

	<p><b>Council</b></p> <p><b>8 December 2015</b></p>
<p><b>Title</b></p>	<p><b>Report of the Constitution Ethics and Probity Committee – The Standards Regime</b></p>
<p><b>Report of</b></p>	<p>Monitoring Officer</p>
<p><b>Wards</b></p>	<p>All</p>
<p><b>Status</b></p>	<p>Public</p>
<p><b>Enclosures</b></p>	<p>Annex 1 – Report to Constitution Ethics and Probity Committee, 16 November 2015                  Appendix A: Protocol – Complaints against Members                  Appendix B: Protocol – Complaints against Members (with recommended amendments as track changes)</p>
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### Summary

The Constitution, Ethics and Probity Committee at its meeting of 16 November 2015 considered a report on the Standards regime, and the current arrangements in place for the investigation of and decisions on allegations of breaches of the Code of Conduct for Members. In particular, the report considered possible options for the replacement of the Group Leaders Panel (the body which considers whether or not the behaviour complained of is a breach of the Code of Conduct) , and a draft protocol setting out how complaints that a Member has breached the Code of Conduct will be dealt with. This report sets out the recommendations made to the Council by the Committee.

## **Recommendations**

**That the Council agree:**

- 1. To establish a new Standards Committee comprising four members of the Council and an Independent Person (as a co-opted member of the Committee) to replace the Group Leaders Panel.**
- 2. Not to apply the political balance requirements contained in the Local Government and Housing Act 1989 to the new Standards Committee, and that each of the two political Groups on the Council shall have two seats on the Committee (with two substitute members for each Group).**
- 3. To appoint the Independent Person as the Chairman of the Standards Committee.**
- 4. To approve the amended “Protocol – Complaints against Members” attached at Appendix 2 as the Council’s arrangements for the investigation of complaints that a Member has breached the Code of Conduct and for taking decisions on such complaints, as required by Section 28 of the Localism Act 2011.**
- 5. That the Monitoring Officer be authorised to implement and publish the consequential changes to the Constitution.**

***(NOTE: To take effect, recommendation 2 must be agreed without any member of the Council voting against – Section 17(1)(b) of the Local Government and Housing Act 1989. The Independent Person will be a non-voting Chairman of the Committee.)***

### **1. WHY THIS REPORT IS NEEDED**

- 1.1 Section 27 of the Localism Act 2011 imposes a duty on the Council to “promote and maintain high standards of conduct by members and co-opted members” of the Council. The Council is required to adopt a code dealing with the conduct that is expected of Members and co-opted Members of the Council when they are acting in that capacity, and must have in place arrangements under which allegations that a member has failed to comply with the code of conduct can be investigated, and arrangements under which decisions on allegations can be made. Those arrangements must include the appointment of at least one “independent person”, whose views must be sought, and taken into account, before any decision on an allegation which has been investigated is taken.
- 1.2 The Council has delegated to the Constitution Ethics and Probity Committee the general function of promoting and maintaining high standards of conduct by Members, and the functions of considering and making recommendations to the Council on the contents of the Code of Conduct for Members, and on ethical standards in general across the authority. It has delegated to the Group Leaders Panel the function of investigating and determining any allegations of a

breach of the Code of Conduct by individual members. The Group Leaders Panel comprises five members and, by convention, the membership includes the Leaders of the political groups. The Panel is required to take into account the views of an Independent Person when reaching its decision, but an Independent Person is not a member of the Panel.

- 1.3 It is desirable that any arrangements in place have cross party support, if possible, which they do not have at present. The duty to promote and maintain high standards of Member conduct carries with it the obligation to ensure that the system for dealing with complaints should be fair, effective, and one that has the confidence of all those potentially affected, and the public.
- 1.4 At its meeting on 16 November the Committee received a report setting out options for change to the current arrangements. The report is attached as Annex 1. The Committee resolved to recommend Option 3 set out in the report to Council. The Committee also decided to recommend that the Chairman of the new Standards Committee which Option 3 involves should be the Independent Person. This means the Chair of the Standards Committee would be a non-voting member of the Committee, because a member who has not been elected does not have a vote unless specifically given one by legislation. As the new Committee would not comply with the statutory provisions relating to political balance, its establishment requires the approval of the Council with no member voting against.
- 1.5 Who to appoint to the new Standards Committee would be a matter for the two political groups. However the intention of the Committee, and the Leaders of the two Groups, is that the appointees should be those members who have the longest continuous length of service. Two substitute members on each side will be necessary to deal with any conflicts of interest or timing issues.
- 1.6 The Committee also decided to recommend, subject to the amendments shown as tracked changes in Appendix 2, a revised Protocol setting out how complaints alleging a breach of the Code of Conduct by a member will be dealt with, for the reasons set out in the report to the Committee.

## **2. REASONS FOR RECOMMENDATIONS**

- 2.1 The Council has a duty to promote and maintain high standards of conduct by members, and to have in place arrangements for dealing with allegations that a member has breached the Code of Conduct for Members which are effective and fair. The recommendations of the Committee are designed to ensure those duties continue to be complied with.

### **3. ALTERNATIVE OPTIONS CONSIDERED AND NOT RECOMMENDED**

3.1 As set out in the report to the Constitution Ethics and Probity Committee

### **4. POST DECISION IMPLEMENTATION**

4.1 Any new complaints about member conduct, and any existing complaints which have not yet been dealt with, will be dealt with under the new agreed arrangements. The Constitution Ethics and Probity Committee will continue to keep the arrangements under review and may make further recommendations in the next municipal year.

### **5. IMPLICATIONS OF DECISION**

#### **5.1 Corporate Priorities and Performance**

5.1.1 The Council has a statutory duty under the Localism Act 2011 to promote and maintain high standards of conduct by members and co-opted members of the Council.

#### **5.2 Resources (Finance & Value for Money, Procurement, Staffing, IT, Property, Sustainability)**

5.2.1 There will be a requirement to recruit and train an additional Independent Person or Persons. The Constitution Ethics and Probity Committee will receive a report on that issue at its next meeting. The Independent Person co-opted onto the Committee will receive an allowance in accordance with section 6 (Independent Members and Co-optees' Allowances) of the Members Allowance Scheme in the Constitution (£127 for each meeting). Any costs arising would be met from the existing Members Allowances budget.

#### **5.3 Legal and Constitutional References**

5.3.1 The Council's Constitution, Responsibilities for Functions, Annex A – the Constitution, Ethics and Probity Committee terms of reference includes responsibility for promoting and maintaining high standards of conduct by members, and the functions of considering and making recommendations to the Council on the contents of the Code of Conduct for Members, and on ethical standards in general across the authority.

5.3.2 The recommendations in this report will, if agreed, meet the Council's obligations to have in place a process to deal with complaints made in relation to alleged breaches of the Councillor's Code of Conduct.

#### **5.4 Risk Management**

5.4.1 The proposals set out in this report are designed to reduce the risk of reputational damage to the Council and to individual members arising from any

perception that the Council's arrangements for dealing with complaints about member conduct are not fair or not effective

## **5.5 Equalities and Diversity**

5.5.1 The decision making processes of the Council, as enshrined within the Constitution, need to be transparent and accessible to all sectors of the community.

## **5.6 Consultation and Engagement**

5.6.1 No public consultation has taken place in relation to the proposed change.

## **6. BACKGROUND PAPERS**

6.1 None.