



COUNCIL
25 September 2019

Appendix 2

Report sponsor: Paul Simpson, Strategic
Director of Corporate Resources
Report author: Alex Hough, Acting Head of
Democracy

Update to codes and protocols relating to councillor conduct and use of Council resources

Purpose

- 1.1 The report recommends amendments to various codes and protocols contained within the Council Constitution that set out agreed standards for working relationships between councillors and officers; councillor conduct; and, councillors' access to facilities, services and equipment.
- 1.2 The proposed changes follow a series of recommendations made by the Local Government Association (LGA), as part of the Corporate Peer Challenge follow-up review that took place in November 2018.

The Committee on Standards in Public Life also published a review of Local Government Ethical Standards in January 2019, which made a series of best practice recommendations relating to councillor conduct.

- 1.3 The resulting recommendations contained within this report are intended to place the revised documents at the centre of a proposed internal communication strategy that will promote effective working relationships between councillors and officers; ensure a mutual understanding of roles and accountabilities; and, clarify expectations as to responses to casework enquiries.

Recommendations

- 2.1 To approve the changes to the Members' Code of Conduct; Member Officer Protocol and Protocol on use of facilities, services and equipment by councillors, contained within the Council Constitution, as detailed at Appendices 1 to 3 of the report.
- 2.2 To endorse the proposed internal communications strategy detailed at 5.1 of the report, to promote the revised documents to employees and councillors.
- 2.3 To request that the Standards Committee conduct a full review of the report by the Committee on Standards in Public Life, with a view to recommending any further changes to the Code of Conduct or Councillor Complaints Procedure considered necessary.

Reasons

- 3.1 To reflect the additional recommendations made by the LGA in November 2018, as

part of the Corporate Peer Challenge follow-up review, to relaunch the Council's codes of conduct and embed effective working relationships between councillors and officers.

- 3.2 To reflect the recommendations of best practice for local authorities set out in the review of local government ethical standards, published by the Committee on Standards in Public Life.

Whilst this report sets out initial proposals to ensure compliance with the best practice recommendations, it is recommended that the Standards Committee conduct an in-depth review of the findings of the report and make further recommendations to Council.

- 3.3 The Members' Code of Conduct, Member Officer Protocol and Protocol on use of facilities, services and equipment by councillors is contained within Part 7 of the Council Constitution (Codes and Protocols).

Delegated approval exists for the Monitoring Officer to make circumstantial changes to the Council Constitution. The changes proposed are more significant and therefore require approval by Council.

- 3.4 Whilst endorsement of the proposed internal communications strategy is not required constitutionally, approval by Council would provide assurance that the matters raised as part of the peer review are being considered at the highest possible level by the political leadership of the authority.

Supporting information

- 4.1 In their letter of the 8 January 2019, the LGA made a series of recommendations to further embed progress following the Corporate Peer Challenge, with a particular focus on the relationship between councillors and officers.

These included:

- Relaunching the various codes of conduct (even if no changes are needed), with clear statements from councillors and officers of expected behaviours, supported by more awareness raising
- Clarifying expectations, agreed with councillors, of the timeliness of responses to their enquiries, casework etc.
- Working with councillors and officers to ensure expectations of advice support and timeliness are met consistently and that councillor meetings are run and supported in the best way possible
- Further work to remind officers of the roles of councillors, helping to develop their political nous etc.
- Further steps to embed the confidence of officers that they will be taken seriously, and supported, if they have concerns about councillor behaviour
- Working with officers and sometimes between officers and councillors to actively learn from situations where practice and behaviour has been sub-optimal

- 4.2 The Audit and Accounts Committee has been responsible for oversight of the Corporate Improvement Plan since December 2017. The actions detailed at 4.1 have been incorporated in a new phase of the Improvement Plan to align with the Council Plan for 2019/20 and onwards.
- 4.3 In order to progress a number of these recommendations, a refresh of various codes and protocols contained within the Constitution is necessary.

Proposed changes of to the Members' Code of Conduct, Member Officer Protocol and the Protocol on use of facilities, services and equipment by councillors are summarised at 4.4 to 4.8 and changes of significance are highlighted in Appendices 1 to 3.

Incidental amendments to reflect changes to job titles and to replace reference to 'members' with 'councillors' have not been highlighted. The documents in their original form are currently available on CMIS via the following link:

<https://cmis.derby.gov.uk/cm5/TheConstitution.aspx>

4.4 **Members' Code of Conduct**

One of the key changes recommended by the Committee on Standards in Public Life was the adoption of more specific prohibitions on bullying and harassment, to include both definitions and examples of behaviour that would constitute a breach.

This is a matter for the Standards Committee to consider in greater detail under recommendation 2.3; however definitions of bullying and harassment have been included in the revised Code of Conduct.

No statutory definition of bullying exists; the definition included in the Code reflects that adopted by the Advisory, Conciliation and Arbitration Service (ACAS). The definition of harassment reflects the wording of the Equality Act 2010.

- 4.5 Included in the revised Code is an expectation for councillors to co-operate with any formal standards investigation relating to an alleged breach, also in accordance with the recommendations of the report on local government ethical standards.

To reflect the Standards regime adopted by Council in May 2018, the Code also states that councillors must not seek to make trivial or malicious allegations under the process.

- 4.6 In keeping with the corporate style and in order to modernise the document, it is proposed that it becomes the 'Councillors' Code of Conduct', with references to 'Members' replaced with 'Councillors and Co-Opted Members'. Definitions of councillors and co-opted members have therefore been included in the Code of Conduct.

4.7 **Member Officer Protocol**

Relatively few changes of significance are proposed to the Member Officer Protocol.

However, in order to modernise the document it is proposed that it is re-titled: *Working together: protocol on best practice for effective relationships between councillors and officers*.

Other proposed changes of significance are as follows:

- Parts 3/4: Inclusion of the Council's values and reference to the ethics statement, which forms part of the employee code of conduct.
- Parts 18/19/20: Recognition of enquiries to councillors as a point of escalation for residents and the clarification of appropriate timescales for responses. The proposed target of two days for acknowledgement and up to five days for resolution of standard enquiries is based on information collated from comparator authorities, where the typical period for resolution of enquiries was between five and ten days. Five days has been used as an informal basis for responses to councillor enquiries at the council for a number of years.
- Parts 41/42/43: Updated to reflect current practices detailed within the Council's Communications Strategy and guidance in relation to the use of social media.

4.8 **Protocol on use of facilities, services and equipment by councillors**

The protocol has been substantially updated to reflect current working practices in relation to councillors' use of IT and other support facilities, as well as to ensure consistency with other council policies applicable to both employees and councillors.

Proposed changes of significance are detailed below:

- Part 9: Updated to reflect instances where practical support for an external organisation has been mandated by a resolution of Council or in cases of urgency the Chief Executive – for example providing a room for Derby WASPI to meet.
- Parts 12/13: Clarification of support currently provided to councillors by the Members' and Civic Services and Democratic Services teams.
- Part 15: Updated guidance to reflect current practice of including party representation on councillor letterheads.
- Parts 16/17: New guidelines on the use of the Executive Support (Members) team for printing and postage of mail merges, to reflect the corporate position of moving towards paperless methods of working and increased use of mobile technology.

A benchmarking exercise revealed differing approaches amongst comparator authorities; the following measures are therefore proposed to ensure a fair and consistent approach to councillors' use of resources for printing and postage:

- All requests for printing to be submitted via the Executive Support

- (Members) team and not directly with the Document Management Centre (DMC).
 - A limit of 50 letters or notices for postage and 1000 letters or notices for printing placed on any single printing request.
 - An annual limit of £150 per councillor for printing and postage of letters and notices (based on estimated 10p cost for printing and enveloping in black and white / 58p cost for printing, enveloping and second-class postage / 3p cost per additional sheet) – based on current printing costs this would amount to 260 letters for postage or 1,500 for hand delivery per councillor.
 - Budgets may be pooled within wards and will be monitored by the Executive Support (Members) team. Restrictions will not apply to individual letters or casework.
- Parts 18/19: Updated to reflect the current entitlement of councillors to ICT facilities and equipment.
- Parts 23/24: Updated to reflect requirement for councillors to comply with existing Derby City Council policies in relation to information governance and data protection, including the Data Protection Policy and the Information Security and IT Acceptable Use Policy.
- Parts 29/30: Clarification on councillors' entitlement to use of facilities, services and equipment during the pre-election Purdah period
- Parts 31/32: Updated to allow complaints and allegations of breaches to the protocol to be considered under the Standards process.

Public/stakeholder engagement

- 5.1 To further embed effective working relationships between councillors and officers, a range of communications activity is planned to promote the newly revised documents.

This will include making the Code of Conduct, Member Officer Protocol and Protocol on use of facilities, services and equipment more prominent on the council's intranet, in order for both employees and councillors to access when required.

E-Learning will be introduced for employees and councillors to undertake, to create a better understanding of the roles, responsibilities and accountabilities. It is proposed that a range of employee engagement activity takes place through internal communications channels such as Keeping in Touch and In Touch with Managers. The documents will also be incorporated into the annual training councillors receive from the Monitoring Officer in relation to the Code of Conduct.

- 5.2 Consultation has taken place with the Councillors' Steering Group and the Cabinet Member for Governance and Licensing, in relation to the formalisation of agreed timescales for responses to casework enquiries.

The proposed timescales for casework responses are supported by benchmarking

data collated from comparator authorities and will be integrated into the development of future proposals for a digital casework management system, to complement the council's My Account customer portal.

Other options

6.1 To retain the existing codes and protocols. This would not fulfil the recommendations made either as part of the follow-up to the Corporate Peer Challenge or by the Committee on Standards in Public Life. This would also result in the Protocol on use of facilities, services and equipment by councillors remaining significantly out of date and not reflective of current practice.

Financial and value for money issues

7.1 None. The proposals contained within this report do not create any additional resource requirements over and above the support services that are currently provided to councillors.

Legal implications

8.1 None. The Localism Act 2011 requires local authorities to adopt a Code of Conduct that is consistent with the seven 'Nolan' principles of standards in public life, and must set out the rules requiring councillors to disclose pecuniary and non-pecuniary interests.

Other significant implications

9.1 Failure to act on the recommendations of the Corporate Peer Challenge would likely have a negative reputational impact on the authority.

This report has been approved by the following people:

Role	Name	Date of sign-off
Legal		
Finance		
Service Director(s)	Emily Feenan, Director of Legal, Procurement and Democratic Services	5 September 2019
Report sponsor	Paul Simpson, Strategic Director of Corporate Resources	17 September 2019
Other(s)	Heather Greenan, Director of Policy and Insight; Ruth Sadler, Acting Head of Communications	9 September 2019
Background papers:	None	
List of appendices:	Appendix 1 – Members' Code of Conduct Appendix 2 – Member Officer Protocol Appendix 3 – Protocol on use of facilities, services and equipment by councillors	