



# COTSWOLD DISTRICT COUNCIL

Council name	<b>COTSWOLD DISTRICT COUNCIL</b>
Name and date of Committee	<b>AUDIT COMMITTEE - 30 JULY 2020</b>
Report Number	<b>AGENDA ITEM (16)</b>
Subject	<b>THE ROLE OF AUDIT COMMITTEE IN RELATION TO CONDUCT/STANDARDS</b>
Wards affected	ALL
Accountable member	Cllr. Patrick Coleman - Chair of Audit Committee Email: <a href="mailto:patrick.coleman@cotswold.gov.uk">patrick.coleman@cotswold.gov.uk</a>
Accountable officer	Bhavna Patel - Monitoring Officer Tel: 01285 623219 Email: <a href="mailto:bhavna.patel@cotswold.gov.uk">bhavna.patel@cotswold.gov.uk</a>
Summary/Purpose	To consider the role of the Audit Committee in relation to conduct/standards.
Annexes	Annex A - Briefing Paper dated July 2012 Annex B - Complaints about councillors Annex C - Arrangements for dealing with member misconduct Annex D - Flowchart - procedures for investigating complaints about councillors
Recommendation/s	<i>It is recommended that the Committee:</i> <i>a) notes the report;</i> <i>b) considers its role in relation to conduct/standards and;</i> <i>c) makes recommendations to the Constitution Working Group on any changes following debate.</i>
Corporate priorities	Ensure that all services delivered by the council are delivered to the highest standard
Key Decision	No
Exempt	No
Consultees/ Consultation	Cllr. P Coleman - Chair of Audit Committee, Dr C Gore - Interim Chief Executive, Mrs J Poole - S151 Officer.

## **1. BACKGROUND**

- 1.1.** Following the change in the standards regime brought about by the Localism Act 2011 ("the Act"), Council resolved that any complaints about the conduct of members should be dealt with in accordance with the arrangements stipulated in the Act.
- 1.2.** The Monitoring Officer submitted a Briefing Paper for members and a regime for dealing with code of conduct complaints was agreed by Council.
- 1.3.** Both the Briefing Note and the Arrangements for dealing with the complaints are annexed to this report as Annex A and Annex C respectively.
- 1.4.** Annex B explains how complaints about members can be made.

## **2. MAIN POINTS**

- 2.1.** The Act states that when a complaint that a member has breached the Members' Code of Conduct is submitted, the Monitoring Officer (MO) must consult the Council's Independent Persons (IP) to ascertain if there is a case to answer.
- 2.2.** If the MO and the IP determine there is no case to answer, the MO usually writes to the subject member and the complainant informing them that there is no case to answer by issuing a Decision Notice. Unlike the old regime for dealing with Code complaints, there is no right of appeal against this decision.
- 2.3.** If the MO and IP determine there is a case to answer and the complaint warrants an investigation, then the MO writes to the subject member complained about and the complainant that the complaint warrants an investigation (usually a Decision Notice is issued). The matter is passed to an Investigation Officer who will investigate the matter and compile a report of their finding with recommendations. If the Investigating Officer concludes and recommends there is no breach, the MO writes to the subject member and complainant and informs them of the decision. There is no right of appeal. It should be noted that the bar for an investigation is set high as the ability to sanction is very diluted by the Act.
- 2.4.** If the Investigating Officer finds there is a case to answer then the matter will be brought before the Audit Committee to hear the complaint, reach a decision and impose any sanctions. The Act has taken away a majority of the sanctions available. The available sanctions are: censure; report the findings of the Audit Committee (as the Hearing Committee) to full Council and publish the finding on the Council's Website; exclude the subject member from the Council premises (other than Council meeting rooms when necessary for the attendance of Council/Committee meetings); withdrawal of Council facilities (for example – computer); instruct the MO to provide training; recommend to Cabinet/Council that the subject member be removed from any outside body; inform the Group Leader that Committee recommended the subject member be removed from Cabinet/Portfolio responsibilities; and inform Group Leader (or if an independent member – full Council) that the Committee recommend the removal of the member from a committee.
- 2.5.** The Act does not give the MO or indeed, the Committee, powers to enforce their outcome and if the subject member or Group Leader chooses to ignore the recommendation there is little that can be done.

- 2.6. The role of the Audit Committee only comes into play when there is a hearing. The current arrangements for handling complaints are laid down in the Act and this is the regime that MO follows.
- 2.7. The MO would normally report to the Audit Committee the number of complaints that have been received in the year. Over the last few years with the Cotswold District, there have been very few complaints. None have until recently been about district councillors. At the next Audit Committee meeting the Committee will be informed of complaints that are currently active.
- 2.8. The Council only has one Independent Person and he has not been contactable for some time despite numerous attempts. The MO has been consulting the IP for the Forest of Dean DC in relation to recent complaints which he has agreed to do. The MO will seek to advertise and recruit for an IP following the lifting of social distancing restrictions imposed during the Covid-19 pandemic. However at the last attempt at recruitment the Council only had one applicant who was appointed.
- 2.8.1. The Audit Committee has a limited role to play in the standards regime as the arrangements are laid down statute. Nevertheless, the Committee is requested to consider its role and make recommendations to the Constitution Working Group for consideration.

### **3. FINANCIAL IMPLICATIONS**

- 3.1. None.

### **4. LEGAL IMPLICATIONS**

- 4.1. The Council is required to put in place arrangements for dealing with complaints about members under the Localism act 2011.

### **5. RISK ASSESSMENT**

- 5.1. None.

### **6. ALTERNATIVE OPTIONS**

- 6.1. Not applicable.

### **7. CLIMATE CHANGE IMPLICATIONS**

- 7.1. Not applicable.

### **8. BACKGROUND PAPERS**

- 8.1. None.

(END)