

11 February 2025		ITEM: 7
Standards Committee		
Constitution Review: code of conduct and procedure		
Wards and communities affected: N/A	Key Decision: No	
Report of: Helen Nicol, Assistant Director Legal and Governance and Deputy Monitoring Officer		
Accountable Assistant Director: Helen Nicol, Assistant Director Legal and Governance and Deputy Monitoring Officer		
Accountable Director: Daniel Fenwick, Executive Director of Corporate Resources and Monitoring Officer		
This report is public		
Version: Final		

1 Executive Summary

- 1.1 Currently Chapter 7 of the council's Constitution contains the council's ethical governance framework, which implements the statutory requirements set out in the Localism Act 2011.
- 1.2 The Monitoring Officer and Deputy Monitoring Officer are undertaking a review of the constitution as part of the overarching governance improvement programme. At the November Standards Committee it was resolved that the Code of Conduct would not be amended, as it follows the LGA Model Code. The purpose of this paper is to present a draft of the chapter of the new constitution dealing with the arrangements for dealing with a councillor code of conduct complaint, which takes into account feedback from members at the November Standards Committee hearing. Following Standards Committee any further revisions required will be made and the new chapter then referred to Council for approval.

2 Recommendation(s)

For the reasons set out in this report, the committee is recommended to:

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- 2.1 **approve and recommend to Full Council for approval the revised complaints procedure and associated changes to the Standards Committee and Standards Hearing Panel terms of reference in Appendix 1 and 3; and**
- 2.2 **delegate to the Executive Director of Corporate Resources and Monitoring Officer any minor or clerical changes required between Standards Committee and submission of the report to Full Council.**

3 Introduction and Background

- 3.1 The Council has a statutory duty to promote and maintain high standards of conduct by members and co-opted members of the council¹. Chapter 7 of the Constitution sets its standards for ethical governance and the following sections:
 - 3.1.1 An overview of ethical governance
 - 3.1.2 The standards functions
 - 3.1.3 The procedure for making complaints against a councillor for breach of the code of conduct
 - 3.1.4 The members' code of conduct
 - 3.1.5 The officers' code of conduct
 - 3.1.6 The protocol for member and officer relations
 - 3.1.7 Politically restricted posts
- 3.2 The constitution review proposes to group and streamline the constitution so that there are four clear sections (this is in line with good practice), as follows:
 - 3.2.1 Part 1 – Introduction
 - 3.2.2 Part 2 – Decision making
 - 3.2.3 Part 3 – Scrutiny and open governance
 - 3.2.4 Part 4 – Governance and ethical frameworks
- 3.3 Part 4 of the proposed revised constitution is of most relevance to Standards Committee and it is proposed going forward to simplify the structure of the ethical framework. Below is the

¹ S.27 Localism Act 2011

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proposed structure of the new Part 4, together with the second column of the table providing an update of the status of the revisions:

4.1 Protocol for Member and Officer relations	To be drafted
4.2 Councillor's Code of Conduct	No changes proposed, save numbering to original and being called Councillors' Code of Conduct rather than Members' Code of Conduct for consistency. Existing provision follows LGA Model.
4.2A Protocol for councillors – Gifts and Hospitality	To be drafted
4.3 Arrangements for dealing with a complaint under the councillors' code of conduct	Being considered with this paper. Process table agreed at November 2024 Standards Committee.
4.4A Protocol for planning processes	To be reviewed (currently in the planning committee terms of reference)
4.4B Protocol for licensing processes	To be reviewed (currently in the licensing committee terms)
4.5 Councillors social media protocol	To be drafted
4.6 Members allowance scheme	Reviewed annually
4.7 Contract Procedure Rules	Keep existing until 24 February 2025 when Procurement Act 2023 comes into force. New CPR complete and approved by Full Council for implementation on the date above.
4.8 Finance Procedure Rules	In process of revision
4.9 Local Code of Corporate Governance	Complete and approved by Full Council
4.10 Code of conduct for officers	Existing code to be reviewed

3.4 The Committee's helpful feedback in November regarded the efficiency of the process of complaints and also a proposal that any panel hearing a conduct complaint was chaired by a person independent to the Council, to be elected by the panel.

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- 3.4.1 The new draft arrangements for dealing with a conduct complaint is attached at Appendix 1. Rather than amending the existing procedure, these have been drafted as new and so amendments are not shown. The existing procedure is attached as Appendix 2 for comparison.
- 3.4.2 The terms of reference for Standards Committee and the Standards Hearing Sub-Committee which appear in Chapter 5 of the current constitution are at Appendix 3 (changes are shown as underlined/ strike through).
- 3.5 The Committee will note that within the draft there is more detail regarding the process for dealing with a complaint, the considerations to be made at each stage and also more detail regarding the procedure for a Standards Hearing Panel dealing with a determination hearing. This is intended to help ensure the better and more efficient complaints handling, by providing clarity for both the complainant and the councillor subject to the complaint, as well as those councillors appointed to any Standards Hearing Panel in determining the complaint.
- 3.6 The amendments reflect that at November's Committee there was a strong preference that any chair of the Standards Hearing Panel would be independent to the council. It is noted however that the independent chair cannot vote on the determination of any complaint, as this is reserved to a committee of councillors under the Localism Act 2011. It would normally be the chair who has a casting vote in the case of a split decision (the voting requirements being a simple majority). To avoid any issues of a tied vote, the draft proposals are to have 5 elected members constituting a sub-committee convened to deal with a determination hearing.
- 3.7 The Committee will note from other reports at this meeting the government is consulting on strengthening the standards regime, introducing mandatory arrangements, and introducing additional sanctions for serious breaches of the code of conduct. The latter has been a concern for the committee but required primary legislation to provide for sanctions, as the Localism Act 2011 removed all sanctions available to council. There is no timescale provided for this and as such, it is recommended that there are merits in continuing work on the revised ethical framework and governance sections of the constitution.

4 Issues, Options and Analysis of Options

- 4.1 See the body of the report.

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5 Reasons for Recommendation

5.1 See the body of the report

6 Consultation (including Overview and Scrutiny, if applicable)

6.1 Not applicable.

7 Impact on corporate policies, priorities, performance and community impact

7.1 The code of conduct promotes and encourages good conduct and safeguard the public's trust and confidence in the role of councillors, thereby assisting the Council to meet its corporate policies and priorities, as well as maintaining public confidence.

8 Implications

8.1 Financial

8.1.1 There are no financial implications arising from this report.

8.2 Legal

8.2.1 The Council is required by Chapter 7 of the Localism Act 2011 to have a code of conduct that implements the Nolan Principles and the monitoring officer must make arrangements for a procedure by which complaints under the code will be determined.

8.3 Diversity and Equality

8.4 There are no specific diversity or equalities issues arising from this report.

8.5 Risks

8.5.1 There are no risk implications arising from this report.

9 Other implications

9.1 None.

10 Background papers used in preparing the report (including their location on the Council's website or identification whether any are exempt or protected by copyright):

N/A

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11 Appendices to the report

Appendix 1 – draft new chapter: ‘Arrangements for dealing with a complaint under the councillors’ code of conduct’

Appendix 2 – current procedure for dealing with a complaint under the members’ code of conduct

Appendix 3 – amended terms of reference for Standards Committee and Standards Hearing Panel Sub-Committee

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Corporate Services

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