

Standards Committee

11 June 2018

Part I

Review of the Constitution – Codes of Conduct

Report by Director of Law and Assurance

Summary

As part of a wider review of the Council's Constitution, the opportunity has been taken to review the existing Codes of Conduct and other supporting advice notes, with an aim of streamlining and simplifying the information to be found in the Constitution. This should make it easier for members, officers and the public to find information about standards in the Constitution.

Recommendation

- (1) That the proposed revisions to the Code of Conduct included in Part 5 Sections 1 and 2 attached be supported for submission to the County Council for approval.
- (2) That the proposed removal of Part 5 Sections 8-13 and the proposed removal of the corporate advice notes be supported for submission to the County Council for approval.
- (3) That authority be delegated to the Director of Human Resources to make and amend future policies relating to staff conduct in consultation with the Director of Law and Assurance.

Proposal

1. Background and Context

- 1.1 The Codes of Conduct exist to promote and clarify expected standards of behaviour from elected members, to set out expectations in reporting of interests and to explain how members can be held to account.
- 1.2 A national code of conduct was in place until 2012, when it was replaced by statutory provisions for serious misconduct to be dealt with through criminal procedures, by requirements to declare pecuniary interests and otherwise leaving councils to set their own codes of conduct. The Standards Committee at the time agreed to a minimal change to the arrangements then in place which retain many aspects of the former national code.
- 1.3 A by-product of the former national code was the need to capture related rules and provisions elsewhere, with several corporate advice notes being included in section 8 of the Constitution to cover matters including predetermination and bias and guidance on support for political group meetings. Part of Standing Orders also included rules on interests in relation

to select committees. As the national code has been abolished, it is proposed to incorporate these sections into the main code of conduct, reducing duplication.

- 1.4 As a separate issue it is also the case that the existing codes of conduct include a number of corporate and HR policies relating to officers that should sit with other corporate and HR policies in relevant sections of the intranet, directed at officers, rather than within the Constitution, which should focus on providing a set of rules for the discharge of Council business.

2. Proposal

- 2.1 It is proposed that the Codes of Conduct be streamlined as part of a wider review of the Constitution. The Governance Committee will be considering the other revisions to the Constitution ahead of recommendations to the County Council in July 2018.
- 2.2 The aim of these changes covered in this report is to put all advice about interests and member and officer relations into a smaller code of conduct, with four parts:
- Code of Conduct
 - Protocol on Relationships between Members and Officers.
 - Code of Practice on Probity in Planning and Protocol on Public Participation at Planning and Rights of Way Committees
 - Code of Practice on Publicity
- 2.3 This should make it easier for members and officers to navigate the relevant sections without reference to other sections of the Constitution. It is not proposed to change the substance of any of the material.
- 2.4 The main changes in how the material is presented result in a revised Part 5 Section 1 (Code of Conduct) and a revised Part 5 Section 2 (Protocol on Relationships between Members and Officers). The other sections of the Code to be retained would be the 'Code of Practice on Probity in Planning and Protocol on Public Participation at Planning and Rights of Way Committees' and the 'Code of Practice on Publicity'. These would simply be re-numbered.
- 2.5 Several existing sections of the Code of Conduct – advice on how to make a complaint, gifts and hospitality and member IT, have been incorporated into the main Code of Conduct. Key guidance has been retained, but some detail has been removed, most notably detail of the 'acceptable usage policy' in the IT protocol – the proposed new version simply states that members must abide by it, without going into the content, which is available on the intranet.
- 2.6 The following Corporate Advice Notes have been incorporated into Part 5 Section 1 and Part 5 Section 2. Duplication have been removed.
- **Section 1** (Briefing Members for Public Occasions): some elements incorporated into new Part 5 section 2.
 - **Section 3** (Members' Statements of Opinion in the Community) – move to new Part 5 Section 1.
 - **Section 7** (Protocol for Local Member Notification) move relevant elements to new Part 5, Section 2.

- **Section 8** (Protocol on officer attendance at group meetings): move relevant elements to new Part 5, Section 2.
- 2.7 To replace these sections and the current Standing Order 57(10) additions have been made to Part 5 Section 1 (including the addition of New Part 5 and New Part 6) and Part 5 Section 2.
- 2.8 It is proposed to remove a number of parts of the existing Part 5 of the Constitution (listed below). These are HR or Corporate policies which can be moved to sit on the intranet. There should be some reference within the Constitution to these policies (i.e. that all decisions should be compliant with the following legislation/policies, that are set out elsewhere)
- **Section 8 Guidance on Human Rights Act:** corporate policy
 - **Section 9 Guidance on Propriety and Official Conduct for Officers:** HR policy
 - **Section 10 Anti-Fraud and Corruption Strategy:** corporate policy
 - **Section 11 Anti Bribery Policy and Procedures:** corporate policy
 - **Section 12 Confidential Reporting Policy:** HR policy
 - **Section 13 Equality of Opportunity Value Statement and Policy:** corporate policy
- 2.19 It is proposed to simply refer to the need for staff to meet expected high standards of conduct based on the Nolan Principles within Part 5, Section 2. It is proposed that a new delegation be made to the Director of Human Resources to make and amend future HR policies relating to staff conduct. This would not affect the current arrangement that regular reports would be made to the committee on the confidential reporting policy.

3. Resources

- 3.1 None as the report deals with a technical change only.

Factors taken into account

4. Consultation

- 4.1 Mr Burrett and Mr Mitchell have been consulted on the proposed draft, as agreed by political group leaders.

5. Risk Management Implications

- 5.1 A strong ethical standards culture in the Council guards against possible reputational risks, with the associated likely damaging of public confidence through poor member conduct. Making the Code of Conduct a more unified document should make it easier for members, officers and the public to be aware of all expectations to promote strong ethical standards.

6. Other Options Considered

- 6.1 The County Council is not formally required to review the Constitution at this stage, but it is recommended that the identified streamlining is carried in view of the Council's commitment to high ethical standards.

7. Equality Duty

7.1 There are no equality duty implications.

8. Social Value

8.1 There are no social value implications.

9. Crime and Disorder Act and Human Rights Act Implications

9.1 None.

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Appendix – Proposed Part 5 Section 1 and Part 5 Section 2 (available electronically or in hard copy on request).

No Background Papers