

Report to: Audit & Governance Committee Meeting – 25  
September 2024

Director or Business Manager Lead: Sue Bearman – Assistant Director Legal & Democratic  
Services, Monitoring Officer

Lead Officer: [Sue.Bearman@nsdc.info](mailto:Sue.Bearman@nsdc.info)  
01636 655935

<b>Report Summary</b>	
<b>Report Title</b>	Review of Arrangements for dealing with Code of Conduct Complaints regarding Councillors
<b>Purpose of Report</b>	To approve updates and revisions to the Council’s Arrangements for dealing with Code of Conduct Complaints regarding Councillors
<b>Recommendations</b>	That the Council’s arrangements for dealing with Code of Conduct Complaints as updated and attached at Appendix B of the report are approved.  To recommend to Cabinet that the Council’s Independent Persons are awarded an inflationary pay increase in line with the Chief Officer pay award rate in 2025-26 and each year until the end of the 4-year term in 2027 at which time a further review should be undertaken.
<b>Reason for Recommendation</b>	To ensure arrangements are up to date and fit for purpose

## **1.0 Background**

- 1.1 The Audit & Governance Committee is responsible for overview of the Council’s Members’ Code of Conduct, arrangements for dealing with Code of Conduct complaints and associated protocols, recommendations as to the adoption of and/or amendments to the Code, arrangements, and associated protocols.
- 1.2 The Full Council adopted the Local Government Association’s (LGA) Model Code of Conduct for Councillors in July 2021, subject to minor local amendment. The LGA had developed a Model Code following consultation with the local government sector.
- 1.3 Since then the LGA has published detailed guidance to assist local authorities implement the Code of Conduct and handle complaints.

- 1.4 In April 2024 the Audit & Governance Committee agreed that a review of the process for dealing with complaints be undertaken by Members of the Audit & Governance Committee at an informal workshop, and that proposals be presented at the earliest opportunity to the Committee for formal consideration. The review was to include consideration of relevant Local Government Association (LGA) guidance, consultation with the Council's Independent Persons, and consideration of the time commitment required by the Independent Persons to undertake the role.
- 1.5 A workshop took place on 18 July 2024, with four Members present. The current arrangements for dealing with standards complaints are included at Appendix A for reference.

## **2.0 Proposal/Options Considered**

- 2.1 Members agreed that the Council's arrangements should be consistent with the guidance issued by the LGA. The updated arrangements include specific reference to this with the aim of future-proofing for LGA updates. For clarity the criteria for assessment are set out in the Council's revised arrangements, which are attached at Appendix B (to follow).
- 2.2 At the workshop, Members agreed there should be provision for rejecting frivolous/vexatious complaints or complaints that are so minor it would be disproportionate use of resources to take further action; that anonymous complaints should normally be rejected; and that bare allegations with no evidence provided would normally be rejected. The feedback from Members at the workshop largely reflected the guidance commentary issued by the LGA for dealing with complaints. The Monitoring Officer proposed that complaints would be handled taking into account proportionality and the level of resource required. Complaints should normally be accepted where there is something of serious concern and would be of benefit of the public to look into.
- 2.3 Members discussed the benefits of the arrangements allowing for the Monitoring Officer to refer a complaint to Committee for assessment in appropriate circumstances. It was considered appropriate to keep this provision but provide some clarification on the type of complaint this might be appropriate for; the examples provided are where the Monitoring Officer has a conflict of interest or where the matter is particularly high profile. It was also agreed that it would be preferable to convene a sub-committee in these circumstances.
- 2.4 Members discussed the benefits of political group involvement in resolving issues. The proposed arrangements include provision for the Monitoring Officer to refer complaint to a political group for resolution.
- 2.5 The confidentiality provisions have been reviewed and updated to provide clarity for complaints and councillors who are the subject of a complaint.
- 2.6 The workshop was provided with links to neighbouring authorities' arrangements for dealing with complaints. Most were very similar to Newark & Sherwood's arrangements as they were based on a model procedure that was published some

years ago. One included a paragraph about how complaints regarding dual-hatter Members should be handled. For completeness the Monitoring Officer suggested adding this to the updated arrangements.

- 2.7 The current arrangements say that initial assessment should be undertaken within 14 days of receipt of a complaint. However, this has proved challenging to achieve. It is therefore proposed that complaints are acknowledged within 5 working days, and then assessment within 20 working days or longer by agreement. It is also proposed to add a provision for both complainant and the councillor who is the subject of the complaint, to be updated on progress every 30 days if the matter is not concluded at the initial assessment stage.
- 2.8 Members noted that it is not open to the Council to introduce harsher sanctions than allowed by the legislation. Therefore, that aspect of the arrangements has not been amended. However, for clarity a summary of the sanctions available is included near the top of the document. This is following feedback from some complainants to the Monitoring Officer that it might be helpful to manage expectations at the outset of the complaints process.
- 2.9 No substantive amendments have been made to the investigation and hearing process. However, for transparency the hearing process will now be published as part of the procedure.
- 2.10 Updates will be made to the forms that are published on the Council's website to ensure they include up to data privacy statements in order to comply with data protection legislation, and equalities provisions regarding assistance for submitting complaints in writing.
- 2.11 Regarding the role of the Independent Persons, feedback we have received from them is that in the past 12 months they have spent approximately 25-30 hours considering complaints but as Members will be aware there have been a far greater number of complaints when compared to previous years. The Independent Persons have also highlighted the increase in the number of complaints around disrespect with an initial complaint about conduct leading to a further one.
- 2.12 We have consulted with neighbouring monitoring officers and there is a mixed picture in terms of payments for Independent Persons, with some authorities making no payment. It is suggested that as the Council's rate (currently at £1,500) has not increased in several years, the Audit & Governance Committee should recommend an inflationary increase in 2025-26 and each year until the end of the 4-year term in 2027 when this can be reviewed again. It is proposed that a reasonable inflation rate would be to use the Chief Officer pay award rate.

### **3.0 Implications**

In writing this report and in putting forward recommendations, officers have considered the following implications: Data Protection; Digital & Cyber Security; Equality & Diversity; Financial; Human Resources; Human Rights; Legal; Safeguarding & Sustainability and where appropriate they have made reference to these implications and added suitable expert comment where appropriate.

- 3.1 It is a legal requirement for the Council to adopt a code of conduct consistent with the Nolan Principles of standards in public life including provision for the registration of interests; and to have arrangements in place under which allegations can be investigated, and decision on allegations made. It is also a legal requirement to appoint at least one independent person.

### **Financial Implications 24-25/9246**

- 3.2 Currently there are two Independent Person's for which are both receive £1,500 in remuneration. The current budget for the 24/25 financial year is £3,300.
- 3.3 Within the MTFP, inflation had already been assumed on the £3,300 and hence there is £3,465 in 2025/26. This would therefore accommodate the proposed increase in cost.

### **Background Papers and Published Documents**

Except for previously published documents, which will be available elsewhere, the documents listed here will be available for inspection in accordance with Section 100D of the Local Government Act 1972.

Current arrangements for dealing with Councillor Code of Conduct complaints are published on the Council's website - <https://www.newark-sherwooddc.gov.uk/media/nsdc-redesign/documents-and-images/your-council/your-council/councillors-and-committees/code-of-conduct/complaintFormGuidance.pdf>

The Council's Constitution is published on its website and includes the Code of Conduct - <https://www.newark-sherwooddc.gov.uk/constitution/>

Full Council report July 2021 – Item 24 - <https://democracy.newark-sherwooddc.gov.uk/ieListDocuments.aspx?CId=139&MId=564>

Audit & Governance Committee report June 2023 – Item 9 - <https://democracy.newark-sherwooddc.gov.uk/ieListDocuments.aspx?CId=298&MId=874>

Audit & Governance Committee report April 2024 – Item 13 - <https://democracy.newark-sherwooddc.gov.uk/documents/s19653/Item%2013%2024.04.24%20-%20Review%20of%20the%20Procedure%20for%20handling%20Code%20of%20Conduct%20Complaints.pdf>

LGA Guidance on LGA Model Councillor Code of Conduct - <https://www.local.gov.uk/publications/guidance-local-government-association-model-councillor-code-conduct>

LGA Guidance on Member Model Code of Conduct Complaints Handling - <https://www.local.gov.uk/publications/guidance-member-model-code-conduct-complaints-handling>