

REPORT TO: THE COMBINED AUTHORITY COMMITTEE

DATE: 15 MARCH 2024

REPORT TITLE: GOVERNANCE UPDATE

RESPONSIBLE MONITORING OFFICER OFFICER:

<u>Key Decision</u>	No
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<u>Purpose of Report</u>

To update the Member Code of Conduct, adopt a complaints procedure and appoint a panel of Independent Persons whose role is to assist in dealing with Code of Conduct complaints.

<u>Recommendation</u>

That Committee:

- 1) Adopt, with effect from 3 May 2024, the LGA Model Code of Conduct (Appendix 1).
- 2) Adopt, with immediate effect, the Code of Conduct Complaints Procedure (Appendix 2) in accordance with Section 28(6)(b) of the Localism Act 2011.
- 3) Appoint, with immediate effect, Tony Drew, Roger Morris, Marc Hole, and Ian Carrington-Porter as Independent Persons in accordance with the requirements of Section 28(7) of the Localism Act 2011.

<u>Reasons for recommendation</u>

To ensure that the West of England Mayoral Combined Authority's Member Code of Conduct arrangements are up to date and in compliance with the requirements of the Localism Act 2011.

Voting arrangements

In order to be carried, Recommendation 1 requires the unanimous vote of the members present and voting. Co-opted members are not entitled to vote.

In order to be carried, Recommendations 2 and 3 require a majority of the members present and voting, such majority is to include the Metro Mayor. Each member present may cast one vote. If a vote is tied the decision is not carried. There is no casting vote. Co-opted members are not entitled to vote.

Publication Requirements

For publication

Background

1. The Localism Act 2011 (the “2011 Act”) requires relevant authorities (which includes the West of England Mayoral Combined Authority) to:
 - a) Adopt a code dealing with the conduct that is expected of its members and co-opted members (the “Code”).
 - b) Have in place arrangements for dealing with complaints under the Code.
 - c) Appoint at least one Independent Person (“IP”) to assist in dealing with complaints under the Code.
2. The West of England Mayoral Combined Authority has adopted a Code, but there is a need to adopt an updated Code and it is opportune to do so prior to May 2024.
3. The West of England Mayoral Combined Authority does not have an adopted complaints procedure, nor any duly appointed IPs. That is a gap in its statutorily mandated governance arrangements which should be addressed with immediate effect.

Key Considerations

The Code

4. The West of England Mayoral Combined Authority adopted a Code on its inception in 2017. However, in 2020 the Local Government Association (LGA)

published a model Code (Appendix 1). It did so in response to the findings in the January 2019 report of the Committee of Standards in Public Life which called for a reform in the composition of Local Authority Codes.

5. The LGA model Code has been adopted by most English local authorities; 83% having adopted it¹ by August 2023. This includes Bath and North-East Somerset and South Gloucestershire Councils. Bristol City Council's code substantially reflects the approach taken in the LGA model Code.
6. It is considered timely and beneficial for the West of England Mayoral Combined Authority to now adopt the model Code. Not only is this considered to be best practice, bringing the West of England Mayoral Combined Authority in line with most other English local authorities, but there is considerable benefit in elected members who operate across the unitary authorities and the West of England Mayoral Combined Authority being subject to the same Code.
7. Being subject to the same Code means that unitary authority members, who also serve on any of the West of England Mayoral Combined Authority's committees, will have clarity and consistency in the standard of conduct expected of them irrespective of which authority they are operating in. That clarity and consistency is particularly helpful where it provides a single approach for members in dealing with the declaration and registration of interests.
8. Members are required to register interests within 28 days of taking office, and within 28 days of the adoption of a new Code. Additionally, it is best practice for members to refresh their registers of interests at least annually, on the anniversary of first taking office.
9. For this reason, it is proposed that the model Code is adopted by the West of England Mayoral Combined Authority with effect from 3 May 2024 being the date upon which the new intake of members will occur following the Bristol City Council election in May. This is likely to coincide with the anniversary in office of the Metro Mayor and the members from the other unitary authorities too.
10. Taking this approach would mean that the registration (or update) of member interests need only happen once in 2024, rather than members having to do that on election (or as part of the annual update process) and then again at a later point on the adoption of the model Code.

¹ Or Codes which substantively reflect the content of the LGA model.

Complaints Procedure

11. Section 28(6)(b) of the 2011 Act requires the West of England Mayoral Combined Authority to have in place “arrangements” under which allegations of a breach of the Code can be investigated. This is a requirement to have a complaints procedure.
12. Currently, the West of England Mayoral Combined Authority does not have a complaints procedure in place, and this should be addressed with immediate effect because it constitutes non-compliance with a statutory governance requirement.
13. To expedite compliance, the services of Hoey Ainscough Associates Limited (HAA) have been retained to provide a draft complaints procedure. HAA are widely acknowledged experts in the field of member conduct and were retained by the LGA to draft the model Code and associated guidance. Their consultancy services include training officers, members and IPs, reviewing, assessing and developing the effectiveness of local authority governance and standards arrangements and supporting officers and members to avoid, mitigate and deal with problems that may arise.
14. The procedure suggested by HAA follows best practice, has been tailored for use in the West of England Mayoral Combined Authority and is set out in Appendix 2 (“the Procedure”).

Independent Persons

15. Section 28(7) of the 2011 Act requires the West of England Mayoral Combined Authority to appoint at least one IP to assist in dealing with complaints under the Code. Appendix 2 sets out further information on the role of the IP in that procedure.
16. To ensure resilience in that role, and to enable separate IPs to be available to support both the West of England Mayoral Combined Authority and the member subject to a complaint, best practice is to appoint at least three IPs.
17. A recruitment and selection procedure has been undertaken in accordance with the requirements of the 2011 Act, resulting in the identification of four appointable IPs. That procedure was undertaken in conjunction with HAA who participated in the short-listing and interview procedure.

18. In addition to meeting with HAA approval, the short list and appointments now proposed were reviewed and approved by another external independent consultant with over 30 years' experience as a local government chief officer including operating as a monitoring officer for local authorities, police authorities and police and crime commissioners.
19. It should further be noted that all four proposed IPs are currently appointed as such by the unitary authorities and/or by other local authorities in the region. A short summary of the skills and experience of each follows.
20. **Tony Drew's** application discloses over 11 years' experience in local government/public sector mental health provision along with 17 years investigation and adjudication experience in various public sector fields. That experience includes 5 years as an investigator for the Standards Board for England. His application also discloses Voluntary work in the disability and end-of-life care sectors locally.
21. **Roger Morris's** application discloses a long local government career including holding the role of Chief Executive at both the City of Durham and Northampton Borough Councils. He has held the positions of President of SOLACE (the Society of Local Authority Chief Executives and Senior Managers) and Chair of ALACE (the parallel registered trade union), and he has long been Chair of the Law Society's Board for the Diploma in Local Government Law and Practice. He holds a Solicitor's practising certificate and is a member of the LGA's Panel of Independent Investigators. He is a published author on local government/elections issues (most recently Running Elections with Mark Heath, tenth edition 2024), and has held various public sector voluntary/trustee positions.
22. **Ian Carrington-Porter's** application discloses a long career in banking, the water authority and with the Office of National Statistics, demonstrating relevant skills and experience operating in heavily regulated industries, compliance with codes, management and customer service including complaints handling.
23. **Marc Hole's** application discloses a local authority officer background and that he is currently the Director of Policy and Partnerships with Avon and Somerset Police and Crime Commissioner's Office. Mr Hole is demonstrably politically astute and has considerable experience of dealing with complaints, performance, and governance.

Alternative Options Considered

24. In respect of recommendation 1, an alternative would be not to adopt the model Code or to do so at some other point in the future. This has been discounted as

adopting the model Code aligns with national best practice. Doing so before 3 May 2024 brings significant advantages as set out above.

25. In respect of recommendation 2, an alternative option would be to adopt a different complaints procedure. This has been discounted as the procedure proposed has been provided by HAA and represents best practice. There is a need to adopt a procedure to correct a non-compliance with statutory provisions which currently presents a gap in the West of England Mayoral Combined Authority's governance arrangements. This must be addressed with immediate effect.
26. In respect of recommendation 3, an alternative would be to appoint less than four IPs (the statutory requirement being to appoint at least one). This has been discounted as there are four appointable candidates and having a panel of four brings with it the benefits set out above. There is a need to appoint to this role to correct non-compliances with statutory provisions which currently presents a gap in the West of England Mayoral Combined Authority's governance arrangements. This must be addressed with immediate effect.

Consultation and Engagement

27. There are no statutory consultation or engagement requirements, save for the statutory requirement to publicly advertise the IP appointment opportunity, which has been met.

Key Risks

28. The key risks are principally around progress of the existing recommendations that relate to the West of England Mayoral Combined Authority's governance arrangements. Adopting the recommendations in this paper demonstrates clear and immediate progress to correcting a fundamental gap in the current arrangements. It removes the risks around challenge, complaint and/or adverse reputational impacts associated with not addressing these issues at this time.

Equality, Diversity and Inclusion Implications

29. Great care has been taken in drafting the Code and Procedure to ensure that they respect and promote equality, diversity and inclusion (ED&I). In addition, the selection procedure for the IP appointments placed ED&I as a central consideration, recognising the importance of bringing a wide range of perspectives to the IP role.
30. The composition of the panel should be reviewed at least annually, to ensure that

any opportunities that present to increase the diversity of panel members, and to ensure proper succession planning, are realised.

Climate Change Implications

31. Not directly relevant.

Financial Implications

32. The proposal is to appoint four IPs to a panel on a four-year term, with a retainer payment of £500 per annum each, to ensure availability and contribute towards expenses. This is in keeping with the approach taken in other local authorities in the region.

33. Section 5(1)(b) of the Local Government and Housing Act 1989 requires relevant authorities to provide their monitoring officers with such staff, accommodation and other resources which are, in the opinion of the monitoring officer, sufficient to allow the monitoring officer's duties to be performed.

34. Making provision for an additional £2000 per annum against the Legal and Governance budget line is considered to fall within the Section 5(1)(b) duty and is capable of being accommodated, without significant impact, in the ordinary budget setting and management procedures.

Legal Implications

35. The legal implications are set out in the body of this report.

Human Resources Implications

36. The appointment of the IPs to a panel does not constitute an employer/employee relationship, but rather the establishment of a volunteer support role with a modest retainer payment to ensure availability and reflect reasonable expenses. The appointments will be documented through a standard terms of engagement letter which will include an agreement on confidentiality.

Commercial and Procurement

37. Not applicable.

Appendices

- Appendix 1 – The LGA Model Code of Conduct
- Appendix 2 – Code of Conduct Complaints Procedure

Background papers:

- Materials are available online in relation to standards in public life, the model code of conduct and associated guidance and legislation.

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