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| Report to: | Council | Date of meeting: | 19 April 2018 |
| Subject: | Constitutional and Governance Update – Member Code of Conduct and Whistleblowing Policy | | |
| Report of: | Head of Regulation & Compliance | Wards Affected: | All |
| Is this a Key Decision: | No | Included in Forward Plan: | No |
| Exempt / Confidential Report: | No | | |

Summary

To provide an update on constitutional and governance matters, namely the Member Code of Conduct and the Whistleblowing policy.

The report was considered by Audit and Governance Committee on 21 March 2018, which resolved that (1) the amendments to the Code of Conduct indicated in Appendices 1 and 1A be noted and agreed; (2) Council be recommended to approve the amendments to the Code of Conduct for incorporation into the Council's Constitution; and (3) updated information relating to the Whistleblowing Policy be noted.

Recommendations:

Council is requested to:

- a) Approve the amended Member Code of Conduct as recommended by Audit and Governance Committee and agree that it be incorporated into the Council's Constitution.
- b) Note the updated information regarding the Whistleblowing Policy.

Reasons for the Recommendation(s):

The Council's Monitoring Officer holds a responsibility to ensure that the Council's constitution is actively kept up to date. Chapter 1, Section J, paragraphs 39-41 refers (October 2017).

Alternative Options Considered and Rejected: (including any Risk Implications)

To not keep the Council's constitution up to date. This option is not recommended as this would be detrimental to the principle of ensuring that the aims of good governance are given full effect.

What will it cost and how will it be financed?

(A) Revenue Costs

Nil

(B) Capital Costs

Nil

Implications of the Proposals:

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| Resource Implications (Financial, IT, Staffing and Assets): Nil |
| Legal Implications: These are contained in the body of the report. |
| Equality Implications: Nil |

Contribution to the Council’s Core Purpose: Updating these codes/policies will mean that both staff and Members are supported and guided in their day to day work to achieve the Council’s Core Purpose by an up to date constitution.

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| Protect the most vulnerable: See above |
| Facilitate confident and resilient communities: See above |
| Commission, broker and provide core services: See above |
| Place – leadership and influencer: See above |
| Drivers of change and reform: See above |
| Facilitate sustainable economic prosperity: See above |
| Greater income for social investment: See above |
| Cleaner Greener: See above |

What consultations have taken place on the proposals and when?

(A) Internal Consultations

The Head of Corporate Resources (FD5085/18) and Head of Regulation and Compliance (LD 4369/18) have been consulted and any comments have been incorporated into the report.

(B) External Consultations

Nil

Implementation Date for the Decision

Immediately following Council approval

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Appendices:

Appendix 1 – Draft Member Code of Conduct (tracked changes marked)
Appendix 1A – Draft Member Code of Conduct (tracked changes accepted)
Appendix 2 – Whistleblowing policy

Background Papers:

Nil

Introduction

1. The Council's Monitoring Officer holds a responsibility to ensure that the Council's constitution is actively kept up to date. Chapter 1, Section J, paragraphs 39-41 refers (October 2017).
2. The following appendices were considered by Members of the Audit & Governance Committee, at their meeting on 21 March 2018.

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| Appendix 1 | Draft Member Code of Conduct |
| Appendix 1A | Draft Member Code of Conduct (tracked changes accepted) |
| Appendix 2 | Whistleblowing Policy |

3. The rationale for revising these documents has come about through various means including requests from the Chair of the Audit & Governance Committee and timely periodic review.
4. Following due consideration, the Code of Conduct was agreed by the Audit and Governance Committee to be recommended to Council for inclusion into the Council's constitution.

Member Code of Conduct

5. With respect to the Member Code of Conduct, amendments have been proposed regarding the behaviours expected of Members and interests that should be registered and/or declared. If agreed, then training will need to be provided to all members to update them on the changes in the Member Code of Conduct. Such training would occur early in the new municipal year for both new and existing members.
6. Further the Code of Conduct contains a reference to the dispensations process. This is a benefit that to date has not been operated by members and for which there is currently no identified process. It is anticipated that both this and a review of the processes associated with the operation of the Member Code of Conduct will be brought back to the next Audit & Governance Committee meeting for consideration. A tracked change version of the draft Members Code of Conduct is included in Appendix 1. A second version of the draft Members Code of Conduct where proposed tracked changes have been accepted and some formatting issues have been tidied up is included in Appendix 1A.

Whistleblowing

7. With respect to the Whistleblowing policy, this is a timely periodic review. It was last reviewed in 2015. Since then there has been activity to promote awareness of the whistleblowing policy. The policy and staff awareness of it was considered by the Council's Strategic Leadership Board in 2017.

8. The Council has had 6 whistleblowing disclosures throughout the period March 2015 to date. Disclosures were submitted either by correspondence or telephone calls. Two disclosures were submitted anonymously. When disclosures are received anonymously it can, but not necessarily limit the action that may be taken. In these cases, the anonymous disclosures did not result in provision of information that was actionable/capable or worthy of further investigation. They were brought to the attention of the relevant service area where possible and the Chief Executive. The total number of disclosures is considered to be low for the size of the organisation which is perhaps an indicator;
 - a. that employees are not aware of the policy and further work is needed to raise awareness and/or
 - b. that whistleblows are not being recorded/captured organisationally.

Of the four remaining disclosures, one 'whistleblower' failed to meet with the senior officer on three separate occasions so that the disclosure could be better understood. Consequently further action was not possible. Two disclosures were not valid disclosures under the policy and related more to internal grievance matters and colleagues were advised accordingly. A third whistleblow was investigated but ultimately found not to be substantiated.

9. The legislation imposes no obligations to have a whistleblowing policy or obligations about training and raising awareness. In order to consider what constitutes best practice latest guidance suggests that a written policy is beneficial.
10. In March 2015, The Department for Business Innovation & Skills, BEIS publicised Whistleblowing: Guidance for Employers and Code of Practice. The guidance explains an employer's responsibilities with regard to employees who blow the whistle and recommends that employers use a whistleblowing policy and ensure that they are **promoted** and **accessible**.

*"As an employer it is good practice to create an **open, transparent and safe** working environment where workers feel able to speak up.*

11. If an organisation has not created an open and supportive culture, the worker may not feel comfortable making a disclosure, for fear of the consequences. There have been a number of high profile studies including the Mid Staffordshire NHS Foundation Trust Public Inquiry that confirmed many workers were scared of speaking up about poor practice.
12. BEIS guidance recommends that; "Employers should demonstrate, through visible leadership at all levels of the organisation, that they welcome and encourage workers to make disclosures".
13. BEIS guidance recommends that; organisations should implement training, mentoring, advice and other support systems to ensure workers can easily approach a range of people in the organisation. Just having a written policy is not enough. It is recommended that training should be provided to all staff on the key arrangements of the policy with additional training given to those with whistleblowing responsibilities.

14. Methods officers propose to use to promote whistleblowing include:

- Require managers to hold consistent team meetings to discuss/consider whistleblowing. To that end, following adoption by Council a common script will be developed and shared with the Council's strategic leadership to cascade to teams across the organisation.
- The Council will continue to make the policy accessible on the staff intranet
- The Council will develop and use promotional posters around the building, this will be a refresh of the campaign from 2015.
- The Council will continue to include the policy within induction packs for newcomers
- The Council will ensure that the policy is included in the personnel pages of the intranet

15. Having a policy is a good first step to encourage workers to blow the whistle but each organisation needs to let its workers know about the policy and make sure they know how to make a disclosure. Providing training at all levels of an organisation on the effective implementation of whistleblowing arrangements will help to develop a supportive and open culture.

What lessons can be learnt from other organisations

- Having an online form to allow staff to report whistleblowing through this means (Manchester City Council)
- Working jointly with the Council's Communications Team (Lincolnshire County Council)
- The vast majority of research and guidance regarding whistleblowing is aimed at the NHS. NHS Employers are not for profit organisation aimed at promoting employer's interests in the NHS and in July 2017 they introduced a new 'Draw the Line' campaign. They created a new logo for use in communications, posters, intranet and promotional material.



NHS Employers also introduced a staff survey to be used as a self-assessment tool to create a set of data about how staff feel about raising concerns. Since it is confidential it provided good insight into actual staff opinion. One question on raising concerns asked if staff would feel safe to raise a concern about unsafe clinical practice and whether they would feel confident that action would be taken if they did so. This is another example of how online tools can be used to gather data and also raise awareness amongst staff. Consideration will be given to including this type of issue/question in the next staff survey (2019).