where the Monitoring Officer agrees to the request, the complaint shall proceed on that basis.
5. Where the Monitoring Officer does not agree to the request, then the subsequent steps in this procedure shall be suspended until such time as it has been established whether the complainant is willing for the complaint to proceed on the basis that their identity shall not be protected.
6. In the event that the Monitoring Officer does not accept the request and the complainant is unprepared for their identity to be revealed to the subject member, then the complaint shall be dismissed. The complainant shall be notified within five working days of this decision.

### Notification to the subject member

7. The subject member will also be notified of the complaint within five working days of receipt. They will be provided with:
  - (a) A summary of the complaint, including which part of the Members' Code of Conduct it is alleged they have breached;
  - (b) The name of the complainant, unless the Monitoring Officer has agreed to a request to protect their identity; and
  - (c) Their right to consult with an Independent Person. The definition of an Independent Person and the terms of any consultation with subject members is detailed in Appendix A.

### Monitoring Officer Initial Consideration

8. The Monitoring Officer will consider whether the complaint relates to any other proceedings, such as court matters, that would make it inappropriate for consideration through the Councillor Complaints process. If the Monitoring Officer considers it would not be appropriate for consideration, the complainant will be advised as soon as practicable.
9. An *Independent Person Advisory Panel* will be made aware of the complaint and will recommend to the Monitoring Officer whether, in its view, the complaint is so serious that it should be escalated to the *Monitoring Officer Assessment Stage*. The Monitoring Officer will make a determination following consideration by the advisory panel.

#### Initial Screening Stage

10. The *Initial Screening Stage* will be undertaken by either the Monitoring Officer or by an officer within Legal and Democratic Services on behalf of the Monitoring Officer. Any final determination to not proceed with a complaint on the basis that it is subject to other investigatory proceedings, or to refer the complaint to a political group, will be made by the Monitoring Officer.
11. Subject to Paragraph 12, the decision following the *Initial Screening Stage* will be one of the following:
  - (a) To refer a matter to a political group, where the subject is a member of that group, on the basis that the complaint has the potential to be considered politically influenced. The grounds for this finding are detailed in Appendix B; or
  - (b) To progress the complaint to the *Monitoring Officer Assessment Stage*.
12. No decision shall be taken to refer a matter to a political group without first consulting the Independent Advisory Panel.
13. Where it has been determined to refer a complaint under paragraph 11(a), the complainant and the group will be notified within five days of the decision. The process for this is detailed in Appendix C.

#### Monitoring Officer Assessment Stage

14. The Monitoring Officer shall consider the complaint during the *Monitoring Officer Assessment Stage* and determine whether it warrants progression to the *Independent Person Consultation Stage*.
15. During this assessment, the Monitoring Officer may dismiss the complaint on the basis of any of the following:
  - (a) The subject of the complaint was not an elected member of the authority at the time of the event(s) detailed in the complaint, or is no longer an elected member of the authority;

- (b) The subject of the complaint was acting in a personal capacity rather than in their capacity as an elected member of the authority at the time of the event(s) detailed in the complaint. Guidance on this is detailed in Appendix D;
- (c) The subject of the complaint has since taken steps to remedy the situation, and those steps are proportionate to the allegations and result in there not being a public interest in the complaint being pursued;
- (d) A similar complaint has been received and/or the complaint may be considered to be part of a series of complaints and/or the complaint could be considered to be vexatious;
- (e) The complaint, even if proven, would not constitute a breach of the paragraph in the Members' Code of Conduct as identified by the complainant.

16. Where it has been determined that any of the grounds for dismissing the complaint detailed in Paragraph 15 apply, the complainant and subject member shall be notified within five working days.

17. Where it has been determined that none of the grounds under Paragraph 15 apply, the matter will progress to the *Independent Person Consultation Stage*.

#### Independent Person Consultation Stage

18. An Independent Person, as defined in Appendix A, shall be provided with a copy of the complaint and notified of the various grounds for referral or dismissal which it has been determined do not apply.

19. The Independent Person shall recommend one of the following courses of action to the Monitoring Officer:

- (a) That the matter should not be pursued and no further action should be taken on the basis that one or more of the following apply:
  - a. The complaint does not cross the threshold of seriousness to warrant an investigation;
  - b. The Independent Person is not satisfied that even if the complaint was proven, it would result in a breach of the part of the Members' Code of Conduct which the complainant has identified; or
  - c. It is not in the public interest to pursue the matter.
- (b) That a remedy or informal resolution, such as an apology from the subject member, should be pursued as an alternative to an investigation, on the basis that it is likely that there has been a breach but that an informal intervention would spare the time and expense of an investigation;
- (c) That the complaint is sufficiently serious that it would be in the public interest to undertake an investigation.

20. The Monitoring Officer shall determine the outcome in consideration of the Independent Person's advice.

21. Where it has been determined to pursue Paragraph 19(a), both the complainant and subject member shall be notified within five working days.

22. Where it has been determined to pursue Paragraph 19(b) and following completion of the informal resolution, both the complainant and the subject member shall be notified that the matter has now concluded.
23. Where it has been determined to pursue Paragraph 19(b) but where the subject member does not agree to the proposed informal resolution, the Monitoring Officer may re-consult with the Independent Person on whether Paragraph 19(a) or 19(c) should be applied.
24. Where it has been determined to pursue Paragraph 19(c), the matter shall progress to an investigation and a report will be prepared for consideration by the committee. In the event that a member of the committee is either subject to a complaint or a complainant, their attendance at the meeting shall be in that capacity only and not as part of the decision-making body.

#### Monitoring Officer referrals

25. Under certain circumstances, it may be necessary for the Monitoring Officer to refer matters to the Standards Committee which have not been raised as complaints. This may arise, for example, when the Monitoring Officer has been made aware of conduct which may constitute a breach.
26. In these circumstances, the Monitoring Officer will report the matter for information and the committees powers shall not extend beyond noting the report. For further action to be taken, it will be necessary for a complaint to be raised through the normal process.

## Appendix A – Independent Persons

1. An Independent Person may be any of the following:
  - (a) An Independent Person appointed to the Standards Committee by Council;
  - (b) A person appointed to undertake this role by the Monitoring Officer due to unavailability of a person detailed at paragraph 1(a).
2. Independent Persons will undertake three distinct roles during the consideration and assessment of complaints, as follows:
  - (a) A panel of Independent Persons shall form an Independent Person Advisory Panel. The panel's discussions may be summoned in person or conducted over email/telephone. The composition of the panel shall be determined by the Monitoring Officer;
  - (b) An individual Independent Person shall provide support and/or advice to a subject member;
  - (c) An individual Independent Person shall provide support and/or advice to the Monitoring Officer on actions arising from complaints that have progressed beyond the *Monitoring Officer Assessment Stage*.
3. The Independent Persons undertaking roles detailed in 2(b) and 2(c) shall not be the same person in any individual investigation, but the same Independent Person may undertake either of those roles across different investigations and be part of the Independent Person Advisory Panel.
4. Where an Independent Person is undertaking the role detailed in 2(b), their remit shall be:
  - (a) To answer any questions the subject member may have about the complaint;
  - (b) To assist the subject member by talking through the complaint or by challenging the subject member to assist them in understanding whether they may have breached the Code of Conduct, or whether they have a strong defence to show that there has not been a breach;
  - (c) To take notes to assist the subject member and provide any guidance. Any notes will need to be agreed by both parties before being submitted as any form of evidence.
5. All Independent Persons duly appointed to the Standards Committee shall be entitled to attend a Standards Committee hearing where any investigation is discussed, but will be required to declare the role they have undertaken.

## **Appendix B – Finding that matter has potential to be politically influenced**

1. Consideration shall be given to the responses provided by the complainant to the screening questions when determining whether a complaint may be politically influenced.
2. **Determination that a complaint has the potential to be politically influenced is not confirmation that the complaint is necessarily politically motivated. However, the existence of the potential creates risks around the matter being adjudicated by an officer of the council.**
3. It is acceptable for other sources to be used when considering this matter, such as opinion that has been published in the name of the complainant, and public records of candidates and signatories in local, European and General Elections.
4. A complaint may be considered to have the potential to be politically influenced when it has been submitted by any of the following, or when such persons have assisted in the preparation of a complaint:
  - A current councillor, MP or MEP;
  - A candidate in elections for any of the above within the previous three years;
  - A person who is (or has in the last three years been) closely linked to any of the persons detailed above, including political agents and active supporters of political parties and groups.
5. The decision of the Monitoring Officer shall be final.

## **Appendix C – Procedure for notifying political groups of complaint referrals**

1. A matter shall only be referred where the complaint relates to a subject who is a member of a political group of the local authority. Complaints made against ungrouped or independent councillors shall not be referred to political groups.
2. Only the relevant political group as detailed in Paragraph 1, above, shall be notified of the complaint.
3. The referral shall be made by the Monitoring Officer, or an officer acting on behalf of the Monitoring Officer, providing a member of the political group, as detailed in Paragraph 4, below, with:
  - (a) A copy of the complaint, subject to any necessary redactions where the Monitoring Office has previously agreed to an individual's identity being redacted;
  - (b) Notification of the basis for the referral.
4. The member of the political group who is notified of the referral shall be any one of the following:
  - (a) The leader of that group;
  - (b) The deputy leader of that group;
  - (c) The Group Whip;
  - (d) A member of the group who has been nominated by their group specifically for the purposes of receiving such notifications; or
  - (e) A member of the group who has been appointed to the Standards Committee.
5. Where the subject member is one of the individuals detailed in Paragraph 4, that person shall not be the group representative who receives the notification.
6. It is for the political group to utilise its disciplinary proceedings in handling the complaint. Except in the specific circumstances detailed in Paragraph 7, below, the council and its officers shall not become involved in any discussions with any person, including the complainant, regarding:
  - (a) The disciplinary procedures operated by the political group;
  - (b) The application of those procedures; or
  - (c) The outcome of the referral.
7. Notwithstanding the independence of procedures which groups can apply as detailed above, groups handling complaints will be required:
  - (a) To confirm to the complaint and to the Monitoring Officer and/or a representative of the Monitoring Officer that a process has been applied within four weeks of receiving the complaint;
  - (b) To confirm to the complaint and to the Monitoring Officer that the matter has been resolved and to provide a written summary detailing the outcome and what actions have been taken as a result within 12 weeks of receiving the complaint.

8. Where the Monitoring Officer has agreed to a request that the complainant's identity be protected, officers will assist to communicate any updates and the final decision to the complainant. This line of communication shall not extend to seeking updates from the political group on behalf of the complainant beyond those detailed in paragraph 7.

## Appendix D – Members' operating on council business

1. Complaints shall be dismissed during the *Monitoring Officer Assessment Stage* where it is deemed that the councillor was operating on a personal basis at the time of the incident(s) detailed in the complaint, subject to the clause in paragraph 4, below. This Appendix seeks to offer guidance but is not an exhaustive list.
2. Councillors shall be deemed to be operating on council business where they are:
  - Attending the Council House or other council premises;
  - Undertaking duties at a council committee;
  - Undertaking duties on an outside body or organisation to which Council has appointed them;
  - Undertaking duties on an outside committee to which the Council did not appoint them, but the basis of their appointment was as an elected member of the council;
  - Undertaking case work on behalf of local constituents;
  - Attending councillor surgeries;
  - Attending Councillors on Patrol or other council-supported neighbourhood activities;
  - Delivering leaflets/letters that have been produced by the council;
  - Making known their elected position and potentially seeking to utilise that authority under any other circumstances.
3. Councillors shall not necessarily be deemed to be operating on council business where they are:
  - Going about ordinary everyday tasks not specific to their role as a councillor;
  - Approached by a member of the public to discuss casework outside of a surgery or formal setting;
  - Travelling before or after undertaking council business;
  - Delivering leaflets on behalf of a political party or candidate.
4. The Monitoring Officer may deem to pursue a complaint even when a councillor was acting in a personal capacity when the allegation is sufficiently serious that, if proven, the councillor could be deemed to have brought the authority into disrepute. The Monitoring Officer may consult the appointed Independent Person before making such a determination.

The Monitoring Officer shall make the final determination on whether a councillor was operating on official business or in a personal capacity at the time of an incident leading to a com





# **Making a complaint about a local councillor**

## Explanatory Notes

- 1. If you have any difficulties filling in the complaint form, if you are unable to write in English or if you have a disability that prevents you from making your complaint in writing then please call 01332 643653, minicom 01332 256666.**
2. The screening questions on the page opposite must be answered in order for the complaint form to proceed.
3. Please note that if you answer 'yes' to any of screening questions 2, 3 or 4, and your complaint relates to a councillor who is a member of a political group, your complaint is considered as "having the potential to be politically influenced". On that basis, it would be inappropriate for council officers to be involved in its determination. In those circumstances, this form will be referred to the political group of which the subject councillor is a member for determination under the group's disciplinary procedures.
4. Complaints will only be considered when the complaint form has been completed in full.
5. In the case of complaints which are upheld, the Standards Committee is limited in the sanctions that it can impose. Complaints will only be considered where the complainant has specified precisely which aspect(s) of the Code of Conduct they allege has been breached, and which sanction(s) they are seeking. Even if the complaint is upheld, it does not necessarily follow that the Standards Committee will agree with the proposed sanction.
6. Any persons believed to make misleading declarations in relation to screening questions 2, 3, 4 or 5 will be permanently barred from making complaints through the Standards procedures.
7. The decision taken by the Standards Committee or the Monitoring Officer, or investigator appointed by the Monitoring Officer, is final. Officers will not become involved in dialogue debating the outcome once the final decision has been communicated to the complainant.

# Screening Questions

1. *Is the complaint you are making subject to any other ongoing investigatory or disciplinary processes, or has it previously been made through the council's Standards processes?*

YES	<input type="checkbox"/>
-----	--------------------------

NO	<input type="checkbox"/>
----	--------------------------

2. *At any time in the last three years, are you or have you been:*

- a. *A councillor, MP or MEP*
- b. *A Local, General or European Election candidate*
- c. *Closely linked to any person who falls into either category (a) or (b)?*

YES	<input type="checkbox"/>
-----	--------------------------

NO	<input type="checkbox"/>
----	--------------------------

3. *Are you being assisted in preparing your complaint by any person who would fall under categories (a), (b) or (c) in Question 2?*

YES	<input type="checkbox"/>
-----	--------------------------

NO	<input type="checkbox"/>
----	--------------------------

4. *Does your complaint relate to a comment a councillor has made in a meeting of Council or in any political forum outside of Derby City Council?*

YES	<input type="checkbox"/>
-----	--------------------------

NO	<input type="checkbox"/>
----	--------------------------

5. *Has the person or persons you are complaining about sought to make amends, such as through an apology for his/her/their actions or through any other action that could potentially arise as a Standard Committee sanction following an investigation?*

YES	<input type="checkbox"/>
-----	--------------------------

NO	<input type="checkbox"/>
----	--------------------------

6. *Do you accept that any decision made by the Standards Committee or the Monitoring Officer, or investigator appointed by the Monitoring Officer, is final and will conclude the matter in respect of the Standards process?*

**Please note that complaints will not be considered unless this is accepted.**

YES	<input type="checkbox"/>
-----	--------------------------

NO	<input type="checkbox"/>
----	--------------------------

# Complaint Form

## About you

Preferred title:  Full name:

Postal address:

Email address:

Mobile number:  Landline:

Please tick here if you are employed by Derby City Council:

*The data we keep about you will be for the purpose of communicating with you while your complaint is in process. All complaints will then be kept on file for a period of six years after they are received. Contact details will not be used for other purposes nor disclosed. However, we may not be able to keep your identity confidential.*

## Declaration

Please consider the complaint I have described and any evidence I have attached. I understand and accept that the details will normally be disclosed to the member, particularly if the matter proceeds to an investigation.

I understand that my complaint will be kept on file for up to six years after the date of its submission. I agree to my data being retained during this period and understand that in making a complaint my identity may not remain confidential.

Signature:

Date:

## About your complaint

Name or names of the member(s) you are complaining about.

*Please indicate below which part(s) of the Members' Code of Conduct you allege have been breached (please see Appendix 1 for the full definitions of each the paragraphs which are referenced):*

### Paragraph ref Summary

3.1	Treating others with respect	<input type="checkbox"/>
3.2	Not breaching equality laws, bullying, intimidating or compromising the impartiality of those who work for the council	<input type="checkbox"/>
4.1	Not disclosing information given in confidence or preventing access to information to which a person is entitled	<input type="checkbox"/>
5.1	Not bringing office or authority into disrepute	<input type="checkbox"/>
6.1	Not using position as a member or council resources improperly	<input type="checkbox"/>
7.1 and 7.2	Having regard to relevant advice and giving reasons for decision as required.	<input type="checkbox"/>
8.1 – 12.12	Failings in relation to the declarations of pecuniary interests or gifts	<input type="checkbox"/>
13.1	Failings in relation to interests arising at overview and scrutiny committees	<input type="checkbox"/>
14.1 – 15.2	Failings in relation to the registration of interests	<input type="checkbox"/>

*Please indicate below which sanction(s) you are seeking against the councillor(s).*

### Summary

That the member is censured or asked to apologise	<input type="checkbox"/>
That the findings against the member be reported to Council	<input type="checkbox"/>
That it be recommended to the Group Leader (or to Council for ungrouped members) that the member be removed from any or all committees	<input type="checkbox"/>
That it be recommended to Council that the member be replaced as Executive Leader	<input type="checkbox"/>
That it be recommended to the Leader of the Council that the member be removed from the Cabinet or from particular portfolio responsibilities.	<input type="checkbox"/>
That it be recommended that the member undertake training	<input type="checkbox"/>
That it be recommended to Council that the member be removed from all outside appointments to which (s)he has been nominated by the authority.	<input type="checkbox"/>

*Please provide details of your complaint below:*

*(continue on additional pages as required)*

**Only complete the below section if you are requesting that your identity is kept confidential**

In the interests of fairness and natural justice, we believe members who are complained about have a right to know who has made the complaint. We also believe they have a right to be provided with a summary of the complaint. We are unlikely to withhold your identity or the details of your complaint unless you have good reason to believe that you would be placed in serious risk by its disclosure.

If you wish your details to be kept confidential, please explain your reasons for requesting this. Requests for confidentiality or requests for suppression of complaint details will not automatically be granted. The Monitoring Officer will consider the request alongside the substance of your complaint and communicate the outcome to you.

## Contacts

For further information about the role of the Standards Committee or standards issues in general, please contact any of the following:

**Glen O'Connell**

Interim Monitoring Officer  
Derby City Council  
1st Floor  
Council House  
Corporation Street  
Derby  
DE1 2FS  
Telephone: 01332 643775  
Email: [glen.O'Connell@derby.gov.uk](mailto:glen.O'Connell@derby.gov.uk)

**David Walsh**

Head of Democracy  
Derby City Council  
1st Floor  
Council House  
Corporation Street  
Derby  
DE1 2FS  
Telephone: 01332 643655  
Email: [david.walsh@derby.gov.uk](mailto:david.walsh@derby.gov.uk)

**Steven Mason**

Democratic Services Officer  
Derby City Council  
1st Floor  
Council House  
Corporation Street  
Derby  
DE1 2FS  
Telephone: 01332 643653  
Email: [steven.mason@derby.gov.uk](mailto:steven.mason@derby.gov.uk)

More details on Council's Standards Framework and how to submit a complaint are also available on the Council's website: [www.derby.gov.uk](http://www.derby.gov.uk)