

<b>Report to:</b>	<b>Audit and Standards Committee</b>
<b>Date:</b>	<b>26 July 2021</b>
<b>Title:</b>	<b>Amendments to ethical standards governance</b>
<b>Report of:</b>	<b>Monitoring Officer</b>
<b>Ward(s):</b>	<b>All</b>
<b>Purpose of report:</b>	<b>To seek the Committee's approval to amendments relating to the Council's ethical governance framework.</b>
<b>Officer recommendation(s):</b>	<p><b>That the Committee:</b></p> <p><b>(1) approves the amended Audit and Standards Committee terms of reference, as set out in Appendices 1 and 2;</b></p> <p><b>(2) approves the amended arrangements for dealing with complaints about councillors, as set out in Appendix 3;</b></p> <p><b>(3) authorises the Monitoring Officer to update the Council's constitution and supporting documents to reflect the amendments referenced above.</b></p>
<b>Reasons for recommendations:</b>	<b>The proposed amendments reflect national best practice and the need for clear and comprehensive governance.</b>
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## **1 Introduction**

- 1.1 The Audit and Standards Committee's terms of reference require greater clarity over (i) the procedure for appointing Independent Persons and (ii) the arrangements for Standards Panels. The necessary amendments to those terms of reference are explained in section 2 below.
- 1.2 One of the recommendations by the Committee on Standards in Public Life in their review of local government ethical standards concerned the procedure the Monitoring Officer should adopt in assessing complaints about councillor conduct. The proposed amendments to this procedure are explained in section 3 below.

## **2 Audit and Standards Committee Terms of Reference**

- 2.1 The Committee's existing terms of reference, set out at Part 11 of the Constitution, do not adequately specify the role of the Committee Chair in appointing Independent Persons. Paragraph 3.5 of the amended terms of reference (see Appendix 1) rectifies this. For consistency, paragraph 9.2 of Article 9 of the Constitution has also been amended (see Appendix 2).
- 2.2 The amended terms of reference also provide clarity over the status, composition and functions of the Standards Panel, which operates as a sub-committee of the Audit and Standards Committee. Provisions relating to Standards Panel hearings are also included now. These amendments are at paragraph 3.6 of the new terms of reference (see Appendix 1).
- 2.3 For ease of reference, all the constitutional amendments are shown as tracked changes in Appendices 1 and 2.

### **3 Arrangements for Dealing with Complaints about Councillor Conduct**

- 3.1 The Committee on Standards in Public Life has recommended that, as a matter of best practice, the initial assessment by Monitoring Officers of complaints about councillor conduct should comprise a two-part test: (1) whether the MO *can* formally investigate the complaint and (2) whether he/she *should* formally investigate.
- 3.2 This two-part test and its individual elements have been incorporated in the amended set of arrangements set out in Appendix 3 – see text in red on pages 2 to 3.
- 3.3 The test helps to ensure that only those complaints which could amount to a breach of the Code of Conduct and which would justify a formal investigation on grounds of seriousness, proportionality and public interest would qualify. Public interest factors include the cost to the Council (and ultimately the taxpayer) of conducting a full investigation.

### **4 Financial appraisal**

- 4.1 There are no immediate direct revenue consequences arising to the Council as a direct result of approving the proposed amendments to ethical standards governance detailed within this report. The cost of administering the Council's ethical governance framework is met from existing budgets.

### **5 Legal implications**

- 5.1 The Audit and Standards Committee has power to amend its own terms of reference. There is no requirement to seek the approval of the full Council.
- 5.2 Under section 28(6) of the Localism Act 2011, the Council must put in place arrangements under which allegations that a member has failed to comply with the authority's code of conduct may be investigated. The arrangements set out in Appendix 3 satisfy this requirement.

### **6 Risk management implications**

6.1 Once approved, the amendments referred to in Appendices 1 to 3 will ensure the Council's ethical standards framework is comprehensive, clear and reflects best practice.

## **7 Appendices**

7.1 Appendix 1 – Amendments to Audit and Standards Committee terms of reference in part 11 of the Constitution

7.2 Appendix 2 – Amendments to Audit and Standards Committee terms of reference in Article 9 of the Constitution

7.3 Appendix 3 – Amendments to the Council's arrangements for dealing with complaints about councillor conduct

## **8 Background papers**

8.1 The background papers used in compiling this report were as follows:

- 8.2
- Local government ethical standards report by the Committee on Standards in Public Life - <https://www.gov.uk/government/publications/local-government-ethical-standards-report>