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<b>REPORT TO:</b>	<b>ANNUAL COUNCIL</b>	<b>AGENDA ITEM: 12</b>
<b>DATE OF MEETING:</b>	<b>12 MAY 2022</b>	<b>CATEGORY: DELEGATED</b>
<b>REPORT FROM:</b>	<b>MONITORING OFFICER</b>	<b>OPEN PARAGRAPH NO: N/A</b>
<b>MEMBERS' CONTACT POINT:</b>	<b>ARDIP SANDHU</b> <a href="mailto:Ardip.Sandhu@southderbyshire.gov.uk">Ardip.Sandhu@southderbyshire.gov.uk</a>	<b>DOC:</b>
<b>SUBJECT:</b>	<b>MEMBERS' CODE OF CONDUCT</b>	<b>REF:</b>
<b>WARD(S) AFFECTED:</b>	<b>ALL</b>	

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## **1.0 Recommendations**

- 1.1 That Council notes the Local Government Association's (LGA) Model Councillor Code of Conduct ('the Code') and its associated documents.
- 1.2 Following review of the Model Code, and associated Guidance, on recommendation by the Monitoring Officer (MO), Council resolves to implement a revised Members' Code of Conduct at its Annual Council Meeting on 11<sup>th</sup> May 2023.
- 1.3 That all Elected Members consider the content of the Model Code and provide any comments to the Monitoring Officer no later than 30 September 2022.
- 1.4 Alongside the review of the Model Code, on recommendation of the Monitoring Officer, Council considers the role, re-appointment and/or recruitment of future Independent Persons.
- 1.5 That Council approves the appointment of Deputy Monitoring Officer (DMO).

## **2.0 Purpose of Report**

- 2.1 To ensure all Members are aware of the new Model Code (and associated documentation) produced by the LGA, which will be recommended for adoption (with/without local amendments) at the Annual Council meeting of 11<sup>th</sup> May 2023.
- 2.2 To allow consideration of the role of Independent Persons and any future arrangements.
- 2.3 To consider proposals for the appointment of a Deputy Monitoring Officer.

## **3.0 Executive Summary**

- 3.1 The Local Government Association has developed the Model Councillor Code of Conduct in association with key partners and after extensive consultation with the sector, as part of its work on supporting all tiers of local government to continue to aspire to high standards of leadership and performance.

- 3.2 The Model Code is a template for local authorities to adopt in whole and/or with local amendments. The associated Guidance is aimed to assist understanding and consistency of approach towards the Code. The LGA have advised they will undertake an annual review of the Code to ensure it continues to be fit for purpose, incorporating advance in technology, social media, and amendments to legislation. The LGA can offer support, training, and mediation to Councils on the application of the Code and the National Association of Local Councils (NALC) can offer advice and support to Town and Parish Councils.
- 3.3 The Monitoring Officer attends a quarterly meeting of Derbyshire Monitoring Officers. It is hoped the Derbyshire authorities will maintain consistency in local arrangements, upon implementation of the new Members Code of Conduct.
- 3.4 Section 27 of the Localism Act 2011 requires that the arrangements under which decisions on allegations that a Member has breached the Code of Conduct must include provision for the appointment of at least one Independent Person. The views of the Independent Person must be sought and taken into account before a decision is taken on an allegation that the Monitoring Officer has decided to investigate. The Council currently has two Independent Persons
- 3.5 It is a legal requirement that every local authority must designate one of their officers as a Monitoring Officer. The Council does not currently have Deputy Monitoring Officer and it is considered necessary to give consideration to the appointment of such.

#### **4.0 Detail**

##### Members Code of Conduct

- 4.1 The Localism Act 2011 requires all Councils to have a local Member Code of Conduct. The Council's previous Code was adopted on 28<sup>th</sup> June 2012, with an implementation date of 1<sup>st</sup> July 2012. The regime approved in 2012 has continued unchanged and it is now necessary to review and confirm it remains fit for purpose.
- 4.2 The Committee for Standards in Public Life (CSPL) in its January 2020 report into Local Government Ethical Standards included a best practice recommendation for local authorities to adopt a Code of Conduct and recommended it be based on a model to be produced by the LGA. This sat alongside other recommendations, including some to Government that required primary legislation.
- 4.3 The LGA produced a draft Code of Conduct in December 2020, followed by updates in January 2021 and May 2021. There remained some issues with the Model Code of Conduct, including its definitions and application, leading the LGA to commission Guidance to be drafted to assist the process. Hoey Ainscough Associates assisted with drafting the Guidance. The purpose of the Guidance is to help understanding and consistency of the approach towards the Code. The LGA will also undertake annual review of this Guidance.

##### Independent Persons

- 4.4 The role of Independent Person has no specified term, the role has importance in the process for dealing with allegations of misconduct by Members; and the various requirements for independence that those must ensure when being appointed. It is

considered challenging to recruit suitable volunteers to serve as Independent Persons. Due to the nature of the role, there are parameters set out in legislation regarding who and who may not be appointed. These include a Member, co-opted Member or officer of the authority, a relative or close friend of a person who is a Member of co-opted members or officer of the authority, and a person may not be appointed as an Independent Person if at any time during the 5 years ending with the appointment, the person was a Member, co-opted Member, or officer of the authority.

- 4.5 There is legal requirement for at least one Independent Person. The Localism Act 2011 requires appointment to be approved by the majority of Members of the Council. Furthermore, Independent Persons must be appointed through a process of public advertisement and application.

#### Deputy Monitoring Officer

- 4.8 Under section 5 of the Local Government and Housing Act 1989 (LGHA) it states. *'(1) It shall be the duty of every relevant authority—*  
*(a) to designate one of their officers (to be known as "the monitoring officer") as the officer responsible for performing the duties imposed by this section and, where relevant, section 5A below; and*  
*(b) to provide that officer with such staff, accommodation and other resources as are, in his opinion, sufficient to allow those duties and, where relevant, the duties under section 5A below to be performed;*  
*(7) The duties of a relevant authority's monitoring officer under this section shall be performed by him personally or, where he is unable to act owing to absence or illness, personally by such member of his staff, as he has for the time being nominated as his deputy for the purposes of this section'.*
- 4.9 In accordance with the above, it is the Monitoring Officer's request that Council agree to the appointment of a Deputy Monitoring Officer. It is the MO's responsibility to ensure they personally appoint another member of staff to act in their place. In addition to acting in the Monitoring Officer's absence, it will provide support to the MO role and allow an importance 'check and balance' with the Council's governance matters. Most authorities appoint a Head of Legal Services as Monitoring Officer and another senior legal officer to assist.

#### **5.0 Financial Implications**

- 5.1 The remuneration of the role of Deputy Monitoring Officer will be determined by the duties and responsibilities of the post and evaluated and in line with the local Job Evaluation procedure. A report will follow to the Finance and Management Committee outlining any financial implications.

#### **6.0 Corporate Implications**

- 6.0 The revised Members Code of Conduct will make changes to the expected standards of conduct for Elected Members. The LGA's Model Code of Conduct and Guidance provide a good foundation for commencing review of current processes and procedures.

#### **7.0 Community Implications**

7.1 The Council's Members Code of Conduct plays a vital role in promoting and maintaining the highest standards of conduct by Councillors of South Derbyshire District Council and all the Parishes in its area.

## **8.0 Legal Implications**

8.1 Under the Localism Act 2011 all Council's must adopt a Code of Conduct. The Code should set out the conduct that is expected of Members and co-opted Members when acting in that capacity. The Code must be consistent with the principles of selflessness, integrity, objectivity, accountability, openness, honesty, and leadership. Councils must also ensure their Code includes appropriate provisions about declaring pecuniary and other interests.

## **9.0 Background Papers**

Members Code of Conduct - [SOUTH DERBYSHIRE DISTRICT COUNCIL \(cmis.uk.com\)](http://www.southderbyshire.gov.uk/cmis.uk.com)

Local Government Association Model Code of Conduct - [Local Government Association Model Councillor Code of Conduct 2020](#)

Code of Conduct Guidance - [Guidance on Member Model Code of Conduct Complaints Handling | Local Government Association](#)

Local Government and Housing Act 1989

Monitoring Officer Protocol