

# Audit and Standards Committee

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**Thursday 16 November 2017 at 5.00 pm**

**To be held at the Town Hall, Pinstone Street, Sheffield, S1 2HH**

**The Press and Public are Welcome to Attend**

## **Membership**

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Councillors Josie Paszek (Chair), Adam Hanrahan (Deputy Chair), Dianne Hurst, Alan Law, Pat Midgley, Peter Price and Paul Scriven.

## **Independent Co-opted Members**

Liz Stanley.

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## **PUBLIC ACCESS TO THE MEETING**

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The Audit and Standards Committee oversees and assesses the Council's risk management, control and corporate governance arrangements and advises the Council on the adequacy and effectiveness of these arrangements. The Committee has delegated powers to approve the Council's Statement of Accounts and consider the Annual Letter from the External Auditor.

The Committee is also responsible for promoting high standards of conduct by Councillors and co-opted members.

A copy of the agenda and reports is available on the Council's website at <http://democracy.sheffield.gov.uk>. You can also see the reports to be discussed at the meeting if you call at the First Point Reception, Town Hall, Pinstone Street entrance. The Reception is open between 9.00 am and 5.00 pm, Monday to Thursday and between 9.00 am and 4.45 pm. on Friday. You may not be allowed to see some reports because they contain confidential information.

Recording is allowed at meetings of the Committee under the direction of the Chair of the meeting. Please see the website or contact Democratic Services for details of the Council's protocol on audio/visual recording and photography at council meetings.

If you require any further information please contact Simon Hughes in Democratic Services on 0114 273 34014 or email [simon.hughes@sheffield.gov.uk](mailto:simon.hughes@sheffield.gov.uk).

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## **FACILITIES**

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There are public toilets available, with wheelchair access, on the ground floor of the Town Hall. Induction loop facilities are available in meeting rooms.

Access for people with mobility difficulties can be obtained through the ramp on the side to the main Town Hall entrance.

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**AUDIT AND STANDARDS COMMITTEE AGENDA  
16 NOVEMBER 2017**

**Order of Business**

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- 1. Welcome and Housekeeping Arrangements**
- 2. Apologies for Absence**
- 3. Exclusion of the Press and Public**  
To identify items where resolutions may be moved to exclude the press and public.
- 4. Declarations of Interest** (Pages 1 - 4)  
Members to declare any interests they have in the business to be considered at the meeting.
- 5. Minutes of Previous Meetings** (Pages 5 - 14)  
To approve the minutes of the meetings of (a) the Committee held on 14 September 2017 and (b) the Consideration Sub-Committee held on 25 September 2017.
- 6. Consultation on the Disqualification Criteria for Councillors** (Pages 15 - 40)  
Report of the Director of Legal and Governance.
- 7. Revised Procedure for Dealing with Standards Complaints** (Pages 41 - 56)  
Report of the Director of Legal and Governance.
- 8. Review of the Monitoring Officer Protocol** (Pages 57 - 74)  
Report of the Director of Legal and Governance.
- 9. Annual Ombudsman and Complaints Report 2016/17** (Pages 75 - 92)  
Report of the Director of Human Resources and Customer Services.
- 10. Update on the 2016/17 Statement of Accounts and Letter of Management Representations**
- 11. Mid-Year Review of the Internal Audit Plan** (Pages 93 - 108)  
Report of the Senior Finance Manager (Internal Audit).
- 12. Work Programme** (Pages 109 - 114)  
Report of the Director of Legal and Governance.
- 13. Dates of Future Meetings**  
To note that meetings of the Committee will be held at 5.00 p.m. on:-
  - 14 December 2017 (additional meeting if required)

- 11 January 2018
- 8 February 2018 (additional meeting if required)
- 8 March 2018 (additional meeting if required)
- 12 April 2018
- 14 June 2018
- 26 July 2018

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## ADVICE TO MEMBERS ON DECLARING INTERESTS AT MEETINGS

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If you are present at a meeting of the Council, of its executive or any committee of the executive, or of any committee, sub-committee, joint committee, or joint sub-committee of the authority, and you have a **Disclosable Pecuniary Interest** (DPI) relating to any business that will be considered at the meeting, you must not:

- participate in any discussion of the business at the meeting, or if you become aware of your Disclosable Pecuniary Interest during the meeting, participate further in any discussion of the business, or
- participate in any vote or further vote taken on the matter at the meeting.

These prohibitions apply to any form of participation, including speaking as a member of the public.

You **must**:

- leave the room (in accordance with the Members' Code of Conduct)
- make a verbal declaration of the existence and nature of any DPI at any meeting at which you are present at which an item of business which affects or relates to the subject matter of that interest is under consideration, at or before the consideration of the item of business or as soon as the interest becomes apparent.
- declare it to the meeting and notify the Council's Monitoring Officer within 28 days, if the DPI is not already registered.

If you have any of the following pecuniary interests, they are your **disclosable pecuniary interests** under the new national rules. You have a pecuniary interest if you, or your spouse or civil partner, have a pecuniary interest.

- Any employment, office, trade, profession or vocation carried on for profit or gain, which you, or your spouse or civil partner undertakes.
- Any payment or provision of any other financial benefit (other than from your council or authority) made or provided within the relevant period\* in respect of any expenses incurred by you in carrying out duties as a member, or towards your 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.

\*The relevant period is the 12 months ending on the day when you tell the Monitoring Officer about your disclosable pecuniary interests.

- Any contract which is made between you, or your spouse or your civil partner (or a body in which you, or your spouse or your civil partner, has a beneficial interest) and your council or authority –
  - under which goods or services are to be provided or works are to be executed; and
  - which has not been fully discharged.

- Any beneficial interest in land which you, or your spouse or your civil partner, have and which is within the area of your council or authority.
- Any licence (alone or jointly with others) which you, or your spouse or your civil partner, holds to occupy land in the area of your council or authority for a month or longer.
- Any tenancy where (to your knowledge) –
  - the landlord is your council or authority; and
  - the tenant is a body in which you, or your spouse or your civil partner, has a beneficial interest.
- Any beneficial interest which you, or your spouse or your civil partner has in securities of a body where -
  - (a) that body (to your knowledge) has a place of business or land in the area of your council or authority; and
  - (b) either -
    - the total nominal value of the securities exceeds £25,000 or one hundredth of the total issued share capital of that body; or
    - 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 you, or your spouse or your civil partner, has a beneficial interest exceeds one hundredth of the total issued share capital of that class.

If you attend a meeting at which any item of business is to be considered and you are aware that you have a **personal interest** in the matter which does not amount to a DPI, you must make verbal declaration of the existence and nature of that interest at or before the consideration of the item of business or as soon as the interest becomes apparent. You should leave the room if your continued presence is incompatible with the 7 Principles of Public Life (selflessness; integrity; objectivity; accountability; openness; honesty; and leadership).

You have a personal interest where –

- a decision in relation to that business might reasonably be regarded as affecting the well-being or financial standing (including interests in land and easements over land) of you or a member of your family or a person or an organisation with whom you have a close association to a greater extent than it would affect the majority of the Council Tax payers, ratepayers or inhabitants of the ward or electoral area for which you have been elected or otherwise of the Authority's administrative area, or
- it relates to or is likely to affect any of the interests that are defined as DPIs but are in respect of a member of your family (other than a partner) or a person with whom you have a close association.

Guidance on declarations of interest, incorporating regulations published by the Government in relation to Disclosable Pecuniary Interests, has been circulated to you previously.

You should identify any potential interest you may have relating to business to be considered at the meeting. This will help you and anyone that you ask for advice to fully consider all the circumstances before deciding what action you should take.

In certain circumstances the Council may grant a **dispensation** to permit a Member to take part in the business of the Authority even if the member has a Disclosable Pecuniary Interest relating to that business.

To obtain a dispensation, you must write to the Monitoring Officer at least 48 hours before the meeting in question, explaining why a dispensation is sought and desirable, and specifying the period of time for which it is sought. The Monitoring Officer may consult with the Independent Person or the Council's Audit and Standards Committee in relation to a request for dispensation.

Further advice can be obtained from Gillian Duckworth, Director of Legal and Governance on 0114 2734018 or email [gillian.duckworth@sheffield.gov.uk](mailto:gillian.duckworth@sheffield.gov.uk).

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## SHEFFIELD CITY COUNCIL

### Audit and Standards Committee

#### Meeting held 14 September 2017

**PRESENT:** Councillors Josie Paszek (Chair), Adam Hanrahan (Deputy Chair),  
Dianne Hurst and Pat Midgley

Co-opted Independent Members  
Liz Stanley

**In attendance** Representatives of KPMG  
Tim Cutler (Partner)  
Matt Ackroyd (Manager)

Councillor Olivia Blake (Cabinet Member for Finance)

Council Officers  
Eugene Walker (Executive Director, Resources)  
Gillian Duckworth (Director of Legal and Governance)  
Dave Phillips (Head of Strategic Finance)  
Kayleigh Inman (Senior Finance Manager, Internal Audit)  
Matthew Ardern (Senior Finance Manager, Strategic Finance)  
Ruth Matheson (Finance Manager, Strategic Finance)  
Paul Robinson (Principal Committee Secretary)

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#### **1. APOLOGIES FOR ABSENCE**

1.1 An apology for absence was received from Councillor Alan Law.

#### **2. EXCLUSION OF THE PRESS AND PUBLIC**

2.1 No items were identified where resolutions may be moved to exclude the press and public from the meeting.

#### **3. DECLARATIONS OF INTEREST**

3.1 Councillor Pat Midgley declared a personal interest in agenda item 6 (2016/17 Statement of Accounts and the External Auditor's Report to Those Charged With Governance – ISA 260) as a Council-appointed Director of the Manor and Castle Development Trust.

#### **4. APPROACH TO BUDGET AND BUSINESS PLANNING**

4.1 The Committee considered (a) a report of the Director of Policy, Performance and Communications providing an overview of the Council's current approach to budget and business planning, and setting out the proposed approach to the next planning cycle and (b) comments made by the Executive Director, Resources and the Cabinet Member for Finance highlighting that the proposed approach aimed to produce a Council budget that was more closely focussed on outcomes aligned

with the priorities within the new Corporate Plan.

- 4.2 **RESOLVED:** That the Committee (i) welcomes the Council's approach to budget and business planning, as described in the report; and

(ii) places on record its recognition of the efforts of, and demands placed on, the employees of the Council during the past 7 years of budget reductions.

## **5. MINUTES OF PREVIOUS MEETING**

- 5.1 The Committee (a) approved as a correct record, the minutes of its meeting held on 13 July 2017 and (b) noted information reported by the Chair (Councillor Josie Paszek) that, further to paragraph 5.6 (ii) of the minutes, an equalities implications section would be introduced within reports submitted to the Licensing Committee and Sub-Committee in order to demonstrate compliance with the Public Sector Equality Duty in relation to licensing activities.

## **6. 2016/17 STATEMENT OF ACCOUNTS AND THE EXTERNAL AUDITOR'S REPORT TO THOSE CHARGED WITH GOVERNANCE (ISA 260)**

- 6.1 The Committee considered a report of the Executive Director, Resources that communicated any relevant matters arising from the external audit of the 2016/17 Statement of Accounts. Appended to the report were the Statement of Accounts and the External Auditor's Report to those Charged with Governance (ISA 260).
- 6.2 Dave Phillips (Head of Strategic Finance) presented the report, indicating that a number of minor misstatements and presentational errors had been identified by officers as a result of ongoing work on the draft accounts, and others had been identified as a result of the external audit of the accounts, and the necessary amendments had been made to the Statement of Accounts and agreed with the External Auditors. He stated that the External Auditors intended to issue an unqualified audit opinion on the Statement of Accounts, but would not be able to issue a Certificate of Completion of the Audit until work has been concluded on the outstanding objections to items of account received from local electors. He added that these objections related to the Council's Lender Option Borrower Option (LOBO) loans, and the Council's Private Finance Initiative Schemes, and that, due to the formal process necessary to deal with the objections, it was highly unlikely that the statutory deadline of 30<sup>th</sup> September for the completion of the audit would be achieved. He also commented that the External Auditors had reported an unqualified Value for Money conclusion, i.e. that, subject to the outcome of the investigations with regards to the public objections raised, the Auditors had concluded that the Authority has made proper arrangements to ensure it took properly informed decisions and deployed resources to achieve planned and sustainable outcomes for taxpayers and local people. Finally, Mr. Phillips referred to the fact that an earlier statutory closedown deadline will be introduced for the 2017/18 accounts and, as part of preparations for that, the Council had worked to earlier deadlines for the production of the 2016/17 draft accounts.
- 6.3 Tim Cutler (Partner, KPMG) commended the work undertaken by officers in the

Council to prepare the draft Statement of Accounts by early June, particularly in view of the fact that key personnel had been absent and a new general ledger had been introduced in the early part of the 2017/18 financial year. He referred to the audit areas where work was still outstanding, which included property, plant and equipment; testing of data in relation to National Non-Domestic Rates and Council Tax receivable and payable; receipt of external confirmation to support the Borrowings figures; journals; and several queries on income and expenditure items, and stated that following the finalisation of that outstanding work, KPMG would review the updated financial statements.

- 6.4 In response to questions from Members of the Committee regarding the objections to the accounts which had been received from local electors, Tim Cutler outlined the assessment criteria, set out in National Audit Office guidance, which is used to determine whether an objection is to be formally accepted for investigation, and commented that, potentially, it may take several months to investigate, conclude and report on the objections received. Dave Phillips reported that there were 19 loans involved in the objection relating to LOBO loans, and a significant amount of information was involved, and added that work was already underway to compile and supply the information requested by KPMG to assist the investigation of the objection.
- 6.5 Matt Ackroyd (Manager, KPMG) introduced the external audit of the accounts, in particular, referring to and commenting upon (a) the four significant audit risks (significant changes in the pension liability due to LGPS Triennial Valuation; valuation of property, plant and equipment; prepayment of pension; and new core financial system) identified in the financial statements in section 1 of the KPMG report, (b) the other financial statements in section 1 of the report, which related to one other area of audit focus (disclosures associated with retrospective restatement of Comprehensive Income and Expenditure Statement, Expenditure and Funding Analysis, and Movement in Reserves Statement); the level of prudence within key judgements in the 2016/17 financial statements; the audit differences and position on the proposed opinion; and accounts production and audit process and (c) the value for money conclusion set out in section 2 of the report, and the assessment of the one significant value for money risk identified in relation to financial resilience with a particular focus on the performance of Social Care. In terms of the appendices to the report, Mr. Ackroyd referred to (i) the key issues identified during the audit work and the recommendations agreed with Council management in relation to three high priority issues relating to impairment review, rolling programme of valuations and independence of Valuer, and the further four medium priority issues and two low priority issues, as outlined in Appendix 1, (ii) the progress on the implementation of the six recommendations agreed in relation to the 2015/16 audit, as outlined in Appendix 2, (iii) details of the three significant audit differences identified in the audit, and the seven additional disclosures required, as outlined in Appendix 3 and (iv) the audit fees detailed in Appendix 6.
- 6.6 Officers and the representatives from KPMG responded to questions from Members of the Committee as follows:-
- Further to the query made by Liz Stanley regarding Transport Services'

trading operations in 2015/16 and 2016/17, Ruth Matheson (Finance Manager) undertook to obtain further details and respond directly to Ms. Stanley.

- Dave Phillips explained the difference between earmarked and un-earmarked reserves, and confirmed that un-earmarked reserves had reduced from £12.6m at the end of 2015/16 to £9.6m at the end of 2016/17 as a result of the budget overspend in 2016/17. The intention was to restore the level of un-earmarked reserves to its previous level during 2017/18, as this was the minimum prudent level recommended by the Council's Section 151 Officer.
- Eugene Walker (Executive Director, Resources) and Matthew Ardern (Senior Finance Manager) explained the rationale for the early payment, from Reserves, of planned 2017/18 to 2019/20 employer pension deficit contributions, as an invest to save measure securing a significant reduction in the total amount due, and stated that the Council's Reserves would be replenished over that period.
- The overstating of income and expenditure by £193m in Children, Young People and Families had been due to a formula error. Improved quality assurance processes should reduce the potential for administrative errors occurring in the future.
- Following comments made regarding local authorities' responsibilities/liabilities where school academy trust operators withdraw from schools, Eugene Walker and Gillian Duckworth (Director of Legal and Governance) commented that although local authorities do not have a direct legal responsibility for the provision of education to pupils of academies, and would not have a legal responsibility for the liabilities of an academy over and above any contingent liabilities between the authority and the academy, local authorities nevertheless still retain an overarching responsibility for children in their areas.
- Following a comment regarding the extent of corporate contributions made to reduce the overall level of overspend on the 2016/17 budget, Dave Phillips referred to the significant budgetary pressures caused by increasing levels of demand for social care services for children and adults. He stated that recovery plans were being put in place designed to achieve sustainable budgets in the medium term, but that forecast overspends in the short term would have to be assisted by the identification of corporate contributions, as had been the case in 2016/17, where such contributions included use of Independent Living Fund resources, management of capital resources, lower than anticipated redundancy costs, release of planned contingencies, for example.
- The position on levels of, and trends on, arrears were outlined. Dave Phillips stated that every effort was made to maximise income and reduce levels of arrears, and Eugene Walker outlined the debt recovery strategies used by the Council, adding that the proportion of uncollected income was

extremely low in comparison to the proportion of income that was collected by the Council. The forthcoming introduction of the Government's Universal Credit benefit scheme was expected to impact adversely on the Council's income collection rates, despite the Council operating a Council Tax hardship scheme.

**6.7 RESOLVED:** That the Committee:-

(A) accepts the Report to Those Charged with Governance (ISA 260) 2016/17;

(B) approves the Statement of Accounts for 2016/17;

(C) authorises the Chair of the Committee to sign (i) the Letter of Management Representations in order to conclude the audit and (ii) the Statement of Accounts; and

(D) thanks officers of the Finance Team for their work on the Statement of Accounts and the audit team at KPMG for their work on the ISA 260 report, particularly in view of the additional demands caused by the earlier closedown deadlines.

**7. INTERNAL AUDIT ANNUAL REPORT 2016/17**

7.1 Kayleigh Inman (Senior Finance Manager, Internal Audit) submitted the Internal Audit Annual Report 2016/17 that highlighted the work that had been undertaken by Internal Audit during the year and which supported the Council's Annual Governance Statement (AGS). Appended to the report were (a) the Internal Audit Quality Assurance and Improvement Programme, (b) the Internal Audit structure, (c) the Internal Audit Post Audit Questionnaire and (d) a summary of the key actions arising from the medium-high opinion audit reports.

7.2 In particular, the Senior Finance Manager stated that (i) comparative statistics for 2016/17 from the core cities in terms of the cost of the audit function, had yet to be released, but would be reported to members of the Committee as soon as they were made available, (ii) the extent to which agreed recommendations arising from audit reports had been implemented, had generally improved during 2016/17 and (iii) from the work undertaken by Internal Audit during that year, she was satisfied that the Council's core systems include control arrangements which are adequate to allow the Council to conduct its business appropriately.

7.3 **RESOLVED:** That the contents of the report now submitted on the work undertaken by Internal Audit during 2016/17, and the opinion of the Chief Audit Executive (Senior Finance Manager) in relation to the adequacy of the Council's system of internal control, as set out in paragraphs 60 to 62 of the report, be noted.

**8. UPDATE ON STANDARDS COMPLAINTS**

8.1 The Director of Legal and Governance introduced a report providing a summary of the outcome of the 16 complaints received to date in 2017 under the Procedure

for Dealing with Standards Complaints regarding City, Parish and Town Councillors and Co-opted Members that was adopted by Full Council at its meeting on 25 March 2015.

- 8.2 The Director rehearsed the requirements, under the Localism Act 2011, for local authorities to promote high standards of Member conduct, adopt a Code of Conduct, and put in place a process for investigating complaints. She outlined the Council's Procedure for Dealing with Standards Complaints, highlighting the three courses of action that were available following initial assessment of the complaint by herself in consultation with one of the Independent Persons, and which were to take no action, take other action through informal resolution, or refer the matter for investigation.
- 8.3 In terms of "live" complaints, the Director stated that one complaint was awaiting initial assessment, and two complaints from 2016 were to be considered at a meeting of the Consideration Sub-Committee in the near future.
- 8.4 In response to a query from a Member of the Committee, the Director reported that she had provided training to Members of Ecclesfield and Bradfield Parish Councils on the Members' Code of Conduct and the Standards Complaints Procedure, and would continue to develop the relationships with all three of the City's Parish and Town Councils in relation to Member conduct.
- 8.5 **RESOLVED:** That the contents of the report now submitted, and the information now reported, be noted.

## **9. WORK PROGRAMME**

- 9.1 The Director of Legal and Governance submitted a report providing details of an outline work programme for the Committee to July 2018.
- 9.2 The Chair (Councillor Josie Paszek) reported that Dave Ross, Democratic Services, who had administered the Committee's work programme for several years, would retire from the Council prior to the Committee's next meeting.
- 9.3 **RESOLVED:** That (a) the work programme now submitted be approved, subject to the item on Strategic Risk Management, scheduled for the meeting in November 2017 being rescheduled for the meeting in January 2018; and
- (b) the thanks and appreciation of the Committee be conveyed to Dave Ross for the excellent work carried out by him in supporting the work of the Committee over many years.

## **10. DATES OF FUTURE MEETINGS**

- 10.1 It was noted that meetings of the Committee would be held at 5.00 p.m. on:-
- 16 November 2017
  - 14 December 2017 (additional meeting if required)
  - 11 January 2018

- 8 February 2018 (additional meeting if required)
- 8 March 2018 (additional meeting if required)
- 12 April 2018
- 14 June 2018
- 26 July 2018

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# SHEFFIELD CITY COUNCIL

## Consideration Sub-Committee (Audit and Standards)

### Meeting held 25 September 2017

**PRESENT:** Councillors Josie Paszek (Chair), Pat Midgley and Paul Scriven

Co-opted Independent Member  
Liz Stanley

**In attendance** Independent Person  
David Waxman

Council Officers  
Gillian Duckworth (Monitoring Officer and Director of Legal and Governance)  
Nadine Wynter (Legal Service Manager, Governance)  
Dave Ross (Principal Committee Secretary)

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#### **1. APPOINTMENT OF CHAIR**

- 1.1 **Resolved:** That Councillor Josie Paszek be appointed Chair of this meeting of the Sub-Committee.

#### **2. APOLOGIES FOR ABSENCE**

- 2.1 There were no apologies for absence.

#### **3. EXCLUSION OF THE PRESS AND PUBLIC**

- 3.1 **Resolved:** That the public and press be excluded from the meeting before discussion takes place on items 5 and 6 on the grounds that, if the public and press were present during the transaction of such business, there would be a disclosure to them of exempt information described in Paragraphs 1 and 2 of Part 1 of Schedule 12A of the Local Government Act 1972, as amended, regarding information relating to an individual/information which is likely to reveal the identity of an individual.

#### **4. DECLARATIONS OF INTEREST**

- 4.1 There were no declarations of interest.

#### **5. CONSIDERATION OF STANDARDS COMPLAINT (REFERENCE SC.2016.17)**

- 5.1 The Monitoring Officer submitted a report on the findings from an investigation into a complaint alleging that an elected Member had failed to comply with the Members' Code of Conduct. The Member and complainant were not required to attend the meeting.

- 5.2 **Resolved:** That, after consideration of the report on complaint reference SC.2016.17 and taking into account the views of the Independent Person, the Sub-Committee agreed to take no action as there was insufficient evidence to indicate a potential breach of the Members' Code of Conduct.

**6. CONSIDERATION OF STANDARDS COMPLAINT (REFERENCE SC.2016.14)**

- 6.1 The Monitoring Officer submitted a report regarding a complaint alleging that an Elected Member had failed to comply with the Members' Code of Conduct. The Member and complainant were not required to attend the meeting.
- 6.2 **Resolved:** That, after consideration of the report on complaint reference SC.2016.17 and taking into account the views of the Independent Person, the Sub-Committee agreed that (a) the Elected Member's conduct may constitute a potential breach of the Members' Code of Conduct and (b) this can be best resolved through a local resolution of the Member receiving guidance on how to communicate effectively in such situations and treat others with respect, particularly where there is a difference of opinion.



## Audit and Standards Committee Report

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**Report of:** The Monitoring Officer/Director of Legal and Governance

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**Date:** 16 November 2017

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**Subject:** Consultation: Disqualification criteria for councillors and mayors

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**Author of Report:** Jason Dietsch, Democratic & Member Services

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**Summary:** The Government has issued a consultation paper, which sets out its proposals for updating the criteria disqualifying individuals from being elected, or holding office, as a local authority member or directly elected mayor. The Audit and Standards Committee is asked to consider a response to the consultation.

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### Recommendations:

1. That the Audit and Standards Committee considers its response to the consultation paper on updating the disqualification criteria for local authority members.
  2. That the Director of Legal and Governance and Monitoring Officer is requested to formally submit the Committee's response to the Department for Communities and Local Government.
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### Background Papers:

Department for Communities and Local Government (DCLG) consultation paper, published September 2017: ***Disqualification criteria for Councillors and Mayors - Consultation on updating disqualification criteria for local authority members.***

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**Category of Report:** OPEN



## Statutory and Council Policy Checklist

<b>Financial Implications</b>
NO: Cleared by Pauline Wood
<b>Legal Implications</b>
NO: Cleared by: Nadine Wynter
<b>Equality of Opportunity Implications</b>
NO: Cleared by Michael Bowles
<b>Tackling Health Inequalities Implications</b>
NO
<b>Human rights Implications</b>
NO:
<b>Environmental and Sustainability implications</b>
NO
<b>Economic impact</b>
NO
<b>Community safety implications</b>
NO
<b>Human resources implications</b>
NO
<b>Property implications</b>
NO
<b>Area(s) affected</b>
None
<b>Is the item a matter which is reserved for approval by the City Council?</b>
NO
<b>Press release</b>
NO

## **CONSULTATION: DISQUALIFICATION CRITERIA FOR COUNCILLORS AND MAYORS**

### **1.0 PURPOSE OF REPORT**

- 1.1 To consider a response to government consultation on changes to the criteria for disqualifying individuals from being elected, or holding office as a local authority member or elected mayor.

### **2.0 INTRODUCTION**

- 2.1 The government is consulting on the criteria disqualifying individuals from being elected, or holding office, as a local authority member or directly elected mayor.
- 2.2 The DCLG issued a public consultation paper on 18 September 2017 concerning proposals to update Section 80 of the Local Government Act 1972 and other criteria disqualifying individuals from being elected, or holding office, as a local authority member or co-opted member, directly elected mayor or member of the London Assembly. The consultation paper is appended to this report.
- 2.3 The proposals are to update the criteria disqualifying individuals from standing for, or holding office as, a local authority member, directly-elected mayor or member of the London Assembly, if they are subject to:
- the notification requirements set out in the Sexual Offences Act 2003 (commonly referred to as 'being on the sex offenders register');
  - a civil injunction granted under section 1 of the Anti-social Behaviour, Crime and Policing Act 2014; or
  - a Criminal Behaviour Order made under section 22 of the Anti-social Behaviour, Crime and Policing Act 2014.
- 2.4 Any changes to the disqualification criteria would require changes to primary legislation, in particular the Local Government Act 1972, the Local Democracy, Economic Development and Construction Act 2009, and the Greater London Authority Act 1999. The proposed changes would not be retrospective.
- 2.5 The proposals in the consultation extend to directly-elected mayors and co-opted members of authorities, including county councils, district councils, London Borough councils and parish councils.
- 2.6 The closing date for comments on the disqualification criteria consultation is 8 December 2017.

### **3.0 BACKGROUND**

- 3.1 Paragraph 7 of the consultation document sets out the current criteria which disqualify a person from standing as a candidate or being a member of a local authority under Section 80 of the Local Government Act 1972. It also outlines the criteria for disqualification from standing as or being a directly elected mayor of a combined authority and being the Mayor or a member of the Greater London Authority.
- 3.2 The Localism Act 2011 changed the arrangements relating to ethical standards. It abolished the Standards Board for England and made other changes which limit the type of sanctions which might be imposed on a Member who has breached the Members' Code of Conduct. Local authorities are not able to suspend or disqualify councillors, provided they do not commit a serious criminal offence.
- 3.3 The proposals set out in the government consultation could help to promote high standards in public life and increase public confidence in local government. However, they do not directly address issues relating to potential sanctions and the powers of local authorities relating to the conduct of councillors and breaches of the Code of Conduct.

### **4.0 THE CONSULTATION**

- 4.1 The contents of the consultation paper is as follows:

- Scope of the consultation and basic information about the consultation
- Introduction
- The current disqualification criteria
- Sexual offences
- Anti-social behaviour
- Retrospection
- Questions

- 4.2 The consultation asks the following six questions:

“Q1. Do you agree that an individual who is subject to the notification requirements set out in the Sexual Offences Act 2003 (i.e. is on the sex offenders register) should be prohibited from standing for election, or holding office, as a member of a local authority, mayor of a combined authority, member of the London Assembly or London Mayor?

Q2. Do you agree that an individual who is subject to a Sexual Risk Order should not be prohibited from standing for election, or holding office, as a member of a local authority, mayor of a combined authority, member of the London Assembly or the London Mayor?

Q3. Do you agree that an individual who has been issued with a Civil Injunction (made under section 1 of the Anti-social Behaviour, Crime and

Policing Act 2014) or a Criminal Behaviour Order (made under section 22 of the Anti-social Behaviour, Crime and Policing Act 2014) should be prohibited from standing for election, or holding office, as a member of a local authority, mayor of a combined authority, member of the London Assembly or London Mayor?

Q4. Do you agree that being subject to a Civil Injunction or a Criminal Behaviour Order should be the only anti-social behaviour-related reasons why an individual should be prohibited from standing for election, or holding office, as a member of a local authority, mayor of a combined authority, member of the London Assembly or London Mayor?

Q5. Do you consider that the proposals set out in this consultation paper will have an effect on local authorities discharging their Public Sector Equality Duties under the Equality Act 2010?

Q6. Do you have any further views about the proposals set out in this consultation paper?"

4.3 The Audit and Standards Committee is asked to consider how it might respond to these questions.

#### 4.4 **Legal Implications**

4.4.1 Pending any changes to primary legislation there are no immediate legal implications.

4.4.2 **Section 80 Local Government Act 1972** - The current provisions governing disqualification for election and holding office as a member of a local authority are contained in this section. These provisions are set out in paragraph 7 on page 9 of the consultation paper appended to this report.

4.4.3 **The notification requirements set out in the Sexual Offences Act 2003, commonly referred to as "being on the sex offenders register"** - The notification requirements are an automatic requirement for offenders who receive a conviction, caution, reprimand or warning for certain criminal acts or for being issued with certain types of civil order. These requirements are set out in paragraph 11 on page 11 of the consultation paper appended to this report.

4.4.4 **A civil injunction granted under section 1 of the Anti-social Behaviour, Crime and Policing Act 2014** - The civil injunctions are intended to tackle low-level anti-social behaviour. Further information is available in paragraph 17 on page 13 of the consultation paper appended to this report.

4.4.5 **A criminal behaviour order made under section 22 of the Anti-social**



**Behaviour, Crime and Policing Act 2014** - The criminal behaviour orders are intended to tackle more serious, persistent behaviour. Further information is available in paragraph 17 on page 13 of the consultation paper appended to this report.

#### **4.5 Equality of opportunity implications**

- 4.5.1 There are no direct equalities implications. Question 5 (see 4.2 above) asks consultees to consider whether the proposals set out in this consultation paper will have an effect on local authorities discharging their Public Sector Equality Duties under the Equality Act 2010.
- 4.5.2 The public sector equality duty is a duty on public authorities to consider how their policies or decisions affect people who are protected under the Equality Act. It requires public bodies to have due regard to the need to eliminate unlawful discrimination, harassment and victimisation; advance equality of opportunity; and foster good relations.

#### **4.6 Financial implications**

- 4.6.1 There are no financial implications directly arising from this report.

### **5.0 RECOMMENDATIONS**

- 5.1 That the Audit and Standards Committee considers its response to the consultation paper on updating the disqualification criteria for local authority members.
- 5.2 That the Director of Legal and Governance and Monitoring Officer is requested to formally submit the Committee's response to the Department for Communities and Local Government.

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Department for  
Communities and  
Local Government

# Disqualification criteria for Councillors and Mayors

Consultation on updating disqualification criteria for local authority members



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# Contents

<b>Scope of the consultation</b>	<b>4</b>
<b>Basic Information</b>	<b>5</b>
<b>Introduction</b>	<b>7</b>
<b>The Current Disqualification Criteria</b>	<b>9</b>
<b>Sexual Offences</b>	<b>11</b>
<b>Anti-Social Behaviour</b>	<b>13</b>
<b>Retrospection</b>	<b>15</b>
<b>Questions</b>	<b>16</b>
<b>About this consultation</b>	<b>17</b>

# Scope of the consultation

**A consultation paper issued by the Department for Communities and Local Government on behalf of the Secretary of State**

<b>Topic of this consultation:</b>	This consultation paper sets out the government's proposals for updating the criteria disqualifying individuals from standing for, or holding office as, a local authority member, directly-elected mayor or member of the London Assembly.
<b>Scope of this consultation:</b>	<p>The Department for Communities and Local Government is consulting on proposals to update the criteria disqualifying individuals from standing for, or holding office as, a local authority member, directly-elected mayor or member of the London Assembly, if they are subject to:</p> <ul style="list-style-type: none"><li>• the notification requirements set out in the Sexual Offences Act 2003 (commonly referred to as 'being on the sex offenders register');</li><li>• a civil injunction granted under section 1 of the Anti-social Behaviour, Crime and Policing Act 2014; or</li><li>• a Criminal Behaviour Order made under section 22 of the Anti-social Behaviour, Crime and Policing Act 2014.</li></ul> <p>Any changes to the disqualification criteria would require changes to primary legislation, in particular the Local Government Act 1972, the Local Democracy, Economic Development and Construction Act 2009, and the Greater London Authority Act 1999.</p> <p>The proposed changes would not act retrospectively.</p>
<b>Geographical scope:</b>	The proposals in this consultation paper apply to certain authorities in England, including local authorities, combined authorities and the Greater London Authority. They do <u>not</u> apply to authorities in Wales, Scotland or Northern Ireland.
<b>Impact Assessment:</b>	No impact assessment has been produced for this consultation.

# Basic Information

<b>To:</b>	This consultation is open to everyone. We particularly seek the views of individual members of the public, prospective and current councillors and those bodies that represent the interests of local authorities and councillors at all levels.
<b>Body responsible for the consultation:</b>	The Local Government Stewardship Division in the Department for Communities and Local Government is responsible for conducting the consultation.
<b>Duration:</b>	The consultation will begin on Monday 18 September 2017. The consultation will run for 12 weeks and will close on Friday 8 December 2017. All responses should be received by no later than 5pm on Friday 8 December 2017.
<b>Enquiries:</b>	<p>If you have any enquiries, please contact:</p> <p>Stuart Young email: <a href="mailto:stuart.young@communities.gsi.gov.uk">stuart.young@communities.gsi.gov.uk</a></p> <p>DCLG Tel: 0303 44 40000</p> <p>How to respond:</p> <p>Please respond by email to: <a href="mailto:Section80consultation@communities.gsi.gov.uk">Section80consultation@communities.gsi.gov.uk</a></p> <p>Alternatively, please send postal responses to:</p> <p>Stuart Young Department for Communities and Local Government 2nd Floor, NE, Fry Building 2 Marsham Street London SW1P 4DF</p> <p>Responses should be received by 5pm on Friday 8 December 2017.</p>
<b>How to respond:</b>	<p>You can respond by email or by post.</p> <p>When responding, please make it clear which questions you are responding to.</p> <p>When you reply it would be very useful if you could confirm whether you are replying as an individual or submitting an</p>

	<p>official response on behalf of an organisation, and include:</p> <ul style="list-style-type: none"> <li>- your name</li> <li>- your position (if applicable)</li> <li>- the name and address of your organisation (if applicable)</li> <li>- an address, and</li> <li>- an email address (if you have one)</li> </ul>
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# Introduction

1. Local authority members (i.e. councillors), mayors of combined authorities, members of the Greater London Assembly and the London Mayor take strategic decisions that affect all our lives. They decide how best to use taxpayers' money and manage local authority resources, including property, land and assets. They also have a leading role to play in building and preserving a society where the rights and freedoms of individuals are respected. They should be community champions. It is vital, therefore, that they have the trust of the electorate.
2. The Government considers that there should be consequences where councillors, mayors and London Assembly members fall short of the behaviour expected of anyone in a free, inclusive and tolerant society that respects individuals and society generally, and where this has led to enforcement action against an individual.
3. Existing legislation prevents individuals standing, or holding office, as a local authority member, London Assembly member or directly-elected mayor if they have, within five years of the day of the election, or since their election, been convicted in the UK, Channel Islands or Isle of Man of any offence and have received a sentence of imprisonment, suspended or not, for a period of not less than three months without the option of a fine.
4. The Government considers that the law should be updated to reflect new options which exist to protect the public and address unlawful and unacceptable behaviour.
5. This consultation proposes updating the disqualification criteria in section 80 of the Local Government Act 1972, paragraph 9 of schedule 5B to the Local Democracy, Economic Development and Construction Act 2009, and section 21 of the Greater London Authority Act 1999 to prohibit those subject to the notification requirements (commonly referred to as 'being on the sex offenders register') and those subject to certain anti-social behaviour sanctions from being local authority members, London Assembly members or directly-elected mayors.
6. This consultation does not propose changing the disqualification criteria for Police and Crime Commissioners (PCCs). For the purposes of this consultation, 'local authority member' also extends to directly-elected mayors and co-opted members of authorities, and 'local authority' means:
  - a county council
  - a district council
  - a London Borough council
  - a parish council

The disqualification criteria in section 80 of the Local Government Act 1972, paragraph 9 of schedule 5B to the Local Democracy, Economic Development and Construction Act 2009, and section 21 of the Greater London Authority Act 1999 do not cover the Council of the Isles of Scilly or the Common Council of the City of

London. Therefore, the proposals in this consultation do not extend to these councils.

# The Current Disqualification Criteria

7. Under section 80 of the Local Government Act 1972, a person is disqualified from standing as a candidate or being a member of a local authority, if they:
  - are employed by the local authority;
  - are employed by a company which is under the control of 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 Islands or Isle of Man of any offence and have 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 III of the Representation of the People Act 1983;
  - are employed under the direction of various local authority committees, boards or the Greater London Authority; or
  - are a teacher in a school maintained by the local authority.
8. Paragraph 9 of schedule 5B to the Local Democracy, Economic Development and Construction Act 2009 sets out the criteria on disqualification from standing as, or being, a directly-elected mayor of a combined authority. A person is disqualified from being elected or holding office as the mayor of a combined authority if they:
  - hold any paid office or employment (other than the office of mayor or deputy mayor), including any appointments or elections made by or on behalf of the combined authority or any of the constituent councils of the combined 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 Islands or Isle of Man of any offence and have received a sentence of imprisonment (suspended or not) for a period of not less than three months without the option of a fine; or
  - is disqualified for being elected or for being a member of a constituent council under Part 3 of the Representation of the People Act 1983.
9. Section 21 of the Greater London Authority Act 1999 disqualifies someone from being the Mayor or an Assembly member if they:
  - are a member of staff of the Authority;
  - hold an office that disqualifies the holder from being Mayor or an Assembly member;
  - are subject to bankruptcy orders are bankrupt or have made a composition agreement with creditors;
  - have, within 5 years before being elected, or at any time since being elected, been convicted in the UK, Channel Islands or Isle of Man of any offence and have 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 section 85A or Part III of the Representation of the People Act 1983 from being the Mayor or an Assembly member; or

- are a paid officer of a London borough council who is employed under the direction of:
  - a council committee or sub-committee whose membership includes the Mayor or someone appointed on the nomination of the Authority;
  - a joint committee whose membership includes a member appointed on the nomination of the council and a member appointed on the nomination of the Authority;
  - the council executive, or one of its committees, whose membership includes the Mayor or someone appointed on the nomination of the Authority;
  - a member of the council's executive who is the Mayor or someone appointed on the nomination of the Authority.

# Sexual Offences

10. The Government considers that anyone who is subject to sex offender notification requirements, commonly referred to as 'being on the sex offenders register', should be barred from standing for election, or holding office, as a local authority member, directly-elected mayor or member of the London Assembly. The period of time for which they would be barred would end once they were no longer subject to these notification requirements.
11. An individual can become subject to notification requirements by committing certain criminal acts or being issued with certain types of civil order:
- Being subject to sex offender notification requirements is an automatic consequence of being cautioned or convicted of a sexual offence listed in Schedule 3 of the Sexual Offences Act 2003 (see: <http://www.legislation.gov.uk/ukpga/2003/42/schedule/3>).
  - Sexual Harm Prevention Orders are civil orders intended to protect the public from offenders convicted of a sexual or violent offence who pose a risk of sexual harm to the public by placing restrictions on their behaviour. Offenders who are subject to Sexual Harm Prevention Orders become subject to notification requirements.
  - Notification Orders are civil orders intended to protect the public in the UK from the risks posed by sex offenders who have been convicted, cautioned, warned or reprimanded for sexual offences committed overseas. Such offenders may be British or foreign nationals convicted, cautioned etc. abroad of a relevant offence. Offenders who are subject to Notification Orders become subject to notification requirements.
12. The duration of the notification requirement period (i.e. how long a person is on the sex offenders register) is set out in the Sexual Offences Act 2003 and in the table below. The courts have no discretion over this.

Where the (adult) offender is:	The notification period is:
Sentenced to imprisonment for life or to a term of 30 months or more	An indefinite period
Detained in a hospital subject to a restriction order	An indefinite period
Sentenced to imprisonment for more than 6 months but less than 30 months imprisonment	10 years
Sentenced to imprisonment for 6 months or less	7 years
Detained in a hospital without being subject to a restriction order	7 years
Cautioned	2 years

Conditional discharge	The period of the conditional discharge
Any other description (i.e. community sentence, fine)	5 years

These periods are halved for offenders who are under 18 on the date of the caution, conviction or finding, as defined within the 2003 Act.

13. Offenders who are subject to the notification requirements must notify the police of (amongst other things) their: name, date of birth, national insurance number, home address, passport number, bank account and credit card details. They must do this annually, any time the details change or when they travel abroad. They must also notify the police when they stay or reside with a child for more than 12 hours.
14. Further information on the Sexual Offences Act 2003 can be found at: <https://www.gov.uk/government/publications/guidance-on-part-2-of-the-sexual-offences-act-2003>.
15. The Government does not propose including another type of civil order, the Sexual Risk Order, as this person would not have been convicted or cautioned of a sexual offence under the Sexual Offences Act 2003 and are not subject to notification requirements for registered sex offenders. A Sexual Risk Order does require the individual to notify to the police their name and their home address. A Sexual Risk Order can be sought by the police against an individual who has not been convicted, cautioned etc. of an offence under Schedule 3 or Schedule 5 of the 2003 Act but who is nevertheless thought to pose a risk of harm to the public in the UK and/or children or vulnerable adults abroad.

**Q1. Do you agree that an individual who is subject to the notification requirements set out in the Sexual Offences Act 2003 (i.e. who is on the sex offenders register) should be prohibited from standing for election, or holding office, as a member of a local authority, mayor of a combined authority, member of the London Assembly or London Mayor?**

**Q2. Do you agree that an individual who is subject to a Sexual Risk Order should not be prohibited from standing for election, or holding office, as a member of a local authority, mayor of a combined authority, member of the London Assembly or London Mayor?**

# Anti-Social Behaviour

16. Anti-social behaviour blights people's lives and can leave victims feeling powerless. These are a range of powers to the courts, police and local authorities to tackle the problems in the table below.
17. The Government considers that an individual who is subject to an anti-social behaviour sanction that has been issued by the court, i.e. a Civil Injunction or a Criminal Behaviour Order, should be barred from standing for election, or holding office, as a local authority member, directly-elected mayor or member of the London Assembly. The period of time for which they would be barred would end once they were no longer subject to the injunction or Order.

## Anti-Social Behaviour (ASB) Powers

Type	Power	Description
Issued by the court to deal with individuals	<b>Civil Injunction</b>	A civil order with a civil burden of proof. The injunction can include both prohibitions and positive requirements to tackle the underlying causes of the behaviour. Applications can be made by police, councils, social landlords, Transport for London, Environment Agency, Natural Resources Wales and NHS Protect.
	<b>Criminal Behaviour Order</b>	A court order available on conviction. The order can be issued by any criminal court against a person who has been convicted of an offence. It is aimed at tackling the most persistently anti-social individuals who are also engaged in criminal activity. The order can include both prohibitions and positive requirements. Applications are made by the prosecution, in most cases by the Crown Prosecution Service, either at its own initiative or following a request from the police or council.
Used by the police to move problem groups or individuals on	<b>Dispersal Power</b>	A flexible power which the police can use in a range of situations to disperse anti-social individuals and provide immediate short-term respite to a local community. It allows the police to deal instantly with someone's behaviour and prevent it escalating. The use of the power must be authorised by an officer of at least inspector rank, to be used in a specific locality for up to 48 hours or on a case by case basis. This is to ensure that the power is used fairly and proportionately and only in circumstances in which it is necessary.

Issued by councils, the police and social landlords to deal with problem places	<b>Community Protection Notice</b>	A notice designed to deal with particular problems which negatively affect the community's quality of life. The Notice can be issued to anyone aged 16 or over, businesses or organisations. This is a two-stage power and a written warning has to be issued first. Failure to stop the behaviour or take action to rectify the problem would lead to the notice being issued. The power can be used by councils, police and social landlords (if designated by the council).
	<b>Public Spaces Protection Order</b>	Designed to deal with anti-social behaviour in a public place and apply restrictions to how that public space can be used to stop or prevent anti-social behaviour. The order is issued by the council. Before the order can be made, the council must consult with the police and whatever community representatives they think appropriate, including regular users of the public space. Before the order is made the council must also publish the draft order.
	<b>Closure Power</b>	A fast and flexible two-stage power. Can be used to quickly close premises which are being used, or likely to be used, to commit nuisance or disorder, including residential, business and licensed premises. The police and councils are able to issue Closure Notices for up to 48 hours and the courts are able to issue Closure Orders for up to six months if satisfied that the legal tests have been met. Following the issue of a Closure Notice, an application must be made to the magistrates' court for a closure order.

**Q3. Do you agree that an individual who has been issued with a Civil Injunction (made under section 1 of the Anti-social Behaviour, Crime and Policing Act 2014) or a Criminal Behaviour Order (made under section 22 of the Anti-social Behaviour, Crime and Policing Act 2014) should be prohibited from standing for election, or holding office, as a member of a local authority, mayor of a combined authority, member of the London Assembly or London Mayor?**

**Q4. Do you agree that being subject to a Civil Injunction or a Criminal Behaviour Order should be the only anti-social behaviour-related reasons why an individual should be prohibited from standing for election, or holding office, as a member of a local authority, mayor of a combined authority, member of the London Assembly or London Mayor?**



# Retrospection

18. Legislation does not generally apply retrospectively, the principle being that the law should operate in a clear and certain manner and the public is entitled to know the state of the law at a particular time.
19. The proposals in this consultation would not apply retrospectively, i.e. any incumbent local authority member, directly-elected mayor or member of the London Assembly, who is on the sex offenders register or subject to a Civil Injunction or Criminal Behaviour Order at the time the changes come into force would not be affected.
20. Such individuals would of course be prevented from standing for re-election after the changes came into force.

# Questions

**Q1. Do you agree that an individual who is subject to the notification requirements set out in the Sexual Offences Act 2003 (i.e. is on the sex offenders register) should be prohibited from standing for election, or holding office, as a member of a local authority, mayor of a combined authority, member of the London Assembly or London Mayor?**

**Q2. Do you agree that an individual who is subject to a Sexual Risk Order should not be prohibited from standing for election, or holding office, as a member of a local authority, mayor of a combined authority, member of the London Assembly or the London Mayor?**

**Q3. Do you agree that an individual who has been issued with a Civil Injunction (made under section 1 of the Anti-social Behaviour, Crime and Policing Act 2014) or a Criminal Behaviour Order (made under section 22 of the Anti-social Behaviour, Crime and Policing Act 2014) should be prohibited from standing for election, or holding office, as a member of a local authority, mayor of a combined authority, member of the London Assembly or London Mayor?**

**Q4. Do you agree that being subject to a Civil Injunction or a Criminal Behaviour Order should be the only anti-social behaviour-related reasons why an individual should be prohibited from standing for election, or holding office, as a member of a local authority, mayor of a combined authority, member of the London Assembly or London Mayor?**

**Q5. Do you consider that the proposals set out in this consultation paper will have an effect on local authorities discharging their Public Sector Equality Duties under the Equality Act 2010?**

**Q6. Do you have any further views about the proposals set out in this consultation paper?**

# About this consultation

This consultation document and consultation process have been planned to adhere to the Consultation Principles issued by the Cabinet Office.

Representative groups are asked to give a summary of the people and organisations they represent, and where relevant who else they have consulted in reaching their conclusions when they respond.

Information provided in response to this consultation, including personal information, may be published or disclosed in accordance with the access to information regimes (these are primarily the Freedom of Information Act 2000 (FOIA), the Data Protection Act 1998 (DPA) and the Environmental Information Regulations 2004).

If you want the information that you provide to be treated as confidential, please be aware that, under the FOIA, there is a statutory Code of Practice with which public authorities must comply and which deals, amongst other things, with obligations of confidence. In view of this it would be helpful if you could explain to us why you regard the information you have provided as confidential. If we receive a request for disclosure of the information we will take full account of your explanation, but we cannot give an assurance that confidentiality can be maintained in all circumstances. An automatic confidentiality disclaimer generated by your IT system will not, of itself, be regarded as binding on the Department.

The Department for Communities and Local Government will process your personal data in accordance with DPA and in the majority of circumstances this will mean that your personal data will not be disclosed to third parties.  
Individual responses will not be acknowledged unless specifically requested.

Your opinions are valuable to us. Thank you for taking the time to read this document and respond.

Are you satisfied that this consultation has followed the Consultation Principles? If not or you have any other observations about how we can improve the process please contact us via the [complaints procedure](#).

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## Audit and Standards Committee Report

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<b>Report of:</b>	The Monitoring Officer/Director of Legal and Governance
<b>Date:</b>	16 November 2017
<b>Subject:</b>	Revisions to the Procedure for Dealing with Standards Complaints
<b>Author of Report:</b>	Jason Dietsch - 0114 273 4117

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### Summary:

The Procedure for Dealing with Standards Complaints was approved by Full Council on 25 March 2015 following a recommendation from the former Standards Committee.

A revised Procedure was approved by this Committee in January 2017 in the light of the experience of dealing with complaints over the previous 14 months. However, a number of further revisions are proposed as a result of the complaints considered this year.

### Recommendations: That the Committee:

- (a) Comments on the further revisions to the Procedure for Dealing with Standards Complaints;
- (b) With the inclusion of any additional revisions arising from the meeting, recommends to Full Council the adoption of the revised Procedure and that the Constitution is amended accordingly; and
- (c) Refers the revised Procedure to the Parish and Town Councils for consideration and adoption.

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<b>Background Papers:</b>	None
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<b>Category of Report:</b>	OPEN
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## Statutory and Council Policy Checklist

<b>Financial Implications</b>
NO
<b>Legal Implications</b>
YES Cleared by: Gillian Duckworth
<b>Equality of Opportunity Implications</b>
NO
<b>Tackling Health Inequalities Implications</b>
NO
<b>Human rights Implications</b>
NO
<b>Environmental and Sustainability implications</b>
NO
<b>Economic impact</b>
NO
<b>Community safety implications</b>
NO
<b>Human resources implications</b>
NO
<b>Property implications</b>
NO
<b>Area(s) affected</b>
None
<b>Is the item a matter which is reserved for approval by the City Council?</b>
YES
<b>Press release</b>
NO

## **REVIEW OF THE PROCEDURE FOR DEALING WITH STANDARDS COMPLAINTS**

### **1.0 INTRODUCTION**

- 1.1 A revised Procedure for Dealing with Complaints Regarding City, Parish and Town Councillors and Co-opted Members was considered at the meeting of this Committee on 12 January 2017 and the Committee made a number of proposed amendments.
- 1.2 A number of further revisions to the Procedure are proposed as a result of dealing with complaints this year.

### **2.0 BACKGROUND**

- 2.1 The current Procedure was adopted by Full Council on 25 March 2015, following a recommendation from the former Standards Committee at its meeting on 22 January 2015 and is attached at Appendix A to the report.
- 2.2 The Council appointed three Independent Persons (Stuart Carvell, Marvyn Moore and David Waxman) to assist the Monitoring Officer and the Committee in considering complaints.
- 2.3 The first stage of the current Procedure is the assessment of the complaint. Following consultation with the Independent Person, the Monitoring Officer will consider if the allegation constitutes a potential breach of the Code of Conduct and take one of the following courses of action:-
- 1) Take no action or
  - 2) Take other action through informal resolution or
  - 3) Refer the matter for investigation

### **3.0 REVISIONS TO THE PROCEDURE**

- 3.1 The meeting of this Committee in January 2017 recommended a number of revisions to the Procedure in light of the learning and experience of dealing with complaints over the previous 14 months and the views of the three Independent Persons and the Clerks to the three Parish and Town Councils were also sought. The revisions were:-
- Clarifying the process for withdrawing a complaint.
  - Including an explanation for the possible reasons for taking no action, seeking informal resolution and referring a complaint for investigation.
  - If an informal resolution cannot be agreed then the Monitoring Officer, in consultation with the Independent Person, will reassess the complaint, taking into consideration the reasons why informal resolution has not been agreed.

- That the Monitoring Officer would refer only the most serious potential breaches for investigation or where the Member is not willing to accept an informal resolution or fundamentally disputes or does not accept the allegations in the complaint.

3.2 Arising from complaints considered since January this year, a further review has been undertaken and the following revisions are proposed to the Procedure:-

- Include the right for the Monitoring Officer to reject a complaint if it is considered to be trivial, vexatious, repetitious, not a standards matter or a general misuse of the opportunity.
- Include an additional course of action at the assessment stage for the Monitoring Officer to refer a matter to Consideration Sub-Committee.
- Remove the requirement for both the complainant and Member to have to agree the outcome of any informal resolution.
- If a member of the public making a complaint is not satisfied with the action to be taken through informal resolution they can request that the matter is referred back to the Monitoring Officer for reconsideration. If appropriate, the Monitoring Officer may then recommend additional mediation, reconsider the original action proposed, or refer the complaint to Consideration Sub-Committee.
- Amending the options available to the Consideration Sub-Committee to (a) take no action, (b) take other action or (c) refer the matter to a Hearing Sub-Committee.

3.3 The effect of these changes should allow complaints to be concluded sooner for the benefit of both parties. The rights of the Monitoring Officer to reject a complaint or refer a matter to the Consideration Sub-Committee at the assessment stage should add the necessary flexibility to respond to each complaint at an appropriate level.

3.4 The removal of the requirement for both the Member and complainant to agree the outcome of any informal resolution should help ensure the procedure is carried out efficiently and in a timely manner, whilst the inclusion of the complainant's right to ask for the Monitoring Officer to reconsider an informal resolution ensures the process is robust and allows for appropriate rights of appeal.

3.5 To assess the success of these changes, it is suggested that the revised procedure is reviewed in approximately twelve months' time.

3.6 Any complaints submitted before any revisions are approved by Full Council will be considered under the existing Procedure dated 25 March



2015.

#### **4.0 LEGAL IMPLICATIONS**

- 4.1 As the Procedure is included in the Constitution, any changes would require approval at Full Council. The revised Procedure would also need to be approved by the Parish and Town Councils.

#### **5.0 FINANCIAL IMPLICATIONS**

- 5.1 There are no financial implications.

#### **6.0 EQUALITIES IMPLICATIONS**

- 6.1 There are no equalities implications.

#### **7.0 RECOMMENDATIONS**

- 7.1 That the Committee:-
- (a) Comments on the further revisions to Dealing with Complaints Regarding City, Parish and Town Councillors and Co-opted Members;
  - (b) With the inclusion of any additional revisions arising from the meeting, recommends to Full Council the adoption of the revised Procedure and that the Constitution is amended accordingly; and
  - (c) Refers the revised Procedure to the Parish and Town Councils for consideration and adoption.

**Gillian Duckworth, Monitoring Officer/Director of Legal and Governance**

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## **SHEFFIELD CITY COUNCIL**

### **PROCEDURE FOR DEALING WITH COMPLAINTS REGARDING CITY, PARISH AND TOWN COUNCILLORS AND CO-OPTED MEMBERS**

#### **1. Introduction**

1.1 Under the Localism Act 2011, the Council has a duty to promote and maintain high standards of conduct for its elected and co-opted members and have arrangements in place to deal with complaints.

1.2 This Procedure sets out how the Council will deal with a complaint alleging a breach of the Members' Code of Conduct by:-

- Sheffield City Councillors
- Voting and non-voting co-opted members of the Council
- Bradfield Parish Councillors
- Ecclesfield Parish Councillors
- Stocksbridge Town Councillors

(In this Procedure the term 'Member' is used to describe a Councillor or Co-opted Member)

1.3 In dealing with complaints we will be fair to both the complainant and Member and progress matters in accordance with the timescales set out in the Procedure. Complaints will be handled in the strictest confidence at all times.

#### **2. Monitoring Officer**

2.1 Gillian Duckworth, Director of Legal and Governance, is the Council's Monitoring Officer. This is a statutory role, responsible for ensuring that the Council, its Members and officers carry out their functions in a lawful and ethical manner. The role includes supporting the Audit and Standards Committee and the three Independent Persons in dealing with complaints alleging a breach of the Members' Code of Conduct.

#### **3. Independent Persons**

3.1 The Council appoints Independent Persons from outside the Council to assist the Monitoring Officer and the Audit and Standards Committee in considering complaints. This is statutory requirement under the Localism Act 2011. Sheffield has appointed three Independent Persons - Stuart Carvell, Marvyn Moore and David Waxman.

3.2 The Independent Person must be consulted at various stages in the complaints process and also before the Hearing Sub-Committee makes a finding as to whether a member has failed to comply with the Code of Conduct and decides on action to be taken in respect of a Member.

#### **4. Making a Complaint/Withdrawing a Complaint**

- 4.1 Complaints alleging a breach of the Members' Code of Conduct should be made in writing using the complaint form and sent to Gillian Duckworth, Monitoring Officer, Sheffield City Council, Town Hall, Sheffield S1 2HH or email [gillian.duckworth@sheffield.gov.uk](mailto:gillian.duckworth@sheffield.gov.uk). The complaint form is available from:-
- Website - <http://www.sheffield.gov.uk/home/your-city-council/council-meetings>
  - Email - [committee@sheffield.gov.uk](mailto:committee@sheffield.gov.uk)
  - Phone - Democratic Services on 0114 273 4015
- 4.2 If you need advice or assistance in submitting a complaint please contact Philippa Braithwaite in Democratic Services (email [philippa.sewell@sheffield.gov.uk](mailto:philippa.sewell@sheffield.gov.uk) or phone 0114 273 4015).
- 4.3 Details of the complaint, including the name of the complainant, will be shared with the Member. The complainant can request on the complaint form that their identity is kept confidential. Requests for confidentiality will be considered by the Monitoring Officer, in consultation with the Independent Person and the complainant will be informed in writing of the outcome
- 4.4 Anonymous complaints will not be considered.
- 4.5 The complainant can withdraw their complaint at any time by informing the Monitoring Officer in writing. The Monitoring Officer will confirm this in writing with the complainant within 5 working days and also inform the Member that the complaint has been withdrawn.
- 4.6 Where a complaint has been withdrawn, the Monitoring Officer reserves the right to pursue the issues in the complaint.
- 5.0 Acknowledging the Complaint/Rejecting a Complaint/Informing the Member**
- 5.1 The Monitoring Officer will acknowledge receipt of the complaint in writing within 5 working days, with details of how the complaint will be dealt with and providing a copy of this Procedure and the Code of Conduct.
- 5.2 If necessary, the Monitoring Officer will clarify any matters with the complainant as soon as possible before the Member is informed.
- 5.3 The Monitoring Officer also reserves the right to reject a complaint if it is considered to be trivial, vexatious, repetitious, not a standards matter or a general misuse of the opportunity. The complainant will be informed of the reasons why a complaint has been rejected.
- 5.4 The Member will be informed in writing within 5 working days that a complaint has been made about them, subject to paragraph 5.2. This will

include the name of the complainant (unless the Monitoring Officer has agreed to the complainant's request that their name is kept confidential) and details of the complaint. They will also receive a copy of this Procedure and the Code of Conduct. To assist the Monitoring Officer in assessing the complaint, the Member will be invited to submit within 10 working days a written statement of fact in response to the complaint.

5.5 The Monitoring Officer will also inform the Leader of the relevant political Group, Group Whip and Chair of the Audit and Standards Committee that a complaint has been received and provide a summary of the complaint.

5.6 Where a complaint relates to a Parish or Town Councillor, the Monitoring Officer will also inform the Clerk of that Council of the name of the Member and details of the complaint. The Clerk will also be kept informed of the progress and the outcome of the complaint.

## **6. Assessment by the Monitoring Officer**

6.1 Before assessment of the complaint, it may be necessary for the Monitoring Officer to request further information or clarification from the complainant and/or Member and, where necessary, obtain other available information, such as the minutes of a meeting.

6.2 The Monitoring Officer, in consultation with the Independent Person, will consider (a) the complaint, any remedy sought by the complainant, any written statement of fact submitted by the Member and any other information obtained, (b) whether the member was acting in their official capacity and that the Code of Conduct does apply and (c) if the allegation constitutes a potential breach of the Code of Conduct and then take one of the following courses of action:-

1. Take no action or
2. Take other action through informal resolution or
3. Refer the matter for investigation
4. Refer the matter to the Consideration Sub-Committee

6.3 The complainant and the Member will be informed in writing within 5 working days of the outcome and the reasons for the decision.

6.4 The Monitoring Officer will also inform the Leader of the relevant political Group, Group Whip and Chair of the Audit and Standards Committee of the assessment decision. Where a complaint relates to a Parish or Town Councillor, the Monitoring Officer will also inform the Clerk of that Council.

6.5 Where a complaint is not referred for investigation, the Monitoring Officer will seek to deal with the matter within 8 weeks.

### **6.6 Take No Action**

6.6.1 It is likely that no action will be taken where:-

- A significant amount of time has elapsed since the events which are the subject of the complaint.
- The allegation relates to a cultural or recurring issue relating to standards within the Council.
- The matter should be dealt with by some other method.
- Complaints have been made about the Member relating to similar issues that have previously been dealt with through this Procedure.
- The complaint appears to be trivial, vexatious, repetitious or a general misuse of the opportunity.
- The conduct occurred during political debate or could be regarded as a political expression of views or opinion.

## 6.7 Take Other Action Through Informal Resolution

6.7.1 Informal resolution may be the simplest and most cost effective way of resolving the complaint and without determining if an actual breach of the Code has taken place. It may be appropriate where:

- The Monitoring Officer considers that this is the most effective way of resolving the matter to the complainant's satisfaction;
- The Member appears to have a poor understanding of the Code of Conduct and/or related Council procedures;
- The conduct complained of appears to be a symptom of wider underlying conflicts which, if unresolved, are likely to lead to further misconduct or allegations of misconduct;
- The conduct complained of appears to the Monitoring Officer not to require a formal sanction;
- The complaint appears to reveal a lack of guidance, protocols and procedures within the District or Parish/Town Council;
- The complaint consists of allegations and retaliatory allegations between councillors;
- The complaint consists of allegations about how formal meetings are conducted; and
- The conduct complained of may be due to misleading, unclear or misunderstood advice from officers.

6.7.2 The Monitoring Officer, in consultation with the Independent Person, may take any of the following actions:-

- Take such steps as they think appropriate to prevent a future potential breach of the Code including training, guidance and introducing or amending policies/protocols.
- Ask the Whips to address the issue raised within their political parties or with an individual Member.
- Mediate between the parties involved to resolve the issues.
- Seek an apology from the Member.
- Any other action capable of resolving the complaint.

6.7.3 If a member of the public making a complaint is not satisfied with the action to be taken through informal resolution they can make a request in writing to the Monitoring Officer for reconsideration. If appropriate, the Monitoring Officer may then recommend additional mediation, reconsider the original action proposed, or refer the complaint to Consideration Sub-Committee.

## 6.8 Refer the Matter for Investigation

6.8.1 It is expected that the Monitoring Officer will refer only the most serious potential breaches for investigation or where the Member fundamentally disputes or does not accept the allegations in the complaint.

6.8.2 If a complaint has been referred for investigation, the Monitoring Officer, in consultation with the Independent Person, will appoint a person to undertake the investigation and this may be either a Council Officer or an outside agent, depending on the complexity and subject of the complaint.

6.8.3 The Investigating Officer will inform the complainant and Member of the process and proposed timescale of the investigation. The investigation may involve interviewing both parties and possibly other witnesses, together with reviewing any relevant documentation or paperwork.

6.8.4 The Investigating Officer will prepare a draft report on the outcome of the investigation and provide the complainant and Member with a copy for review and comment.

6.8.5 The Investigating Officer will submit a final version of the report to the Monitoring Officer that will make a finding that either (a) there has been a

potential breach of the Code of Conduct or (b) there has not been a potential breach of the Code of Conduct. The final report will also be sent to the complainant and Member.

6.8.6 The Monitoring Officer will submit the Investigating Officer's report to the Consideration Sub-Committee.

6.8.7 An investigation will be completed within 12 weeks of a referral by the Monitoring Officer. The Consideration Sub-Committee will meet within one month of the final report being submitted to the Monitoring Officer.

6.9 Refer the matter to the Consideration Sub-Committee

6.9.1 The Monitoring Officer can refer a complaint direct to the Sub-Committee if it is considered that there is a potential breach of the Code but there is no dispute over the events in relation to the complaint and an investigation is not considered necessary.

6.9.2 If a member of the public making a complaint is not satisfied with the action to be taken through informal resolution they can make a request in writing to the Monitoring Officer for reconsideration. If appropriate, the Monitoring Officer may then recommend additional mediation, reconsider the original action proposed, or refer the complaint to Consideration Sub-Committee.

## **7 Consideration Sub-Committee**

7.1 The Consideration Sub-Committee comprises 3 Councillors and 1 non-voting co-opted Independent Member.

7.2 The complainant and Member are not required to attend the meeting of the Sub-Committee.

7.3 The Monitoring Officer will submit a report on the outcome of an investigation or a matter referred to the Sub-Committee. The Investigating Officer will attend the meeting.

7.4 The Sub-Committee will consider the Monitoring Officer's report and, after taking the views of the Independent Person into account, can:-

(a) take no action; or

(b) take other action including any of the following actions:-

- Take such steps as the Sub-Committee considers appropriate to prevent a future potential breach of the Code including training, guidance and introducing or amending policies/protocols.
- Ask the Whips to address the issue raised within their political parties or with an individual Member.
- Request the Monitoring Officer, in consultation with the



Independent Person, to mediate between the parties involved to resolve the issues.

- Seek an apology from the Member.
- Any other action capable of resolving the complaint.

(c) refer the matter to a Hearing Sub-Committee.

7.5 Where the Consideration Sub-Committee is considering a report on the referral of a complaint where a member of the public is not satisfied with the action to be taken through informal resolution, the only option available to the Sub-Committee is to ratify the original informal resolution, or to take other action including any of the following actions:-

- Take such steps as the Consideration Sub-Committee considers appropriate to prevent a future potential breach of the Code including training, guidance and introducing or amending policies/protocols.
- Ask the Whips to address the issue raised within their political parties or with an individual Member.
- Request the Monitoring Officer, in consultation with the Independent Person, to mediate between the parties involved to resolve the issues.
- Seek an apology from the Member.
- Any other action capable of resolving the complaint.

7.6 The Monitoring Officer will inform the complainant and Member in writing within 5 working days of the outcome and the reasons for the Sub-Committee's decision.

## **8. Hearing Sub-Committee**

8.1 The Hearing Sub-Committee comprises 3 Councillors and 1 non-voting co-opted Independent Member.

8.2 The Sub-Committee will meet within two months of a referral by the Consideration Sub-Committee to consider the allegation.

8.3 The Sub-Committee will meet in public unless it decides that all or part of the meeting should be held in private in accordance with the Access to Information Procedure Rules in the Council's Constitution.

8.4 In advance of the Hearing, there will be a pre-hearing process to allow matters at the Hearing to be dealt with more fairly and economically.

8.5 The complainant and member will be given the opportunity to attend the

Hearing and present witnesses. The Monitoring Officer, any Investigating Officer and Independent Person will also attend. The procedure at the Hearing will include:-

- Making findings of fact
- Deciding if there has been a breach of the Code of Conduct
- Consider the remedies/sanctions available if there is a finding that the Member has breached of the Code of Conduct

8.6 Full details of the pre-hearing and hearing process are set out in the Procedure at Hearings. The Member and complainant will be provided with a copy of the Procedure.

8.7 A Finding of No Breach of the Code of Conduct

8.7.1 If the Sub-Committee finds that the Member did not breach the Code of Conduct no further action will be taken in respect of the complaint. However, the Sub-Committee can make a recommendation to the authority with a view to promoting and maintaining high standards of conduct in general (e.g. proposed changes to internal procedures or training for Members).

8.8 A Finding of a Breach of the Code of Conduct

8.8.1 If the Sub-Committee finds that a breach of the Code of Conduct has occurred they may make any of the following recommendations and may specify to whom they wish them to be directed:-

- Recommending to the Member's Group Leader and/or Group Whip (or in the case of un-grouped members, recommend to Council or to Committees) that he/she be removed from any or all Committees or Sub-Committees of the Council or Shadow Portfolio responsibilities.
- Recommending to the Leader of the Council that the member be removed from the Cabinet, or removed from particular Portfolio responsibilities.
- Instructing the Monitoring Officer to arrange training for the member.
- That policies/procedures are amended.
- That a briefing/information note be issued.
- That an apology be given.
- That the Member is censured in writing and a copy of the letter is published on the Council's website.
- Take no action where it is not considered appropriate in the circumstances to impose a sanction.

8.8.2 The Monitoring Officer will inform the complainant and the Member of the

outcome from the Sub-Committee hearing in writing within 5 working days.

- 8.8.3 The findings and decision of the Sub-Committee will be also be available on the Council's website and copies will be supplied to the Chief Executive, Leaders of all the political Groups and the Group Whips.
- 8.8.4 Where the matter relates to a Parish or Town Councillor, the Clerk of that Council will be informed of the outcome of a Hearing.

## **9. Appeals**

- 9.1 There is no right of appeal for the complainant or Member against a decision of the Monitoring Officer, Consideration Sub-Committee or Hearing Sub-Committee.
- 9.2 If the complainant feels that the Council has failed to deal with their complaint properly, they can make a complaint to the Local Government and Social Care Ombudsman (<http://www.lgo.org.uk/make-a-complaint/how-to-complain> or phone 0300 061 0614).

## **10. Reports**

- 10.1 An annual report will be submitted to the Audit and Standards Committee with a summary of all Standards Complaints received and their outcome.

## **11. Data Protection**

- 11.1 Complaints will be handled in the strictest confidence at all times. We will ensure that any information received as part of the handling of the complaint is disclosed only to those who can demonstrate a valid need to know it. However, when a complaint is considered at a Standards Committee Hearing then any information will be dealt with in accordance with the Access to Information Procedure Rules in the Council's Constitution.
- 11.2 Complaints records will be stored safely and securely.

## **12. Review and Changes to the Procedure**

- 12.1 The Monitoring Officer will review the Procedure annually, in consultation with the Independent Persons, and submit a report on any proposed changes to the Audit and Standards Committee for consideration. In accordance with the Constitution, any changes will require final approval at Full Council.

26/10/2017

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## Audit and Standards Committee Report

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**Report of:** The Monitoring Officer/Director of Legal and Governance

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**Date:** 16 November 2017

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**Subject:** Review of the Monitoring Officer Protocol

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**Author of Report:** Philippa Braithwaite, Democratic Services - 0114 273 4015

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**Summary:**

This report provides details of proposed changes to the Monitoring Officer Protocol.

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**Recommendations:** That the Committee:

- (a) Comments on the draft revised Monitoring Officer Protocol; and
- (b) With the inclusion of any additional revisions arising from the meeting, recommends to Full Council the adoption of the revised Protocol and that the Constitution is amended accordingly.

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**Background Papers:** None

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**Category of Report:** OPEN

## Statutory and Council Policy Checklist

<b>Financial Implications</b>
NO
<b>Legal Implications</b>
YES    Cleared by: Gillian Duckworth
<b>Equality of Opportunity Implications</b>
NO
<b>Tackling Health Inequalities Implications</b>
NO
<b>Human rights Implications</b>
NO
<b>Environmental and Sustainability implications</b>
NO
<b>Economic impact</b>
NO
<b>Community safety implications</b>
NO
<b>Human resources implications</b>
NO
<b>Property implications</b>
NO
<b>Area(s) affected</b>
None
<b>Is the item a matter which is reserved for approval by the City Council?</b>
YES
<b>Press release</b>
NO

## **REVIEW OF THE MONITORING OFFICER PROTOCOL**

### **1.0 INTRODUCTION**

- 1.1 This report provides details of proposed changes to the Monitoring Officer Protocol.

### **2.0 BACKGROUND**

- 2.1 The current Protocol was last amended in April 2015 following a change to the Complaints Procedure adopted by Full Council on 25 March 2015.

### **3.0 REVIEW OF PROTOCOL**

- 3.1 Generally the Protocol has worked well but a number of revisions are proposed:-
- Clarifying some of the language used.
  - Allowing the Deputy Monitoring Officers to act in the absence of the Monitoring Officer in their absence (previously this was only permitted for urgent actions).
  - Authorising the Monitoring Officer to deal with any issues that may arise in the course of business that concern the conduct or alleged conduct of Members in the absence of a complaint.
- 3.4 Members are asked to comment on the draft revised Protocol that is appended to the report.

### **4.0 LEGAL IMPLICATIONS**

- 4.1 As the Protocol is included in the Constitution, any changes would require approval at Full Council.

### **5.0 FINANCIAL IMPLICATIONS**

- 5.1 There are no financial implications.

### **6.0 RECOMMENDATIONS**

- 6.1 That the Committee:-
- (a) Comments on the draft revised Monitoring Officer Protocol; and
  - (b) With the inclusion of any additional revisions arising from the meeting, recommends to Full Council the adoption of the revised Protocol and that the Constitution is amended accordingly.

**Gillian Duckworth**  
**Monitoring Officer/Director of Legal and Governance**

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## **MONITORING OFFICER PROTOCOL**

### **1. STATUTORY RESPONSIBILITIES**

- 1.1 The Monitoring Officer is a statutory appointment pursuant to Section 5 of the Local Government and Housing Act 1989 This Protocol sets out the Monitoring Officer's role in relating to the statutory duty to promote and maintain high standards of conduct under the Localism Act 2011.
- 1.2 The role of the Monitoring Officer rests with the Director of Legal and Governance. The Monitoring Officer may nominate a member of staff to act as Deputy Monitoring Officer while absent or ill and has appointed the Assistant Directors of Legal and Governance as Deputy Monitoring Officers. The Deputies will act only in the absence of the Monitoring Officer.
- 1.3 This Protocol should be read in conjunction with Articles 12 and 15 of the Constitution which sets out all Monitoring Officer functions. It should also be read in conjunction with the procedure for investigating standards complaints. A list of the functions of the Monitoring Officer appears in the attached Schedule.

### **2. WORKING ARRANGEMENTS**

- 2.1 It is vital that Members and Officers work with the Monitoring Officer and his or her staff, to effectively discharge the Council business, statutory responsibilities and promote the corporate health of the Council.
- 2.2 The Monitoring Officer's duties will be discharged in accordance with the Council's Constitution, legislative requirements and relevant Government guidance. The Monitoring Officer's ability to discharge these duties and responsibilities will depend, to a large extent, on Members and Officers:-
  - (a) complying with the law (including any relevant Codes of Conduct);
  - (b) complying with any general guidance, codes or protocols issued from time to time by the Monitoring Officer;
  - (c) making lawful and proportionate decisions;
  - (d) generally, not taking action that would bring the Council, their offices or professions into disrepute;
  - (e) seeking early advice on issues relating to constitutional or ethical matters;

- (f) raising alerts to issues that may become of concern to the Authority about legal powers to do something or not, ethical standards, probity, propriety, procedural or other constitutional issues that are likely to (or do) arise; and
- (g) Reporting to the Monitoring Officer at the earliest opportunity convictions of criminal offences which might amount to a breach of the Members Code of Conduct.

2.3 The Monitoring Officer will:

- 2.3.1 Have advance notice and access to information (including agendas, minutes, reports and related papers) of all relevant meetings of the Authority, (including meetings at which Officer delegated decisions are taken) at which a binding decision may be made (including meetings where there may be a failure to take a decision which should be taken);
- 2.3.2 Have the right to attend (and be heard) any meeting of the Authority (including meetings at which Officer delegated decisions are taken) before any binding decision is taken (including a meeting where there may be failure to take a decision where one should be taken).
- 2.3.3 Have advance notice of Executive Management Team meetings, agendas, reports and the right to attend and speak at those meetings. Meet regularly with the Head of Paid Service and the Section 151 Officer to consider and recommend action in connection with corporate Governance issues, matters of concern regarding legal, ethical standards probity, procedural, constitutional issues that are likely and do arise;
- 2.3.4 In undertaking or arranging investigations will have unqualified access to any information held by the Council and to any Officer who can assist in the discharge of the functions.
- 2.3.5 Report to Council as necessary on resources.

**3. RELATIONSHIPS**

- 3.1 The Monitoring Officer will develop effective working liaison and relationship to ensuring effective and efficient discharge of Council business with:
  - (a) The Lord Mayor, Chairs of Cabinet, Scrutiny and Policy Development, Regulatory, Audit and Standards Committees of the Council; and
  - (b) The District Auditor and the Local Government Ombudsman or their successors;

- 3.2 Refer any breaches to, or give and receive any relevant information, whether confidential or otherwise, (through appropriate protocols, if necessary), to the bodies in 3.1 (b).

**4. PROCEDURE FOR DEALING WITH COMPLAINTS REGARDING CITY, PARISH AND TOWN COUNCILLORS AND CO-OPTED MEMBERS**

- 4.1 The procedure for dealing with complaints that a member of the City Council, Parish and Town Councils or a Co-opted Member has failed to comply with the Members' Code of Conduct is set out in Appendix A.
- 4.2 The Monitoring Officer reserves the right to deal with any issues arising in the course of business that concerns the conduct or alleged conduct of a Member in the absence of a complaint if the Monitoring Officer deems it reasonable and appropriate to do so.

## SCHEDULE

A list of the functions of the Monitoring Officer

1. Report on contraventions or likely contraventions of any enactment or rule of law	Section 5 Local Government and Housing Act 1989
2. Report on any maladministration or injustice where Ombudsman has carried out an investigation	Section 5 Local Government and Housing Act 1989
3. Appointment of Deputy	Section 5 Local Government and Housing Act 1989
4. Report on resources	Section 5 Local Government and Housing Act 1989
5. Maintain register of Members Interests and gifts and hospitality	Localism Act 2011
6. to be responsible for the operation and maintenance of the whistleblowing policy	Whistleblowing Policy and Procedure (in the Officers' Code of Conduct)
7 Proper Officer - Local Government Access to information regulations	Part 2 of the Constitution 12.03 (f)
8 Advise on vires, maladministration, impropriety, probity	Part 2 of the Constitution 12.03 (h)
9 Advise whether executive decisions are within policy framework	Part 2 of the Constitution 12.03 (g)

## **Appendix A**

### **SHEFFIELD CITY COUNCIL**

#### **PROCEDURE FOR DEALING WITH COMPLAINTS REGARDING CITY, PARISH AND TOWN COUNCILLORS AND CO-OPTED MEMBERS**

##### **1. Introduction**

- 1.1 Under the Localism Act 2011, the Council has duty to promote and maintain high standards of conduct for its elected and co-opted members and have arrangements in place to deal with complaints.
- 1.2 This Procedure sets out how the Council will deal with a complaint alleging a breach of the Members' Code of Conduct by:-
- Sheffield City Councillors or co-opted members of the Council
  - Bradfield Parish Councillors
  - Ecclesfield Parish Councillors
  - Stocksbridge Town Councillors
- (In this Procedure the term 'Member' is used to describe a Councillor or Co-opted Member)
- 1.3 In dealing with complaints we will be fair to both the complainant and Member and progress matters in accordance with the timescales set out in the Procedure. Complaints will be handled in the strictest confidence at all times.

##### **2. Monitoring Officer**

- 2.1 Gillian Duckworth, Director of Legal and Governance, is the Council's Monitoring Officer. This is a statutory role, responsible for ensuring that the Council, its Members and officers carry out their functions in a lawful and ethical manner. The role includes supporting the Audit and Standards Committee and the three Independent Persons in dealing with complaints alleging a breach of the Members' Code of Conduct.

##### **3. Independent Persons**

- 3.1 The Council appoints Independent Persons from outside the Council to assist the Monitoring Officer and Audit and Standards Committee in considering complaints. Sheffield currently has appointed three Independent Persons - Stuart Carvell, Marvyn Moore and David Waxman.
- 3.2 The Independent Person must be consulted at various stages in the

complaints process and also before the Audit and Standards Committee makes a finding as to whether a member has failed to comply with the Code of Conduct and decides on action to be taken in respect of a Member.

#### **4. Making a Complaint**

4.1 Complaints alleging a breach of the Members' Code of Conduct should be made in writing using the complaint form and sent to Gillian Duckworth, Monitoring Officer, Sheffield City Council, Town Hall, Sheffield S1 2HH or email [gillian.duckworth@sheffield.gov.uk](mailto:gillian.duckworth@sheffield.gov.uk). The complaint form is available from:-

- Website - [www.sheffield.gov.uk/standardscommittee](http://www.sheffield.gov.uk/standardscommittee)
- Email - [committee@sheffield.gov.uk](mailto:committee@sheffield.gov.uk)
- Phone - 0114 273 5033

4.2 If you need advice or assistance in submitting a complaint please contact Philippa Sewell in Democratic Services (email philippa.sewell or phone 0114 273 4015).

4.3 Details of the complaint, including the name of the complainant, will be shared with the Member. The complainant can request on the complaint form that their identity is kept confidential. Requests for confidentiality will be considered by the Monitoring Officer, in consultation with the Independent Person.

4.4 Anonymous complaints will not be considered.

#### **5.0 Acknowledging the Complaint/Informing the Member**

5.1 The Monitoring Officer will acknowledge receipt of the complaint in writing within 5 working days and provide the complainant with a copy of this Procedure and the Code of Conduct.

5.2 The Member will be informed in writing within 5 working days that a complaint has been made about them. This will include the name of the complainant and details of the complaint. They will also receive a copy of this Procedure and the Code of Conduct. To assist the Monitoring Officer in assessing the complaint, the Member will be invited to submit within 10 working days a written statement of fact in response to the complaint.

5.3 The Monitoring Officer will also inform the Leader of the relevant political Group, Group Whip and Chair of the Audit and Standards Committee that a complaint has been received and provide a summary of the complaint.

- 5.4 Where a complaint relates to a Parish or Town Councillor, the Monitoring Officer will also inform the Clerk of that Council of the name of the Member and details of the complaint. The Clerk will also be kept informed of the progress and the outcome of the complaint.

**6. Assessment by the Monitoring Officer**

- 6.1 Before assessment of the complaint, it may be necessary for the Monitoring Officer to request further information or clarification from the complainant and/or Member.

- 6.2 The Monitoring Officer, in consultation with the Independent Person, will consider the complaint, any remedy sought by the complainant, any written statement of fact submitted by the Member and any other information obtained. In assessing the complaint, the Monitoring Officer will take into account:-

- The seriousness of the allegation.
- The effectiveness of the remedies available.
- If a significant amount of time has elapsed since the events which are the subject of the complaint.
- If the allegation relates to a cultural or recurring issue relating to standards within the Council.
- If the matter should be dealt with by some other method, e.g. police investigation.
- If complaints have been made about the Member relating to similar issues in the past.
- The impact on the complainant or reputation to the Council caused by the conduct.
- If the complaint appears to be trivial or vexatious or is part of a series of complaints from the complainant.
- Whether the conduct occurred during political debate or could be regarded as a political expression of views or opinion.

- 6.3 Following consultation with the Independent Person, the Monitoring Officer will then consider if the allegation constitutes a potential breach of the Code of Conduct and take one of the following courses of action:-

- (1) Take no action or
- (2) Take other action through informal resolution or
- (3) Refer the matter for investigation

6.4 The complainant and the Member will be informed in writing within 5 working days of the outcome and the reasons for the decision.

6.5 Where a complaint is not referred for investigation, the Monitoring Officer will seek to deal with the matter within 8 weeks.

## **7. Informal Resolution by the Monitoring Officer**

7.1 Where the Monitoring Officer has decided to take other action this will seek to resolve the complaint informally and without determining if an actual breach of the Code has taken place. Both the complainant and Member will have to agree to the outcome of any informal resolution.

7.2 The Monitoring Officer, in consultation with the Independent Person, may take any of the following actions:-

- Take such steps as they think appropriate to prevent a future potential breach of the Code including training, guidance and introducing or amending policies/protocols.
- Ask the Whips to address the issue raised within their political parties or with an individual Member.
- Mediate between the parties involved to resolve the issues.
- Seek an apology from the Member.
- Any other action capable of resolving the complaint.

7.3 The complainant and Member will be informed in writing of the outcome of any informal resolution within 5 working days. The Chair of the Audit and Standards Committee and relevant Group Leader and Group Whip will also be informed that the complaint has been resolved.

7.4 Where a complaint relates to a Parish or Town Councillor, the Monitoring Officer will also inform the Clerk of that Council that the complaint has been resolved.

7.5 Where it has not been possible to agree an informal resolution, the Monitoring Officer, in consultation with the Independent Person, will refer the matter for investigation and inform the complainant and Member within 5 working days.



## **8. Investigation**

- 8.1 If a complaint has been referred for investigation, the Monitoring Officer, in consultation with the Independent Person, will appoint a person to undertake the investigation and this may be either a Council Officer or an outside agent, depending on the complexity and subject of the complaint.
- 8.2 The Investigating Officer will inform the complainant and Member of the process and proposed timescale of the investigation. The investigation may involve interviewing both parties and possibly other witnesses, together with reviewing any relevant documentation or paperwork.
- 8.3 The Investigating Officer will prepare a draft report on the outcome of the investigation and provide the complainant and Member with a copy for review and comment.
- 8.4 The Investigating Officer will submit a final version of the report to the Monitoring Officer that will make a finding that either (a) there has been a failure to comply with the Code of Conduct or (b) there has not been a failure to comply with the Code of Conduct. The final report will also be sent to the complainant and Member.
- 8.5 The Monitoring Officer will submit the Investigating Officer's report to the Consideration Sub-Committee.
- 8.6 An investigation will be completed within 12 weeks of a referral by the Monitoring Officer. The Consideration Committee will meet within one month of the final report being submitted to the Monitoring Officer.

## **9. Consideration Sub-Committee**

- 9.1 The Sub-Committee will consider the Investigating Officer's report and, after taking the views of the Independent Person into account, can:-
- (a) take no action where there is no evidence of a failure to comply with the Code of Conduct or
  - (b) take no action where there is no evidence of a failure to comply with the Code of Conduct but make a recommendation to the authority with a view to promoting and maintaining high conduct of standards in general (e.g. proposed changes to internal procedures or training for Members) or
  - (c) ask the Monitoring Officer, where possible, to seek a local resolution to the complaint or

(d) refer the matter to an Audit and Standards Committee Hearing.

9.2 The complainant and Member will be informed in writing within 5 working days of the outcome and the reasons for the decision.

## **10. Local Resolution**

10.1 Where the investigation finds evidence of failure to comply with the Code of Conduct, the Monitoring Officer, in consultation with the Independent Person, may attempt a local resolution, avoiding the necessity of a hearing, and take any of the following actions:-

- Take such steps as they think appropriate to prevent a future potential breach of the Code including training, guidance and introducing or amending policies/protocols.
- Ask the Whips to address the issue raised within their political parties or with an individual Member.
- Mediate between the parties involved to resolve the issues.
- Seek an apology from the Member
- Any other action capable of resolving the complaint

10.2 Both the complainant and Member will have to agree to the outcome of any local resolution.

10.3 The Monitoring Officer will inform the complainant and Member in writing within 5 working days of the outcome of any agreed local resolution.

10.4 If a local resolution has not been possible, the Monitoring Officer, in consultation with the Independent Person and Chair of the Audit and Standards Committee, will refer the matter to an Audit and Standards Committee Hearing and inform the complainant and Member in writing within 5 working days.

## **11. Audit and Standards Committee Hearing**

11.1 The Audit and Standards Committee Hearing Sub-Committee comprises 3 Councillors and 1 non-voting co-opted Independent Member.

11.2 The Sub-Committee will meet within two months of a referral by the Consideration Sub-Committee to consider the allegation and Investigating Officer's report and make clear findings as to the facts of the matter and whether a breach of the Code of Conduct has occurred.

- 11.3 The Hearing Sub-Committee will meet in public unless it decides that all or part of the meeting should be held in private in accordance with the Access to Information Procedure Rules in the Council's Constitution.
- 11.4 In advance of the Hearing there will be a pre-hearing process to allow matters at the Hearing to be dealt with more fairly and economically.
- 11.5 The complainant and Member will be given the opportunity to attend the Hearing and present witnesses. The Monitoring Officer, Investigating Officer and Independent Person will also attend. The procedure at the Hearing will include:-
- Making findings of fact
  - Deciding if there has been a breach of the Code of Conduct
  - Consider the remedies/sanctions available if there is a finding that the Member has breached of the Code of Conduct
- 11.6 Full details of the pre-hearing and hearing process are set out in the Procedure at Hearings. The Member and complainant will be provided with a copy of the Procedure.
- 11.7 A Finding of No Breach of the Code of Conduct
- 11.7.1 If the Sub-Committee finds that the Member did not breach the Code of Conduct no further action will be taken in respect of the complaint. However, the Sub-Committee can make a recommendation to the authority with a view to promoting and maintaining high standards of conduct in general (e.g. proposed changes to internal procedures or training for Members).
- 11.8 A Finding of a Breach of the Code of Conduct
- 11.8.1 If the Sub-Committee finds that a breach of the Code of Conduct has occurred they may make any of the following recommendations and may specify to whom they wish them to be directed:-
- Recommending to the Member's Group Leader (or in the case of un-grouped members, recommend to Council or to Committees) that he/she be removed from any or all Committees or Sub-Committees of the Council or Shadow Portfolio responsibilities.
  - Recommending to the Leader of the Council that the member be removed from the Cabinet, or removed from particular Portfolio responsibilities.

- Instructing the Monitoring Officer to arrange training for the member.
- That policies/procedures are amended.
- That a briefing/information note be issued.
- That an apology be given.
- That the Member is censured in writing and a copy of the letter is published on the Council's website.
- Take no action where it is not considered appropriate in the circumstances to impose a sanction.

11.9 The Monitoring Officer will inform the complainant and the Member of the outcome from the Sub-Committee hearing in writing within 5 working days.

11.10 The findings and decision of the Sub-Committee will be also be available on the Council's website and copies will be supplied to the Chief Executive, Leaders of all the political Groups and the Group Whips.

11.11 Where the matter relates to a Parish or Town Councillor, the Clerk of that Council will be informed of the outcome of a Hearing.

## **12. Appeals**

12.1 There is no right of appeal for the complainant or Member against a decision of the Monitoring Officer, Consideration Sub-Committee or Hearing Sub-Committee.

12.2 If the complainant feels that the Council has failed to deal with their complaint properly, they can make a complaint to the Local Government Ombudsman.

## **13. Reports**

13.1 A quarterly report will be presented to meetings of the Audit and Standards Committee on the complaints received and how they were dealt with. An annual report will also be submitted to Full Council with a summary of all Standards Complaints.

## **14. Data Protection**

14.1 Complaints will be handled in the strictest confidence at all times. We will ensure that any information received as part of the handling of the complaint is disclosed only to those who can demonstrate a valid need to

know it. However, when a complaint is considered at an Audit and Standards Committee Hearing then any information will be dealt with in accordance with the Access to Information Procedure Rules in the Council's Constitution.

14.2 Complaints records will be stored safely and securely.

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## Audit & Standards Committee Report

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**Report of:** Mark Bennett, Director of HR and Customer Services/ Gillian Duckworth, Director of Legal Services

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**Date:** 16 November 2017

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**Subject:** Annual Ombudsman Complaints Report 2016/17

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**Author of Report:** Andrew Fellows

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### **Summary:**

This report provides an overview of the complaints received, and formally referred and determined by the three Ombudsmen (Local Government Ombudsman, Parliamentary & Health Service Ombudsman and Housing Ombudsman) during the twelve months from 1 April 2016 to 31 March 2017.

The report also identifies future developments and areas for improvement in complaint management.

The report is jointly presented by the Director of Legal Services and the Director of HR and Customer Services, who are respectively the Council's Monitoring Officer, and the Director responsible for managing the Complaints Service.

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### **Recommendations:**

The Audit & Standards Committee is asked to consider the Annual Ombudsman Report in order to provide its view on the performance of Ombudsman complaints and the issues raised.

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### **Background Papers:**

None

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**Category of Report:** OPEN

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## Statutory and Council Policy Checklist

<b>Financial Implications</b>
NO      Cleared by: Pauline Wood
<b>Legal Implications</b>
NO      Cleared by: Nadine Wynter
<b>Equality of Opportunity Implications</b>
NO
<b>Tackling Health Inequalities Implications</b>
NO
<b>Human rights Implications</b>
NO:
<b>Environmental and Sustainability implications</b>
NO
<b>Economic impact</b>
NO
<b>Community safety implications</b>
NO
<b>Human resources implications</b>
NO
<b>Property implications</b>
NO
<b>Area(s) affected</b>
None
<b>Relevant Cabinet Portfolio Lead</b>
Cabinet Member for Finance & Resources
<b>Relevant Scrutiny Committee if decision called in</b>
Not applicable
<b>Is the item a matter which is reserved for approval by the City Council?</b>
NO
<b>Press release</b>
NO



## **Annual Report Ombudsman Report**

### **1.0 INTRODUCTION**

- 1.1 Sheffield City Council's Corporate Plan includes a priority on being ***An in Touch Organisation***. This means listening to customers and being responsive, so that services are designed to meet the diverse needs of individuals. The effective handling of customer complaints across the organisation supports this priority and enables the Council to be open and transparent, respond in the right way, make the best use of resources, and make well-informed decisions.
- 1.2 We welcome complaints as an opportunity to improve our services. Indeed, our definition of a complaint is "any expression of dissatisfaction whether justified or not", which is deliberately wide to ensure that complaints are recognised and are properly addressed. We also encourage positive feedback on the services we provide.
- 1.3 The Customer Feedback & Complaints Team in Customer Services is responsible for the development and implementation of policy and procedures on complaints. In addition, the Team acts as the Council's liaison point with the Local Government Ombudsman (LGO), Housing Ombudsman (HO) and Parliamentary & Health Service Ombudsman (PHSO).
- 1.4 The Ombudsmen provide a free, independent and impartial service. They consider complaints about the administrative actions of local authorities. They cannot question what a council has done simply because someone does not agree with it. However, if they find something has gone wrong, such as poor service or service failure, and that a person has suffered as a result, they recommend a suitable remedy.
- 1.5 The LGO's powers are set out in the Local Government Act 1974, as amended. The HO's powers are set out in the Housing Act 1996, as amended. The PHSO's powers are set out in the Parliamentary Commissioner Act 1967, as amended, and the Health Service Commissioners Act 1993, as amended.
- 1.6 Overall, the Council and its strategic delivery partners (Capita, Kier and Veolia) dealt with 3,269 complaints through the formal complaints process in 2016/17. The Ombudsman reported that 175 enquiries were received about the Council and its strategic delivery partners during 2016/17.

### **2.0 SUMMARY**

- 2.1 This report provides an overview of the complaints received, and formally referred and determined by the Ombudsman during the twelve months from 1 April 2016 to 31 March 2017.
- 2.2 The report also identifies future developments and areas for improvement in complaint management.

- 2.3 The report is jointly presented by the Director of Legal Services and the Director of HR and Customer Services, who are respectively the Council's Monitoring Officer, and the Director responsible for managing the Complaints Service.

### **3.0 MAIN BODY OF THE REPORT**

#### **3.1 Overview**

Since the Council's Complaints Policy was revised in April 2014, there has been a marked decline in the number of formal complaints recorded on the Council's complaints management system, with the number plateauing out over the period 1 April 2015 to 31 March 2017.

- 3.2 In 2013/14, there were 906 formal complaints about Council Portfolios. The figure fell to 684 in 2014/15 (the year of the policy change); 561 in 2015/16; and 560 in 2016/17.

- 3.3 To some extent, this fall can be attributed to the introduction of the 'problem solving' approach to complaints. This approach is intended to promote early resolution, and a less bureaucratic way of dealing with complaints. Therefore, based on the fall in the number of recorded complaints, the policy change can be seen to be a success.

- 3.4 However, looking at formal complaint numbers recorded about the two statutory social care areas over the last four years, these have remained reasonably static, and now account for over half of formal complaints recorded, having accounted for a third in 2013/14.

	<b>2013/14</b>	<b>2014/15</b>	<b>2015/16</b>	<b>2016/17</b>
<b>Adults</b>	210	151	152	159
<b>Children's</b>	122	111	88	137
<b>Total</b>	332	262	240	296

- 3.5 Meanwhile, the number of complaints recorded by services under the corporate complaints process has fallen significantly. For example:

	<b>2013/14</b>	<b>2014/15</b>	<b>2015/16</b>	<b>2016/17</b>
<b>Place</b>	284	191	112	97
<b>Resources</b>	200	50	40	40
<b>Capita</b>	403	164	55	24

- 3.6 At the same time, the number of Local Government Ombudsman (LGO) enquiries has risen by around a third:

	<b>2013/14</b>	<b>2014/15</b>	<b>2015/16</b>	<b>2016/17</b>
<b>Ombudsman enquiries</b>	101	123	143	136

- 3.7 An explanation for this could be that while the statutory social care complaints are recorded by the Customer Feedback & Complaints Team, complaints about other services are recorded by the services themselves. This may mean that some

formal complaints are not being routinely recorded on the complaints management system. Where issues of non-recording are identified, the Customer Feedback & Complaints Team works with service managers, client managers and performance leads to promote good practice in complaints recording.

- 3.8 Turning to complaints dealt with by the Ombudsman, the Council's Customer Feedback & Complaints Team recorded a total of 136 separate enquiries made by the Ombudsman during 2016/17- a decrease of seven from the 2015/16 figure of 143.
- 3.9 The service areas that generated the largest number of Ombudsman enquiries during 2016/17 were Streets Ahead (29), Adult Social Care (19) and Council Housing (18). The figures for Adult Social Care and Streets Ahead are broadly the same as the previous year. However the figure for Council Housing dropped from 25 to 18. The largest increase was about the Housing Benefits service – up from 4 to 10.
- 3.10 The Ombudsman reported that 175 enquiries were received about the Council during 2016/17, compared with 199 in 2015/16. This figure is higher than the 136 recorded by the Council's Customer Feedback & Complaints Team because it includes, for example, people who made a 'premature' complaint to the Ombudsman and who were signposted back to the Council, but who never contacted us.
- 3.11 Based on the way the Ombudsman categorises local authority services, the highest number of enquiries about the Council were about Highways & Transport (50); Education & Children's Services (36); and Adult Social Care (33).
- 3.12 Enquiries about Highways & Transport increased for the fifth year in a row, and now account for 29% of Ombudsman enquiries, having accounted for 10% in 2012/13:

	2012/13	2013/14	2014/15	2015/16	2016/17
Highway & transport enquiries	10	25	34	40	50

- 3.13 It is important to note that not all Ombudsman enquiries lead to a formal investigation. In fact, of the 136 enquiries recorded by the Council's Customer Feedback & Complaints Team in 2016/17, three-quarters were not formally investigated.

Of the 35 that were formally investigated, the highest numbers were about Adult Social Care (12), Streets Ahead (10) and Education (6).

- 3.14 During 2016/17, the LGO determined that there was maladministration in 20 cases: 8 related to Adult Social Care; 7 related to Highways & Transport; 3 related to Education & Children's Services; 1 related to Benefits & Council Tax; and 1 related to Customer Services. The HO also determined maladministration in 2 complaints about Housing Repairs. Details of these complaints are set out in

## Appendix B.

- 3.15 In total, the Council paid £15,845.50 in compensatory payments and other reimbursements following Ombudsman enquiries (£12,460.50 of this related to reimbursement of expenses incurred in transporting a child to school). This compares with £46,490.97 paid in 2015/16.
- 3.16 Looking at how Sheffield City Council compares with other local authorities, the Ombudsman reported that enquiries fell across all core cities in 2016/17, with the exception of Manchester.
- 3.17 In resolving complaints, we aim to work with the customer to try to achieve their preferred outcome, and when appropriate we will apologise. When the Council is at fault, we will aim to resolve the complaint by putting the customer back into the position they would have been in had the fault not occurred, or by offering another remedy if this is not possible.
- 3.18 We also aim to learn from complaints, so that we do not repeat the same problem, and the table at Appendix B includes full details of the remedies, improvements and changes that have been made following Ombudsman investigations. Examples include:
- **Special Educational Needs** – during 2016/17, and into the current year, the Ombudsman made a number of enquiries about delays in providing children with Education, Health and Care Plans. The Ombudsman has indicated that a Public Report is likely to be published about service failings in this area. Senior managers in the People Portfolio have developed plans to address the issues raised and improve performance, and are working with Legal Services and the Customer Feedback & Complaints Team in relation to the Ombudsman's enquiries.
  - **Adult Social Care** – a number of complaints about Adult Social Care in 2016/17 identified problems with the way the complaint itself had been handled. As a result, the Customer Feedback & Complaints Team has worked with senior managers in the service to put in place an improvement plan. This includes training for managers on the process, and improved monitoring of complaints.

### **Future developments**

- 3.19 Nationally, the proposal to create a single Public Service Ombudsman (PSO) to replace the LGO and the PHSO has been placed before Parliament as a Draft Bill. However, at present, the timescale for legislating on this is not clear. Despite this, the LGO and PHSO are working closely together on their approach to complaint handling.
- 3.20 The proposed creation of a PSO is welcomed as it will support better handling of complaints that have been escalated beyond the Council.
- 3.21 At a local level, the following have been identified by the Customer Feedback &

Complaints Team as actions and areas for improvement during 2017/18:

- Work with Directors, service managers, client managers and performance leads to ensure compliance with the Complaints Policy in relation to the logging of complaints and recording of outcomes.
- Continue to work with client managers to improve reporting on complaints concerning Amey, Capita and Veolia
- End the collection of customer satisfaction data, and instead undertake analysis of escalated complaints to better understand reasons for escalation. This will be reported in the Annual Report for 2017/18
- Further develop the complaints web-form to improve the routing of complaints to enhance opportunities to problem solve complaints
- Work with the People Portfolio to improve access to the complaints procedure for Children & Young People

#### **4.0 RECOMMENDATIONS**

- 4.1 The Audit & Standards Committee is asked to consider the Annual Ombudsman Report in order to provide its view on the performance of Ombudsman complaints and the issues raised.

## OMBUDSMAN COMPLAINTS

The Customer Feedback & Complaints Team keeps a record of the enquiries made by Ombudsman about services provided by Sheffield City Council, both directly and through partners. The table below shows the enquiries made about the Council during 2016/17.

Portfolio/ Partner	Service area	Formal premature referrals	Considered without formal enquiries	Formal enquiries made	Totals 2016/17	Totals 2015/16
<b>Communities</b>	Social Care - Adults	3	4	12	<b>19</b>	21
	Council Housing	6	10	2	<b>18</b>	25
	Housing - Other	2	1	0	<b>3</b>	2
<b>Children, Young People &amp; Families</b>	Social Care - Children's	3	4	2	<b>9</b>	5
	Education	3	6	6	<b>15</b>	20
<b>Place</b>	Building Control	0	0	0	<b>0</b>	0
	Environmental Services	0	1	0	<b>1</b>	3
	Parking Services	1	6	0	<b>7</b>	12
	Planning	2	0	0	<b>2</b>	5
	Highways	1	4	0	<b>5</b>	4
	Land/property	0	3	0	<b>3</b>	1
	Licensing	0	0	0	<b>0</b>	1
	Trading Standards	0	0	0	<b>0</b>	0
<b>Resources</b>	Customer Services	1	1	1	<b>3</b>	2
	Legal	1	3	0	<b>4</b>	0
	BIS	0	2	0	<b>2</b>	0
	Other	0	0	0	<b>0</b>	2
<b>Amey</b>	Streets Ahead	1	18	10	<b>29</b>	27
<b>Capita</b>	Benefits	3	1	1	<b>5</b>	8
	Revenues	3	6	1	<b>10</b>	4
<b>Veolia</b>	Waste Management	0	1	0	<b>1</b>	1
<b>Totals</b>		<b>32</b>	<b>66</b>	<b>35</b>	<b>136</b>	<b>143</b>

There was an overall decrease in the number of Ombudsman enquiries from 143 to 136, with the number of formal enquiries reducing from 37 to 35. In most service areas, the number of enquiries fell. Two areas that saw an increase in enquiries were Council Tax and children's social care. In common with other local authorities, the highest number of formal enquiries was about adult social care.

The Council's average response time to Ombudsman formal enquiries in 2016/17 was **20 working days**, which meets the target set by the Ombudsman. 74% of formal enquiries were dealt with in the 20 day target, which is an improvement from 50% in 2015/16.

In the Annual Review Letter, the Ombudsman has reported that 175 enquiries were received about the Council during 2016/17. This figure is significantly higher than the 136 reported in the table above because it includes, for example, people who have made a premature complaint to the Ombudsman and who been signposted back to the Council by the Ombudsman, but who never contacted us.

The table below shows what the Ombudsman's 175 enquiries were about, compared with the previous two years.

Ombudsman subject category	2014/15	2015/16	2016/17
Adult Social Care	38	32	33
Benefits and Tax	24	24	20
Corporate and other	8	12	6
Education and Children's Services	33	34	36
Environmental Services & Public Protection	18	23	4
Highways & Transport	34	40	50
Housing	22	25	16
Planning & Development	11	8	10
<b>Total</b>	<b>188</b>	<b>199</b>	<b>175</b>

At the end of the enquiry or investigation, the Ombudsman provides a decision. The table below provides details of the decisions over the last three years.

Ombudsman decisions	2014/15	2015/16	2016/17
Closed after initial enquiries - out of jurisdiction	24	19	19
Closed after initial enquiries - no further action	26	44	43
Not Upheld	25	27	21
Upheld: No further action/no injustice	3	1	5
Upheld: Maladministration and Injustice	16	20	15
Report	0	1	0
<b>Total</b>	<b>94</b>	<b>112</b>	<b>103</b>

## How we compare

The table below compares the number of complaints received by the LGO across the Core Cities based on information provided by the LGO in his Annual Review Letter.

	Number enquiries received 2015/16	Number enquiries received 2016/17	% increase/decrease (+ / -)	Number of detailed investigations 2016/17	Number of complaints upheld 2016/17	Upheld rate 2016/17	Number of complaints per 1000 population
<b>Birmingham</b>	523	452	-13%	101	63	62%	0.41
<b>Bristol</b>	183	156	-15%	39	22	56%	0.36
<b>Leeds</b>	217	201	-7%	51	30	59%	0.27
<b>Liverpool</b>	180	163	-9%	42	24	57%	0.35
<b>Manchester</b>	140	144	+3%	15	5	33%	0.27
<b>Newcastle</b>	68	66	-3%	11	8	73%	0.22
<b>Nottingham</b>	105	100	-5%	23	8	35%	0.31
<b>Sheffield</b>	<b>199</b>	<b>175</b>	<b>-12%</b>	<b>41</b>	<b>20</b>	<b>49%</b>	<b>0.30</b>



## Appendix B

A summary of the **22** complaints which were upheld by the Local Government Ombudsman and Housing Ombudsman during 2016/17 is provided below.

	Service/ Partner	Complaint	Ombudsman Finding/Investigation Outcome	Remedy/Service Improvements
1.	<b>Adult Social Care</b>	Mrs X complained that the Council refused to acknowledge her mother's dementia, ignored professional diagnoses, took too long to investigate her complaint, and will not allow her access to her mother's records. She says the Council's actions have damaged her relationship with her mother.	The Ombudsman found faults in the way the Council considered and investigated safeguarding allegations about Mrs X, and the Council has acknowledged and apologised for those. The Council was not at fault in carrying out the investigation itself however.	The Council has agreed to make Mrs X a £500 payment in acknowledgement of the delay in making progress with the safeguarding investigation and responding to Mrs X's complaint. The Council also agreed to share its action plan following its review of practices.
2.	<b>Capita</b>	Mr A complained about the way the Council handled his council tax account and dealt with his claim for council tax support.	The Ombudsman concluded that the Council was not at fault in the way it initially took recovery action against Mr A for non-payment of council tax. The Council was at fault for overlooking a backdating request, delayed responses to other requests and taking action which resulted in a final reminder Mr A that should not have received.	The Council has agreed to pay Mr A £150 to acknowledge his time and trouble dealing with his council tax account. The Council agreed to complete a review of how information is passed between the Council Tax Section and Benefits Service.
3.	<b>Parking Services</b>	Mr B complained about how the Council handled his complaint about a penalty charge notice issued to his partner, Miss C, for a parking contravention.	The Council accepted there was delay in responding to some of Mr B's emails. It also did not provide any final response to his complaint because the penalty charge notice had been paid and the matter closed. The Council offered to refund £35 to Miss C to recognise the delay and failure to provide a complaint response.	The Ombudsman decided not to investigate the complaint, as he considered the Council's offer a reasonable remedy for any injustice caused to Mr B or Miss C.
4.	<b>Streets Ahead</b>	Mr X complained that the Council replaced a street light near his property without consultation and is refusing to move it from outside his window.	The Council accepted the street light was not positioned according to the design plan and confirmed it would arrange for the new street light to be relocated to the position shown on the design plan.	The Council relocated the street light and issued a written apology to Mr X. The Ombudsman considered this provided a satisfactory remedy for the complaint.

	Service/ Partner	Complaint	Ombudsman Finding/Investigation Outcome	Remedy/Service Improvements
5.	<b>Council housing</b>	Mr Y complained about the Council's handling of a leak into his flat.	The Ombudsman found that there were missed opportunities to thoroughly review the case and respond within the complaints procedure, and that this could have resulted in a resolution at an earlier stage. Whilst the contractors' insurers made Mr Y an offer in full and final settlement of the claim for damages to his belongings, this was made over a year after Mr Y had first raised his complaint.	The Ombudsman ordered the Council to pay compensation of £150 to Mr X (£100 in recognition of the inconvenience caused by the delay in resolving the leak and £50 in recognition of Mr X's time and trouble in pursuing the complaint).
6.	<b>Adult Social Care</b>	Mrs D complained that the Council failed to properly investigate safeguarding concerns about her mother, Mrs E's, care. She also complained it failed to respond to her complaint in a timely manner.	The Ombudsman found that the Council failed to provide Mrs E with domiciliary care in line with her care plan, which caused her distress. It was also delayed in responding to Mrs D's complaint.	<p>After considering Mrs E's personal circumstances, the period of time she experienced distress and the number of failings in Mrs E's care, the Council agreed to pay Mrs E £600 in recognition of the distress she has experienced and poor care she has received; and pay Mrs D £200 in recognition of the uncertainty and distress she has experienced and the time and trouble in pursuing her complaint.</p> <p>The Council also agreed to:</p> <p>a) remind all care providers that it is a contractual and legal requirement to keep accurate records and provide these to the Council on request</p> <p>b) instruct all care providers to confirm that the above requirement is part of the induction for staff, and that they must reinforce this to all staff.</p>
7.	<b>Adult Social Care</b>	Ms Z complained that the Council did not follow its own procedures when its commissioned care provider proposed to withdraw its service from her mother, Mrs Y.	The Ombudsman found the Council was at fault as it did not follow its procedures when Mrs Y's care provider gave notice to end its service to her, but concluded this did not cause significant injustice to Ms Z and Mrs Y. The Ombudsman also found fault as the	The Council agreed to send a written apology to Ms Z for the avoidable time and trouble caused by its delay in responding to her complaint. The Council also agreed to ensure it follows its procedures on home care re-provision in the event it

	Service/ Partner	Complaint	Ombudsman Finding/Investigation Outcome	Remedy/Service Improvements
			Council delayed significantly in responding to Ms Z's complaint, which caused avoidable time and trouble to her.	receives notices from a care provider to end its service to a service user.
8.	<b>Customer Services</b>	Ms N complained about the Council's decision to refuse her an application for a disabled person's travel pass.	The Ombudsman found the Council was at fault for the way it handled Mrs N's application for a disabled travel pass.	The Council agreed to apologise to Mrs N, award her a pass, and pay £150 for her time and trouble. In the absence of its own policies, the Council also agreed to follow the national guidance and check for any additional persons also affected by this fault.
9.	<b>Special Educational Needs</b>	Mrs X complained that the Council delayed in providing her daughter, H, with a finalised Education, Health and Care Plan; misinformed her and delayed in dealing with her requests for a personal budget; and did not provide H with a suitable education while she was out of school from October 2015.	The Ombudsman found the Council was at fault when it took too long to finalise H's Education, Health and Care Plan and deal Mrs X's complaints.	In addition to the action already taken by the Council (an apology and agreement to change the information it provides parents), the Council agreed to make Mrs X a financial payment of £300 for the stress and frustration it has caused her.
10.	<b>Council Housing</b>	Mr B complained about the Council's response to his request for compensation in relation to disrepair in his property and belongings damaged by damp.	The Ombudsman found there was some delay in the fitting of fans in the property.	The Ombudsman ordered the Council to make Mr B a payment of £100 in recognition of the shortfalls in service he experienced relating to the fitting of fans.  The Ombudsman saw no justification to order the Council to increase the goodwill payment of £450 it had already offered in respect of damage to belongings.
11.	<b>Adult Social Care</b>	Mr A complained that the Council promised to consult his daughter (Ms C) before changing her care provider, but failed to do so.	The Ombudsman found that the Council should have involved Ms C in a consultation about a new care provider, and its failure to do so was fault, causing distress.	To remedy the injustice, the Council apologised and paid Ms C £100 for the avoidable distress this caused her.
12.	<b>Adult Social Care</b>	Mr Y complained that the care agency who provided a care service for his elderly aunt and uncle (Mr and Mrs B)	The Ombudsman noted that the Council had acknowledged that on occasions there were shortcomings in the timing and	The Ombudsman concluded the Council's actions had already remedied the injustice caused by poor service and there was no

	Service/ Partner	Complaint	Ombudsman Finding/Investigation Outcome	Remedy/Service Improvements
		turned up late for calls, left his aunt in a soiled or wet state, and failed to complete Medical Administration Records (MAR) contemporaneously.	delivery of care calls; and had apologised for this, and adjusted the payments made accordingly.  The Ombudsman found evidence that the Council had followed up with the agency, instances where Mr X reported late or unsatisfactory calls. Those actions remedied the injustice caused by late calls. There was no evidence available to investigate properly the allegations that MAR charts were not kept properly.	reason for the Ombudsman to pursue the complaint further. The agency no longer provides a service to Mr and Mrs B.
13.	<b>Special Educational Needs</b>	Mr and Mrs H complained that the Council had refused to backdate beyond April 2015 the expenses they had incurred in transporting their child to the school named in her statement of special educational needs.	The Ombudsman found the Council was at fault in failing to provide home to school transport or payment for this to the school named in a statement of special educational needs.	The Council issued a formal apology; reimbursed Mr and Mrs H for the distance travelled in transporting their daughter to and from school between October 2013 and April 2015 (£12,460.50) and paid them an additional £200 in recognition of the time and trouble they have been put to in pursuing this matter and in recognition of the delay in providing the financial support they were entitled to.  The Council confirmed it has improved its practice in initial travel assessments to ensure that similar failings do not reoccur, but has further agreed to review out of city placements for other children where these have not been subject to review at tribunal.
14.	<b>Adult Social Care</b>	Mrs Y complained on behalf of her mother, Mrs S, that the Council failed to respond to her complaint in a timely and comprehensive manner; failed to provide her with weekly information about care provided to her mother; failed to respond to emails and phone	The Ombudsman found the Council was at fault for not having an adequate invoicing system and that it failed to communicate properly with Mrs Y during the complaint.	The Council had already apologised for failing to communicate properly with Mrs Y about its complaint handling, but agreed to take the following further action:  a) Provide Mrs Y with electronic timesheets until the new invoicing system

	Service/ Partner	Complaint	Ombudsman Finding/Investigation Outcome	Remedy/Service Improvements
Page 89		calls and provide reassurance that care was being properly provided; and prevented Mrs Y from speaking to certain officers and did not communicate with Mrs Y in a professional manner.		is in place. b) Remind officers about the importance of returning calls and emails from service users and their families; and to tell service users and their families about any delay and when they will be in a position to provide a substantive response; c) Review the outcome of this complaint and the issues identified in the implementation of its complaints procedure. The Council should remind officers to tell complainants if there is a change in the length of time it will take the Council to deal with a complaint. It should also update the complainant about timescales. The Council should also tell complainants if for whatever reason it decides not to investigate the whole or part of a complaint.
	15. <b>Adult Social Care</b>	Mrs A complained on behalf of her sister, Mrs X, that there was not enough help trying to find a care provider, and the social worker made mistakes on the support plan.	The Ombudsman found the Council was at fault because it did not do enough to help Mrs X find another care agency to support her, and it took too long to authorise a support plan. For a short period of time, Mrs X did not receive a care call.	The Council agreed to remedy the injustice by apologising to Mrs X and pay her £100 in recognition of her inconvenience.
	16. <b>Adult Social Care</b>	Mr X complained on behalf of his brother, Mr Y, that the Council failed to provide suitable care; failed to adequately support Mr Y to engage fully with his family; failed to deal properly with the allegation that a care worker punched him in the eye; and failed to respond effectively to Mr X's complaints about these issues.	The Ombudsman found the Council was at fault when it failed to provide suitable care to Mr Y through the care provider. The Council also failed to adequately support Mr Y to engage fully with his family. It also failed to involve Mr X in deciding about Mr Y moving home and failed to respond effectively in full to Mr X's complaints about these issues until December 2015.  The Ombudsman did not find the Council was at fault in the way it dealt with the	The Council agreed to pay Mr Y £250 for the increased risk of harm it caused him due to the poor quality of care from the original care provider; and pay Mr X and Mr Y £100 each for the opportunities they lost because the original care provider failed to fully support Mr Y's engagement with the family; pay Mr X £100 for his time and trouble in bringing his complaints over at least three years. The Council has further agreed to ensure that Mr Y's support plan is properly implemented by

	Service/ Partner	Complaint	Ombudsman Finding/Investigation Outcome	Remedy/Service Improvements
			allegation that a care worker punched Mr Y in the eye.	the current care provider.
17.	Streets Ahead	Mrs Z complained that the Council replaced a streetlight outside her house, moving its position, without consulting local residents. She complained this had obstructed her greatly valued view. Since starting work the Council refused to consider moving the light or to meet with her to discuss the matter.	The Ombudsman found no fault in the Council's installation of a replacement streetlight opposite Mrs Z's home. However, he did find fault in how the Council dealt with Mrs Z, including how her complaint was dealt with.	The Council agreed to write to Mrs Z to apologise for giving confusing and contradictory advice on whether, and by how much, the streetlight could be moved.  The Council also agreed to consider how to give clearer and more consistent guidance on its flexibility to consider adjustments to lighting column installation in future.
18.	Streets Ahead	Mrs X complained the Council had put a street light outside her property without considering the impact this will have on light coming into her bedroom window. Mrs X also complained that the Council had treated her complaint in a dismissive and unprofessional way.	The Ombudsman found that the Council failed to redress the impact of new street lighting on Mrs X's property in a timely manner and the time taken to reduce the impact of the street light on Mrs X's property was excessive and amounted to fault.	The Council agreed to apologise and pay Mrs X £250 in recognition of the excessive time taken to resolve the impact of the new street light on her property.
19.	Streets Ahead	Ms B complained that the Council was at fault for installing a new streetlight outside of her property which shines into her bedroom making it difficult to sleep at night. She complained the Council has provided her with conflicting information and has been slow to correct the fault and to respond to her complaint. She complained the Council has also re-classified her road as an urban route.	The Ombudsman found the Council was at fault for providing Ms B with the wrong information about recommended light intensity levels for a street light outside of her property. This resulted in her pursuing her complaint six months longer than she needed to.	The Ombudsman closed her investigation on the basis the light level now falls below the recommended maximum light intensity and the Council did not need to take any further action to reduce it.
20.	Children and Families	Miss X complained that the Council had refused to consider her historic complaint that social workers failed to provide adequate support.	The Ombudsman found the Council was wrong to at first refuse to consider the complaint about the substantive matters.	The Council revisited its decision and agreed to deal with Miss X's complaint about actions by social services when she was a child.

	<b>Service/ Partner</b>	<b>Complaint</b>	<b>Ombudsman Finding/Investigation Outcome</b>	<b>Remedy/Service Improvements</b>
<b>21.</b>	<b>Streets Ahead</b>	Mr A complained that the Council placed a street light in the middle of a tree.	The Ombudsman did not start an investigation because in response to initial enquiries the Council decided to reconsider the complaint and to move the street light.	Officers visited the site and decided to move the light to the other side of the road.
<b>22.</b>	<b>Parking Services</b>	Mr X complained that the Council ignored emails he sent about a Penalty Charge Notice.	The Ombudsman did not start an investigation because in response to initial enquiries the Council explained it had found Mr X's emails and agreed to find out what went wrong; apologise to Mr X and cancel the PCN.	The Council cancelled the PCN and apologised to Mr X. The Council also agreed to review what went wrong.

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## Audit and Standards Committee Report

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**Report of:** Kayleigh Inman, Senior Finance Manager (Internal Audit)

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**Date:** 16<sup>th</sup> November 2017

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**Subject:** Outcomes of the Internal Audit Mid-Year Review of the Annual Plan

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**Author of Report:** Kayleigh Inman

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### Summary:

The purpose of this report is to present and communicate to members of the Audit and Standards Committee the outcomes of mid-year review of the annual workplan.

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### Recommendations:

- 1) Members of the Audit and Standards Committee are asked to note the contents of the report.
  - 2) Members of the Committee are asked to agree the revised 17/18 work plan.
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### Background Papers:

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**Category of Report:** Open

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\* Delete as appropriate

## Statutory and Council Policy Checklist

<b>Financial Implications</b>
No Cleared by: Kayleigh Inman
<b>Legal Implications</b>
NO Cleared by:
<b>Equality of Opportunity Implications</b>
NO Cleared by:
<b>Tackling Health Inequalities Implications</b>
NO
<b>Human rights Implications</b>
NO:
<b>Environmental and Sustainability implications</b>
NO
<b>Economic impact</b>
NO
<b>Community safety implications</b>
NO
<b>Human resources implications</b>
NO
<b>Property implications</b>
NO
<b>Area(s) affected</b>
Corporate
<b>Relevant Scrutiny Committee if decision called in</b>
Not applicable
<b>Is the item a matter which is reserved for approval by the City Council?</b>
NO
<b>Press release</b>
NO

## **REPORT TO SHEFFIELD CITY COUNCIL AUDIT AND STANDARDS COMMITTEE**

**16<sup>th</sup> November 2017**

### **Senior Finance Manager Report**

#### **Purpose of the Report**

1. The purpose of this report is to communicate to members of the Audit and Standards Committee the changes that have been required to the 17/18 tactical plan following the mid-year review.
2. The changes are a result of both the significant transformation programmes that are occurring across all portfolios of the Council, and staffing shortages within Internal Audit.

#### **Background**

3. Internal Audit have always performed a review of the mid-year plan in order to assess whether resources are sufficient to deliver the remainder of the plan, and to take account of any new/emerging risk areas that may need to take priority over planned reviews.
4. A requirement of the PSIAS is to report the outcomes of the mid-year review to the Audit and Standards Committee where changes are deemed to be 'significant'. Within SCC Internal Audit, 'significant' is defined as a variation of 15% of the total number of planned days that will be delivered.
5. This first 6 months of 17/18 has been particularly difficult in terms of plan delivery, due to the levels of transformational change occurring across the authority together with the level of staffing vacancies being carried in Internal Audit. As at the 30<sup>th</sup> September, the PI result for the completion of the plan was only 15% compared to a pro-rata target of 36%.

#### **Transformational Change**

6. A number of significant changes have affected both the structure and operation of the Council this financial year. These changes include the merging of the CYPF and Communities Portfolios to form People Services, the insourcing of major contracts such as Housing Repair and Maintenance and Payroll Services and the introduction of Integra, the new finance system.
7. Whilst the level of transformation was anticipated when the original plan was compiled, and audit reviews of new services and systems were included to

provide assurance, the slower than expected pace of change has meant many of these areas have not yet been fully implemented or integrated and so little value would be added by conducting reviews.

8. As a result there are a large number of planned internal audit reviews that will not be undertaken this financial year. There are 247 days that will need to be deferred into next year (these are identified in appendix 1).
9. The removal of these audits in 2017/18 has assisted the team somewhat given the resource shortfall caused by staffing vacancies.

## Resources

10. On the 1<sup>st</sup> October 2017, there were 1238 days of the original workplan left to deliver (this includes the audits due for deferral due to transformation). The total number of staff days available for the remainder of the year is 883. This equates to a resource shortfall of 355 days to be addressed through the mid-year review process.
11. Staff shortages have largely created through secondment opportunities across the wider Finance Service.
12. The shortfall has been created because:
  - A full-time Finance Officer post has been vacant all year (from April - June 2017 the officer was seconded to FSSG to provide support on implementing the new General Ledger, then in July moved to Tax and Treasury, with a secondment end date of March 18). Cover in Internal Audit will be provided by agency staff from Oct – Dec (with the possibility of extending this), however this still equates to a shortfall of **115 days** or approx. **6 audits**.
  - A full-time CIPFA Graduate Trainee post, originally in the Internal Audit team for a 12month placement, was vacant for 3 months in order to provide cover in Finance Business Partner Communities. (June-Aug 2017 in FBP) – This equates to **39 days** or approx. **2 audits**.
  - A 0.8 FTE Finance Officer was vacant for 4 months from May – Sept 2017 whilst the officer provided cover in the External Funding Team (EFT). This secondment has now been extended until March 2018. The vacancy will be backfilled by agency staff from September to March however this still equates to a shortfall of **36 days** or approx. **2 audits**.
  - A 0.8 FTE Finance Officer was vacant due to maternity leave for 5 months (April – September). This vacancy was scheduled to be covered by a

second CIPFA Graduate Trainee; however this resource was then needed to cover in EFT. The trainee returned to Internal Audit in August 17 and will cover the maternity vacancy until November 17. The maternity vacancy still equates to a resource shortfall of **81 days** or approx. **5 audits**

- A full-time CIPFA Graduate didn't start their planned placement in Internal Audit in September 17, which equates to **33 days** or approx. **2 audits**. Cover is in place from November 17– March 18.
13. The total of 304 days equates to 18% of the original planned resource, and has had the biggest impact in the first 2 quarters of the financial year, hence the PI result explained above.
  14. Plans are now in place to backfill the majority of the vacancies through the use of agency staff and CIPFA trainees, plus the return of the officer on maternity leave which should ensure that we can deliver the revised plan in the remainder of the year.

### Balancing Resources

15. In order to balance the resources available with the number of days work included in the plan, a small number of additional audits have been removed, over and above those deferred because of the transformational changes. These are identified in appendix 3.

	Days
Days left to deliver	1238
Staff resources	883
Resource shortfall	-355
Days removed due to transformation	247
Audit left to remove due to resourcing issues	-108

### New Auditable Areas

16. Due to the continuous change being experienced within the authority, new and emerging risk areas have been identified throughout the first 2 quarters of the financial year. These would arise following quarterly update meetings with the Executive Directors, as a result of unplanned work requests from senior management or from identification of areas by Internal Audit (such as follow-up work on new high opinion audit reviews).

17. Internal Audit managers would assess whether the newly identified areas should take priority over the items originally included in the plan, and would substitute reviews where this is deemed appropriate.
18. In addition to new areas, there are instances where the scope of original planned reviews have been re-focused resulting in slight amendments to the number of audits/days assigned. As an example, the original audit plan contained three audits within the Social Care Accounts Service. This has been revised to 2 due to scope re-focusing.
19. As at the end of September, 155 days of work were substituted within the plan. This has a **net nil** effect on the overall balance of resources, but the areas have been included in this report to give members an idea of the level of change occurring.
20. These reviews are identified in appendix 2 – the first section identifies the original audits that have been removed, and the second section identifies the reviews that have been added to the plan.

### **Audit Assurance**

21. In removing audits from the tactical plan, Internal Audit has been mindful of the original priority assigned to the review. Wherever possible, audits have been removed based on the 'scores' awarded when the area was initially risk-assessed. Consideration has also been given to the overall coverage being achieved in each portfolio, in order that the annual audit opinion can still be given.
22. The audits that have been removed have all been added to the first-call list, which will be revisited as part of the 2018/19 planning process. In most cases the audits that have been deferred from this year's plan will automatically be included in the plan for next financial year.

### **FINANCIAL IMPLICATIONS**

23. There are no direct financial implications arising from the report.

### **EQUAL OPPORTUNITIES IMPLICATIONS**

24. There are no equal opportunities implications arising from the report.

### **CONCLUSION**

25. This first 6 months of 17/18 has been particularly difficult in terms of plan delivery.

26. As a result Internal Audit has had to remove a large number of days from the plan which equates to 18% of the original total resource. For the most part, reviews have been deferred in areas relating to transformational change and these will be picked up in next years' workplan.

#### **RECOMMENDATION**

27. Members of the Audit and Standards Committee are asked to note the contents of the report.
28. Members of the Committee are asked to agree the revised 17/18 work plan.

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## Appendix 1 - Deferred for Service Reasons

	Area	Audit Title	Audit Type	IA Assessed Risk	Proposed assurance to be obtained	Score	Progress
1	Corporate	Project and Programme business case review	RBA	High	To provide assurance that business cases are robust and will deliver planned benefits.	610	Defer - initial scoping identified that a Head of Service has been assigned responsibility for reviewing and refreshing business case templates.
2	Place	Waste Project (Veolia)	Project	High	To provide assurance that the monitoring of the waste project is effective. To also include a review of the steps taken to reaching an agreement with Veolia in relation to savings.	755	Head of FBP asked to defer to 18/19 plan (11 June 17).
3	People - Lifelong Learning and Skills (LLS)	Employability Programme	Project	High	To provide assurance that this project is being effectively managed and controlled to achieved defined outcome and to support vulnerable people to overcome personal and practical barriers and move into sustainable work.	665	Scoped - defer at request service area due to changes within LLS.
4	People	Quality Assurance Process	RBA	High	To provide assurance that an effective and robust quality assurance framework is in place within this service area.	620	Scoped - defer at request service area due to changes within LLS.
5	Policy, Performance and Communication	Internet and Intranet - Channel Shift and Benefits realisation	RBA	High	To provide assurance to management, that the introduction of the new internet and intranet platforms are leading to the benefits realisation of the project by moving more services to an automated channel shift.	570	Initial scoping - not fully operational at the present time
6	People - (Link with Business Strategy)	Childcare Placements	RBA	High	To provide assurance that an effective integrated approach has been adopted by the authority and the NHS, with robust intervention work and identification of high complex cases on a timely basis for effective planning and costings. To include an assessment of the effectiveness of the partnership arrangements with Sheffield Clinical Commissioning Group (CCG), NHS England and other NHS providers to provide a range of joint services to children and families.	705	Scoped - Consultant has been brought in by the service to review this area.

7	Resources - Human Resources	Capability Procedures	RBA	High	To provide assurance to management, that the policies and controls for the management of capability procedures for staff are operating effectively.	610	New procedure being implemented - briefing sessions currently being rolled out for managers.
8	Resources - Human Resources	Pension Arrangement	RBA	High	To provide assurance to management that the data flows in relation to the working relationships with South Yorkshire Pensions Authority are operating effectively	580	HR revising process for managing pension payments following insourcing of Payroll.
9	Place	Homes and Community Agency (HCA) - peer review	Compliance	High	HCA funding controls - peer review	0	defer at mid year point - No review required
10	People	Building Successful Families July 2017 Claim	Grant certification / sign off	Statutory	Statutory responsibility - Phase 2 of the Department for Communities & Local Government (DCLG) Expanded Troubled Families Programme. An audit opinion on the grant usage and assurance that the grant terms and conditions have been complied with. Verification and validation checks on a representative sample of results for the claim submitted.	855	defer at mid year point - No July claim to DCLG not submitted
11	Creative Sheffield	Maker Hub - City Centre Digital Incubator (Castlegate Technology North)	RBA	High	To provide assurance that grant funding conditions are complied with and effective procurement arrangements are in place. Also to ensure that robust governance arrangements are in place and effective value for money is demonstrated.	690	Initial scoping identified that the contract has not yet been let to a developer and so there is nothing to audit at this time.
12	MFS	Rent Income Control	Compliance	High	The system in place for managing and controlling rent income is working effectively and efficiently. Provides assurance to External Audit.	1000	Scoped - but deferred due to integra issues
13		Highways Client Monitoring of Amey Performance	RBA	High	Assurance about the client monitoring role ensuring Amey delivery a high quality and timely service.	730	Initially scoped - team being merged into TTAPS. New processes/procedures will be implemented
14	Transport and Facilities Management and Building Maintenance	Procurement - Including the Use of Subcontractors (HRM Insourcing)	RBA	High	To provide assurances to management that the procedures in place relating to procurement of Goods and Contractors are operating efficiently and effectively	720	Head of Service is aware of the issues with the insourcing of Housing Repairs and Maintenance team. No value to be added by auditing now.

15	Transport and Facilities Management and Building Maintenance	Stock Control (HRM insourcing)	RBA	High	To provide assurance to management that the stores system is being operated effectively and that store are held securely and transactions are undertaken in an effective manner.	720	Head of Service is aware of the issues with the insourcing of Housing Repairs and Maintenance team. No value to be added by auditing now.
16	People	Early Years - including Early Support - Children Centres	RBA	High	To provide assurance following the restructure and cessation of grants to some childcare providers. To consider the impact and effectiveness of the changes and an assessment of children centres.	665	New Head of Service - requested that the audit be deferred until systems and processes have been reviewed

## Appendix 2 - Deferred by Internal Audit and Replaced

### Audits removed

	Area	Audit Title	Audit Type	IA Assessed Risk	Proposed assurance to be obtained	Score	Progress
1	Corporate	Statutory Duty - Assurance Mapping	RBA	High	To provide assurance that we have the capacity and ability to fulfil our statutory duty.	725	Duplicate entry in original plan.
2	Corporate	European Services Directive	Follow up	Medium	Progress made and updated position against the original recommendations made and actions agreed by management. Original audit opinion was M-H.	0	delete as done earlier in year
3	Place	Local Assistance Schemes	RBA	High	To provide assurance that the process is robust and fit for purpose, including a review of the governance arrangements and operational practices.	0	Moved from CYPF and defer at mid year point - reviewed in 15/16 small area
4	Place	Heating Mechanical Engineering capital review	RBA	High	To review the process and evidence in place that support the teams delivery of capital projects	655	defer at mid year point - covered in scope of HRM reviews
5	People	Social Care Accounts Service (SCAS) - deferred payments	RBA	High	To provide assurance that the system in place for dealing with deferred payments for clients is robust.	625	Replaced audit with payments team
6	People	SCAS - process overview	RBA	High	A cross portfolio review of the end to end process for engaging and paying for social care clients to ensure the controls are robust.	725	Replaced audit with Debt Mgt
7	People	SCAS - mental health payments	RBA	High	To review the process and systems in place for the payment to the Sheffield Health and Social Care Trust for the delivery of mental health services.	745	Deferred
8	Resources	Reconciliation controls for main financial systems	Compliance	High	Assurance that the process and controls in place for the reconciliation of main financial systems to the Councils control account are robust.	1000	Defer - duplicate entry in original plan

9	Legal Services	Corporate Governance	RBA	High	To provide assurance to management that the Policies surrounding Corporate Governance are up to date and are operating effectively to safeguard the interests of the Council.	560	replaced with Directors Assurance pilot
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**Audits added back into the 2017/18 tactical plan**

1	People	SCAS - Debt Recovery Team	RBA		New/Substitute		replaced SCAS process overview
2	People	SCAS - Payments Team	RBA		New/Substitute		Replaced SCAS deferred payments
3	ICT	Software Licencing	RBA	High	To provide assurance to management that the processes are adequate to ensure that all systems have the required software licences and that these are being purchased in an effective and economic manner.	520	for cyber security
4	Legal Services	Corporate Governance - re-titled - Directors Assurance	RBA	High	To support Directors in Assurance mapping	560	IA assisting with pilot
5	Finance	Crystal Peaks Service Charge	Grant certification / sign off				New grant
6	People	Training Centres	Follow up	Medium	Progress made and updated position against the original recommendations made and actions agreed by management. Original audit opinion was High.	0	High opinion audit report follow-up
7	People	Follow up - SCAS - Unspent Direct payments	Follow up	New	New		M-H audit opinion follow-up
8	ICT	Cyber Security	RBA	High	To provide assurance to management that the processes for Cyber security prevention, detection and management are being operated in a controlled and efficient manner.	545	Substituted for software licencing.
9	Resources	HR Transition - Insourcing	RBA	High	To provide assurance to management that the insourced processes, to ensure that they are effective and meet the governance requirements of the Council	580	Additional days added to this audit to covering an increased scope.

10	Resources	IR35 Legislation	RBA	High	Off-payroll working in the Public Sector: Reform of the intermediaries legislation (IR35)		Requested by Tax and Treasury team
11	Schools	IR35 Legislation	Control Risk Self-Assessment	High	Off-payroll working in the Public Sector: Reform of the intermediaries legislation (IR35)		Requested by Tax and Treasury team
12	People	BCF - Financial and Performance Monitoring	RBA	High	To provide assurance to management that adequate financial and performance monitoring arrangements are in place for the BCF.		
13	People	Financial Review in Residential Services	Consultancy	High	Support and assistance to Business Strategy		

### Appendix 3 - Deferred to Balance Resources

	Area	Audit Title	Audit Type	IA Assessed Risk	Proposed assurance to be obtained	Score	Progress
1	Technical	Change Control	RBA	High	To provide assurance to management that the processes for system change control and updating are being operated in a controlled and efficient manner.	545	Resourcing
2	Resources - Finance and commercial Services	Sign -off of Financial decisions	RBA	High	To provide assurance to management that all financial decision are identified and are signed off appropriately.	550	Resourcing
3	Resources - Legal Services	Sign - off of Legal decisions	RBA	High	To provide assurance to management that all legal decision are identified and are signed off appropriately.	560	Resourcing
4	Human Resources	Off-payroll working in the Public Sector: Reform of the intermediaries legislation (IR35)	RBA	High	To provide assurance to management that new legislative changes are being adhered to.		Requested by Tax and Treasury in July but team are happy for this to be undertaken next financial year.
5	Schools	Off-payroll working in the Public Sector: Reform of the intermediaries legislation (IR35)	Control Risk Self-Assessment	High	To provide assurance to management that new legislative changes are being adhered to.		Requested by Tax and Treasury in July but team are happy for this to be undertaken next financial year.
6	Resource Link - Payroll Processing System	ResourceLink new application review	Application review	High	To provide assurance to management that the application is being operated effectively.	610	Resourcing
7	Finance and commercial Services	External Grants funding	RBA	High	To provide assurance to management that the processes used to manage the financial and governance arrangements for external grants are operating in an efficient and effective manner.	750	Resourcing

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## Audit and Standards Committee Report

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**Report of:** Director of Legal and Governance

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**Date:** 16 November 2017

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**Subject:** Work Programme

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**Author of Report:** Simon Hughes, Democratic Services  
(Tel - 0114 273 4014)

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**Summary:**

The report provides details of an outline work programme for the Committee

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**Recommendations:**

That the Committee:-

(a) considers the Work Programme and identifies any further items for inclusion;  
and

(b) approves the work programme.

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**Background Papers:** None

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**Category of Report:** OPEN

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## Statutory and Council Policy Checklist

<b>Financial Implications</b>
NO      Cleared by:
<b>Legal Implications</b>
NO      Cleared by:
<b>Equality of Opportunity Implications</b>
NO      Cleared by:
<b>Tackling Health Inequalities Implications</b>
NO
<b>Human rights Implications</b>
NO:
<b>Environmental and Sustainability implications</b>
NO
<b>Economic impact</b>
NO
<b>Community safety implications</b>
NO
<b>Human resources implications</b>
NO
<b>Property implications</b>
NO
<b>Area(s) affected</b>
NONE
<b>Is the item a matter which is reserved for approval by the City Council?</b>
NO
<b>Press release</b>
NO

## **WORK PROGRAMME**

### **1. Purpose of Report**

- 1.1 To consider an outline work programme for the Committee.

### **2. Work Programme**

- 2.1 It is intended that there will be at least five meetings of the Committee during the year with three additional meetings arranged if required. The work programme includes some items which are dealt with at certain times of the year to meet statutory deadlines, such as the Annual Governance Report and Statement of Accounts, and other items requested by the Committee. In addition, it also now includes standards' related matters, including an annual review of the Members' Code of Conduct and Complaints Procedure and an Annual Report on the complaints received.
- 2.2 An outline programme is attached and Members are asked to identify any further items for inclusion.

### **3. Recommendation**

- 3.1 That the Committee:-
- (a) considers the Work Programme and identifies any further items for inclusion; and
  - (b) approves the work programme.

**Gillian Duckworth**  
**Director of Legal and Governance**

Date	Item	Author
14 December 2017	(Additional meeting if required)	
11 January 2018	Progress on High Opinion Audit Reports	Kayleigh Inman (Senior Finance Manager)
	Update on the General Data Protection Regulation/Data Bill	John Curtis (Head of Information Management)
	Standards Annual Report	Gillian Duckworth (Director of Legal and Governance)
	Strategic Risk Management	Richard Garrad (Corporate Risk Manager)
	Work Programme	Gillian Duckworth (Director of Legal and Governance)
8 February 2018	(Additional meeting if required)	
8 March 2018	(Additional meeting if required)	
12 April 2018	Internal Audit Plan 2018/19	Kayleigh Inman (Senior Finance Manager)
	Internal Audit Annual Fraud Report	Kayleigh Inman (Senior Finance Manager)
	Compliance with International Auditing Standards	Dave Phillips (Head of Finance)
	Certification of Claims and Returns Annual Report 2016/17	External Auditor
	External Audit Plan 2017/18	External Auditor
	Annual Audit Fee Letter 2018/19	External Auditor
	Work Programme	Gillian Duckworth (Director of Legal and Governance)
14 June 2018	Summary of the Statement of Accounts	Dave Phillips (Head of Finance)
	Strategic Risk Management	Richard Garrad (Corporate Risk Manager)
	Work Programme	Gillian Duckworth (Director of Legal and Governance)

26 July 2018	Report to Those Charged with Governance (ISA 260)	External Auditor
	Statement of Accounts	Dave Phillips (Head of Finance)
	Annual Governance Statement	Gillian Duckworth (Director of Legal and Governance)
	Information Management Annual Report	John Curtis (Head of Information Management)
	Progress on High Opinion Audit Reports	Kayleigh Inman (Senior Finance Manager)
	Update on Standards Complaints	Gillian Duckworth (Director of Legal and Governance)
	Work Programme	Gillian Duckworth (Director of Legal and Governance)

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