



SHEFFIELD CITY COUNCIL Report to Council

Report of: General Counsel and Monitoring Officer

Date: 7th February 2024

Subject: Review of the Procedure for Dealing with Standards Complaints and Councillor Code of Conduct

Author of Report: David Hollis, General Counsel and Monitoring Officer

Purpose of Report:

This report provides details of (a) proposed revisions to the Procedure for Dealing with Standards Complaints, and (b) proposed changes to the Councillor Code of Conduct.

Recommendations:

That the Council approves the changes to the Procedure for Dealing with Standards Complaints and the Councillor Code of Conduct as outlined in sections 3.1 and 3.2 of the report and as set out in Appendices A and B.

Background Papers: NONE

Category of Report: OPEN

Statutory and Council Policy Checklist

Financial & Commercial Implications
NO
Legal Implications
YES – Cleared by Andrea Simpson
Equality of Opportunity Implications
NO
Climate impact
NO
Tackling Health Inequalities implications
NO
Human Rights implications
NO
Economic impact
NO
Community Safety implications
NO
Human Resources implications
NO
Property implications
NO
Area(s) affected
NONE
Is the item a matter which is reserved for approval by the City Council?
YES
Press release
NO

1. INTRODUCTION

- 1.1 This report provides details of (a) proposed revisions to the Procedure for Dealing with Standards Complaints, and (b) proposed changes to the Councillor Code of Conduct.
- 1.2 On 19th June 2023, the Council's Strategy and Resources Committee agreed a number of actions to respond to the findings and recommendations of the Sheffield Street Tree Enquiry. One of the agreed actions was for the Monitoring Officer to take a report to the Council's Audit and Standards Committee on whether the standards regime and Councillor Code of Conduct needs updating. The Audit and Standards Committee accordingly reviewed the Procedure for Dealing with Standards Complaints and the Councillor Code of Conduct on 23rd November 2023.

2. PROPOSALS

- 2.1 An updated constitution for the City Council, reflecting the committee system of governance to be operated by the Council from the Municipal Year 2022-23, was approved at the annual meeting of the Council held on 18th May 2022. The Council has a legal duty to keep its constitution up to date.
- 2.2 The Council's Constitution sets out how the Council operates, how decisions are made and the procedures that are followed to ensure that these are efficient, transparent and accountable to local people. Some of these processes are required by law, whilst others are a matter for the Council to choose. The Constitution contains 17 Articles in Part 2, which set out the basic rules governing the Council's business. Part 3 of the Constitution sets out who is responsible for making what decisions, including remits of Committees and arrangements for delegation to officers. More detailed procedures and codes of practice are provided in separate rules and protocols contained within the other parts of the Constitution.
- 2.3 In accordance with Article 16 of the Constitution (Review and Revision of the Constitution), changes to the Constitution will only be made with the approval of the Full Council, after consideration of the proposal by a Committee of the Council, the Chief Executive or the Monitoring Officer. In addition, however, the Director of Legal and Governance, in consultation with the Lord Mayor, has delegated authority to make any minor and consequential drafting changes to the Constitution.

3. PROPOSED CHANGES AND REASONS

- 3.1 Procedure for Dealing with Standards Complaints

- 3.1.1 The appendix to the Monitoring Officer Protocol (within Part 5 of the Constitution) is the Procedure for Dealing with Standards Complaints Regarding City, Parish and Town Councillors and Co-opted Members.
- 3.1.2 Minor changes to the Procedure for Dealing with Standards Complaints were recommended by the Audit and Standards Committee and approved by Full Council in September 2023. On reviewing the Procedure again in November 2023 that Committee has proposed that several enhancements be made to it.
- 3.1.3 The main proposed change to the Procedure is that the role of the Consideration Sub-Committee is removed. This will enable investigations to be completed within the 12 weeks recommended as a reasonable time frame for investigations by the Local Government and Social Care Ombudsman (LGO) and eliminate duplication of processes. The Hearing Sub-Committee may exercise any powers that are currently available to the Consideration Sub-Committee.
- 3.1.4 Other proposed changes are:
- Explanation added of what happens if the Monitoring Officer having a conflict of interest which prevents him acting under the Protocol, to reflect current practice;
 - Clarification of the circumstances in which the Monitoring Officer may make a written complaint in his own name;
 - Setting out a Member's rights to make representations during an investigation, to participate in the Hearing Sub-Committee hearing and to make representations before a decision is made that a breach has occurred;
 - Rewording of the sanctions to give a consistent approach to grouped and ungrouped Members and to extend the sanction to include removal from external appointments made by Full Council;
 - An additional formal sanction in a case where a breach is found which relates to use of the Council's IT systems, that the Member's access to those systems is withdrawn;
 - Clarification of the circumstances in which a complainant may complain the LGO, more clearly reflecting the LGO's own guidance.
- 3.1.5 The proposed changes to the Procedure are set out in Appendix A to this report. The flow chart at the end of the Procedure has been amended to remove the Consideration Sub-Committee stage but these amendments are not shown as track changes.

3.2. Councillor Code of Conduct

- 3.2.1 The Councillor Code of Conduct (within Part 5 of the Constitution), which was approved and adopted by full Council in June 2021, is the Local Government Association's model code of conduct, with the incorporation of elements of the Council's previous code of conduct. Minor amendments

to the Code were approved by Full Council in November 2022 and September 2023. On reviewing the Code again in November 2023 the Audit and Standards Committee has proposed that further minor amendments be made to it.

- 3.2.2 In addition to the formal noted sanctions, the Complaints Procedure also provides for informal mediation and other similar means of informally resolving the dispute which are considered throughout the process. In the majority of cases, informal resolution is always the preferred conclusion. To provide consistency it is recommended that Paragraph 8.4 of the Code of Conduct be amended to include compliance with any informal resolution as well as with any formal sanction imposed following a finding that the Code of Conduct has been breached.
- 3.2.3 Paragraph 10 (Gifts and Hospitality) has been updated to cover the omission of occasions where to refuse incidental gifts or hospitality may cause personal or cultural offence to the donor and to clarify when incidental hospitality may be accepted and when it should be refused.
- 3.2.4 The Monitoring Officer has also proposed minor changes to the Code:
- The list of specific policies at Appendix D has been removed to avoid the risk of reference to out of date documents; instead Members are now required to have regard to the relevant policies at Paragraph 2 (Bullying, Harassment and Discrimination) and Paragraph 7 (Use of Local Authority Resources and Facilities).
 - Appendix B (Registering Interests) has been edited to make the process clearer; there is no change to the interests that must be registered.
- 3.2.5 The proposed changes to the Councillor Code of Conduct are set out in Appendix B to this report.

4. RISK ANALYSIS & IMPLICATIONS

4.1 Legal Implications

- 4.1.1 Except where delegated by Council as indicated at paragraph 2.4, variations to the Constitution may only be made by Full Council.

Under Section 9P of the Local Government Act 2000, the Council must prepare a constitution and keep it up to date. It must be available to the public and, under the Local Government Transparency Code 2015, be published on the Council's website. The proposed changes in this report will bring parts of the Constitution up to date to comply with the legislation.

4.2 Financial and Commercial Implications

- 4.2.1 There are no financial or commercial implications.

4.3 **Equality of Opportunity Implications**

4.3.1 There are no Equality of Opportunity implications.