

ASHFIELD DISTRICT COUNCIL



Council Offices,
Urban Road,
Kirkby in Ashfield
Nottingham
NG17 8DA

Agenda

Standards and Personnel Appeals Committee

Date: **Wednesday, 2nd October, 2019**

Time: **7.00 pm**

Venue: **Committee Room, Council Offices, Urban Road,
Kirkby-in-Ashfield**

For any further information please contact:

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01623 457317

STANDARDS AND PERSONNEL APPEALS COMMITTEE

Membership

Chairman: Councillor Lee Waters

Councillors:

Jim Blagden
Warren Nuttall
Helen-Ann Smith

Christian Chapman
Phil Rostance
David Walters

FILMING/AUDIO RECORDING NOTICE

This meeting may be subject to filming or audio recording. If you have any queries regarding this, please contact Members' Services on 01623 457317.

SUMMONS

You are hereby requested to attend a meeting of the Standards and Personnel Appeals Committee to be held at the time/place and on the date mentioned above for the purpose of transacting the business set out below.



R. Mitchell
Chief Executive

AGENDA

Page

1. **To receive apologies for absence, if any.**
2. **Declarations of Disclosable Pecuniary or Personal Interests and Non Disclosable Pecuniary/Other Interests.**
3. **To receive and approve as a correct record the minutes of the meeting of the Committee held on 8th July, 2019.** 5 - 10
4. **Use of Resources Policy.** 11 - 20
5. **Committee on Standards in Public Life - Update from the Working Group.** 21 - 32
6. **Quarterly Complaints Monitoring Report.** 33 - 40

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Agenda Item 3

STANDARDS AND PERSONNEL APPEALS COMMITTEE

Meeting held in the Committee Room, Council Offices, Urban Road, Kirkby-in-Ashfield,

on Monday, 8th July, 2019 at 7.00 pm

Present: Councillor Lee Waters in the Chair;

Councillors Jim Blagden, Warren Nuttall,
Phil Rostance, Helen-Ann Smith, David Walters
and Daniel Williamson (as substitute for Christian
Chapman).

Apology for Absence: Councillor Christian Chapman.

Officers Present: Ruth Dennis and Rachel Newton.

In Attendance: Parish Council Representatives
Stuart Fletcher and Councillor Jason Zadrozny.

SP.20 Declarations of Disclosable Pecuniary or Personal Interests and Non Disclosable Pecuniary/Other Interests

No declarations were made.

SP.21 Minutes

RESOLVED

that the minutes of the meeting of the Committee held on 18th March, 2019, be received and approved as a correct record.

SP.22 Standards and Personnel Appeals Committee - Introduction to the Role of the Committee

The Director of Legal and Governance (and Monitoring Officer) gave a presentation to Members outlining the role of the Committee, its Members and information around some of the best practice procedures falling within the remit of the Committee.

SP.23 Standards and Personnel Appeals Committee Work Plan 2019-2020

Committee were asked to consider and approve the proposed Work Plan for the 2019/2020 municipal year. The Director of Legal and Governance advised that the Work Plan included items which were considered by the Committee

annually, such as updating the Constitution, the operation of the Council's Whistleblowing Policy, quarterly monitoring of the complaints against Members and the annual review of work undertaken by the Committee in comparison to the agreed Work Plan.

The other items placed on the 2019/2020 Work Plan included:-

Members' Attendance Update

The annual Members' Attendance update is likely to become an annual monitoring exercise linking in with the findings of the Independent Remuneration Panel (IRP).

Members' Use of Resources

During March 2019 the Referral Sub Committee suggested that the use of resources should be included in the Members' Code of Conduct to provide clear guidelines on acceptable use of resources and this would be explored during the latter part of the year.

Report of the Committee on Standards in Public Life

Further work will be undertaken in the coming months around the report of the Committee on Standards in Public life.

Review of the Nottinghamshire Authorities Protocol with Nottinghamshire Police

This is a technical protocol regarding the reporting of potential breaches of the Code of Conduct relating to Disclosable Pecuniary Interests. The current protocol was developed in 2012 and requires updating in order to be fit for purpose. The Director of Legal and Governance advised Members that she is taking a lead role across Nottinghamshire and will report back in due course.

RESOLVED

that the Standards and Personnel Appeals Committee Work Plan for 2019/20, as outlined in the report, be approved.

Reason:

To reflect good practice.

SP.24 Report of the Committee on Standards in Public Life - Local Government Ethical Standards

The Director of Legal and Governance presented the report making Members aware that the report of the Committee on Standards in Public Life (CSPL) relating to Local Government Ethical Standards was published in January 2019 and sought guidance on an appropriate response to the report.

The CSPL had found that the vast majority of councillors and officers worked to maintain the highest standards of conduct, however, some specific areas of concern had been identified. A minority of councillors engage in bullying, harassment or other highly disruptive behaviour with a small number of parish councils giving rise to disproportionate numbers of complaints.

The report concluded that arrangements should remain and there was an expectation that they are strengthened in order to provide a more robust locally determined system.

The Director of Legal and Governance advised the Committee that it would be prudent to focus on the main best practice recommendations identified in the report as the CSPL will be reviewing the implementation of those points in 2020, further that informal working groups be arranged to consider and feedback to the committee.

The best practice findings are set out below:-

Code of Conduct

- Local Authorities should include prohibitions on bullying and harassment in codes of conduct including a definition and list of examples;
- Include in the code a requirement for councillors to cooperate with formal standards investigations and to prohibit trivial or malicious allegations by councillors;
- The code should be reviewed annually and the views of the public, community organisations and neighbouring Authorities sought;
- Accessibility of the code should be examined and be readily available to Councillors and the public in a prominent.

Interests

- Local Authorities should update registers of gifts and hospitality quarterly and publish it in an accessible form.

Investigations and Safeguards

- That a public interest test for filtering complaints is adopted and published;
- At least two Independent Persons are appointed;
- Full hearing decisions, including a statement of facts, breaches, views of the Independent Persons, the reasons for the decision and the sanction applied should be published;
- Complaints guidance and information should be clearly displayed on websites.

Town and Parish Councils

- Standards complaints about the behaviour of a Parish Councillor towards a clerk should be made by the Chair of the Parish Council as a whole;
- The Monitoring Officer role and resourcing should include advice, support and management of Parish Council cases.

Role of the Monitoring Officer

- Local Authorities should have investigation conflict procedures,

including use of Monitoring Officers from other Authorities.

Council Governance, Leadership and Culture

- The annual governance statement should include reporting on related bodies; those bodies to publish agendas, minutes and annual reports and abide by the Nolan principles;
- Senior officers should meet regularly with political group leaders or group whips regarding standards issues.

RESOLVED that

- a) informal working groups be arranged to discuss the findings of the CSPL report and feed back to the Committee in October for recommendation to Council;
- b) the Director of Legal and Governance (and Monitoring Officer) will explore the possibility of sharing the Monitoring Officer function to avoid investigation conflict via the Nottinghamshire Network.

Reason:

To ensure the Committee charged with ensuring high standards of conduct is aware of the CSPL report and to ensure that it considers if any of the best practice recommendations contained in that report should be implemented by this Council. The CSPL will review implementation of its best practice recommendations to local authorities during 2020.

SP.25 Members' Attendance - Update

The Director of Legal and Governance updated the Committee in relation to Members' Attendance at meetings and training during the preceding 12 months and the payment of the Performance Related Element of the Members' Allowances.

The Independent Remuneration Panel's recommendations had been accepted by Council in July 2016 and implemented at the beginning of the new municipal year, in May 2017. The guidance provided the criteria for excused and unexcused absences, allowed for the Monitoring Officer to administer the process at her discretion to consult with Group Leaders regarding absences caused by "exceptional circumstances".

Members discussed the year end information which had been collated and included within the report. Three Members had fallen short of the 70% attendance requirement achieving attendance levels of 33%, 60% and 67% respectively, the Committee noted that they were no longer Members following the District Elections.

According to the scheme those former Members did not receive the £500 performance related element of the allowance, all other Members during the 2018/2019 municipal year reached the required threshold and received the £500 allowance during June.

The Committee went on to discuss the definition of excused and unexcused

absences and also the protocol for submitting apologies. The Director of Legal and Governance advised Members that the correct channel was via the Democratic Services team who would keep a record for inclusion in the data capture relating to attendance for the next municipal year.

The Leader of the Council, Councillor Jason Zadrozny in his capacity as Parish Councillor for Annesley and Felley Parish Council addressed the Committee with regard to concerns he had around the criteria relating to the scheme. The Committee were in agreement with the concerns raised and would like to ensure that the Independent Remuneration Panel are mindful of these when conducting their review later in the year.

RESOLVED that

- a) the record of attendance by Members as set out in the report, be received and noted;
- b) the Performance Related Element of Members' Allowances be considered by the Independent Remuneration Panel when carrying out their review of the Scheme during this municipal year;
- c) the Director of Legal and Governance (and Monitoring Officer) be requested to clarify to current Members the agreed procedure for submitting apologies to the Democratic Services Team.

Reason:

To ensure a clear and transparent process regarding the payment of the performance element of the Members' Allowance. To enable the Committee to perform its monitoring role in relation to the ethical governance of the Authority.

SP.26 Quarterly Complaint Monitoring Report

The Director of Legal and Governance (and Monitoring Officer) took Members through the quarterly complaints monitoring report and in so doing advised them that:-

- 3 complaints had been concluded, the summary details of which were included in the report;
- 8 complaints relating to District Councillors were in the process of being investigated with 3 complaints awaiting assessment, of which 2 relate to District Councillors and 1 to a Selston Parish Councillor;
- 1 complaint regarding a District Councillor which requires clarification prior to an assessment being made.

Members discussed the content of the report and were pleased that there had been a reduction in complaints arising in relation to Selston Parish Council since legal representation had been provided by the Council.

However, Stuart Fletcher, Selston Parish Council Representative advised the Committee that although having a legal officer in attendance had assisted it

had not eradicated the issue in its entirety.

The Director of Legal and Governance advised Members that there was an intention to deliver further training in order to provide further information around the importance of adhering to adopted codes and protocols in relation to behaviour.

A number of Members sought advice around the value of continuing with investigations relating to previously elected Members, given the financial implication it could have.

The Director of Legal and Governance advised the Committee that best practice dictates that any ongoing investigation should be concluded and further that a number of those investigations being referred to involved multiple members, some of whom were currently elected and as this was the case there was no financial gain by discontinuing.

RESOLVED

that the updated position in respect of Members' Code of Conduct complaints as set out in the Appendix to the report be noted.

Reason:

To reflect good practice and enable Members to monitor the volume and progress of complaints.

The meeting closed at 8.27 pm

Chairman.

Report To:	STANDARDS AND PERSONNEL APPEALS COMMITTEE	Date:	2 OCTOBER 2019
Heading:	USE OF RESOURCES POLICY		
Portfolio Holder:	NOT APPLICABLE		
Ward/s:	NOT APPLICABLE		
Key Decision:	NO		
Subject to Call-In:	NO		

Purpose of Report

To ask the Committee to recommend the adoption of the draft Members' Use of Resources Policy by Council as an appendix to the Members' Code of Conduct.

Recommendation(s)

Committee is asked to recommend that Council adopt the Use of Resources Policy attached to this report as an appendix to the Members' Code of Conduct.

Reasons for Recommendation(s)

A Hearing Sub-Committee of the Standards and Personnel Appeals Committee recommended the adoption of a Members' Use of Resources Policy to provide clear guidance to Members regarding the appropriate use of Council resources.

Alternative Options Considered

(with reasons why not adopted)

Committee could consider amendments to the draft policy.

Committee could consider not recommending the draft policy to Council but this would be contrary to the recommendation of the Hearing Sub-Committee.

Detailed Information

A recent Hearing Sub-Committee considered a complaint relating to the alleged improper use of Council resources by a Councillor. The Hearing Sub-Committee decided to take “other action” in relation to the complaint, which included producing a Members’ use of resources policy.

The draft policy, attached to this report as Appendix 1, is designed to provide rules and guidance on the use of Council resources by Members.

Council resources should be used exclusively for the purposes of Council business or to enable Councillors to carry out their Councillor role. Use of Council resources for political purposes can be a breach of the Members’ Code of Conduct.

The Members’ Code of Conduct states that:

“3. When using or authorising the use by others of the resources of the Authority:

...

3.2 Do make sure that such resources are not used improperly for political purposes (including party political purposes); and

3.3 Do have regard to any applicable Local Authority Code of Publicity made under the Local Government Act 1986.”

The draft policy includes examples of Council resources, such as:

- IT;
- Telephones;
- Photocopiers;
- Stationery;
- Headed notepaper;
- Postage or use of the Council’s postal system;
- Use of the Council’s e-mail address;
- Transport;
- Staff time.

The Policy also explains what activities are included in the definition of “Council business”:

- Matters relating to the decision making process of the Council, e.g. Council, Cabinet and committee meetings
- Representing the Council on an outside body
- Holding ward surgeries
- Meeting, communicating with and dealing with correspondence from residents, other Councillors, officers, Government officials, MPs etc. in connection with Council business
- Matters for discussion by a political group of the Council, so long as it relates mainly to the work of the Council and not your political party or group

The Policy explains that party political activities or individual campaigning **do not** form part of Council business and the Council’s resources **must not** be used for these activities. This includes Council email addresses.

The draft Policy attached at Appendix 1 has been considered at two meetings of the Standards Committee Working Group before being formally presented to the Committee. The Working Group has suggested that the Policy forms an appendix to the Members' Code of Conduct, which is itself under review.

Implications

Corporate Plan:

The Council will strive to ensure effective community leadership, through good governance, transparency, accountability and appropriate behaviours.

Legal:

In accordance with Section 2 of the Local Government Act 1986 (the Act) and the Local Authority Publicity Code (the Code):

“A local authority shall not publish, or arrange to publish, any material which, in whole or in part, appears to be designed to affect public support for a political party.”

Section 6 of the Act states that:

Publicity refers to “any communication, in whatever form, addressed to the public at large or to a section of the public”

Finance:

There are no financial implications associated with approving the policy. Any financial issues relate to the provision of specific resources as set out in the policy which will be contained within existing budgets.

Budget Area	Implication
General Fund – Revenue Budget	Not Applicable
General Fund – Capital Programme	
Housing Revenue Account – Revenue Budget	
Housing Revenue Account – Capital Programme	

Risk:

Risk	Mitigation
There are no risks associated with the approval of the policy.	

Human Resources:

There are no HR implications associated with the approval of the policy.

Equalities:

There are no equalities issues relating to the adoption of the policy. Protected characteristics would be taken into account when considering any adjustments in the resources provided to Members on an individual basis.

Other Implications:

None.

Report Author and Contact Officer

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Ashfield

DISTRICT COUNCIL

Protocol for Use of Resources by Councillors

Version x

Approved by Council [date]

1. INTRODUCTION

This protocol provides rules on the use of Council resources in relation to your role as a Councillor.

The Council provides a range of support services and facilities to enable Councillors to carry out their duties.

All Councillors must comply with the provisions of the adopted Members' Code of Conduct regarding the use of Council resources.

Council resources should be used exclusively for the purposes of Council business or to enable Councillors to carry out their Councillor role. Use of Council resources for political purposes can be a breach of the Members' Code of Conduct.

Council resources includes, for example:

- IT;
- Telephones;
- Photocopiers;
- Stationery;
- Headed notepaper;
- Postage or use of the Council's postal system;
- Use of the Council's e-mail address;
- Transport;
- Staff time.

The rules regarding the use of these resources are set out in the **Schedule** attached to this protocol.

2. COUNCIL BUSINESS – WHEN THIS PROTOCOL APPLIES

Councillors may use Council facilities and resources in connection with the following Council business:

- Matters relating to the decision making process of the Council, e.g. Council, Cabinet and committee meetings
- Representing the Council on an outside body
- Holding ward surgeries
- Meeting, communicating with and dealing with correspondence from residents, other Councillors, officers, Government officials, MPs etc. in connection with Council business
- Matters for discussion by a political group of the Council, so long as it relates mainly to the work of the Council and not your political party or group

3. PRINCIPLES FOR USE OF RESOURCES

Councillors must be mindful of Council resources and must always seek to conduct business in the most cost effective way. Councillors must have regard to the need to ensure prudent and reasonable use of resources and value for money.

Party political activities or individual campaigning **do not** form part of Council business and the Council's resources **must not** be used for these activities. This includes Council email addresses. The Council is prohibited by law from publishing any material which, in whole or in part, appears to be designed to affect public support for a political party or an individual Councillor.

Use of resources for the purpose of representing individuals or small groups of residents is acceptable. However, high volume use of resources including sending out circulars and conducting wide-scale consultation exercises is not acceptable, even though these may involve Council business.

In the interests of economy and the environment, Councillors are requested to use e-mail, or to hand-deliver, instead of using post wherever possible.

The Standards and Personnel Appeals Committee is responsible for oversight of use of resources including review of postage and photocopying costs incurred by individual Councillors and political groups. Committee is also responsible for considering requests for exceptions to be made. Committee reserves the right to charge Councillors for excessive use.

SCHEDULE

EQUIPMENT AND RESOURCES FOR COUNCILLORS

ICT Equipment

- Each Councillor is provided with appropriate equipment for their full term of office. This currently consists of an ipad tablet device and keyboard.
- Cabinet Members may request a 3GM monthly data limit on their tablet devices. Cabinet Members are required to meet the costs of any usage above those limits.
- On receipt of equipment, Councillors are required to confirm that they have read the Councillors' ICT Acceptable Use Guidance.
- Support for technical matters is supplied by the Council's ICT helpdesk.
- User training is available on request.
- Councillors are required to return the supplied equipment if they cease to be a Councillor or at the end of their full term in office.

Councillors' Webpages

- The Council's Website includes contact details, photograph, committee memberships and attendances for each Councillor.

Security pass

- Each Councillor is issued with a photo security pass which should be worn at all times when in the Council Offices.
- Each card is individually programmed to provide access to particular areas in the Council building.

Each card is also programmed to enable Councillors to scan, copy and print from the Multi-Function Devices situated around the Council building.

Arrangements for incoming mail

- Each Councillor has a pigeonhole/post tray located within relevant group areas, or within Democratic Services, for Council paperwork and any mail sent to you at the Council Offices.
- Mail should be collected regularly.
- If Councillors are not expected to be at the Council Offices for some time they should discuss their specific requirements with Democratic Services.

Arrangements for outgoing mail

- In the interests of economy, Councillors are encouraged to use email or hand-deliver mail where possible.
- Councillors who wish to send outgoing mail by post should hand the mail to Democratic Services.
- The Council's pre-printed window envelopes **must** be used in order to enable mail to be processed in accordance with the Council's contractual arrangements with Royal Mail.
- Unless there are exceptional circumstances, postage will be sent second class.
- Councillors should be economical in their use of post; volume use (anything in excess of 25 items) is not acceptable unless approved in advance by the Service Manager, Democratic and Scrutiny Services.

Stationery

- A limited range of stationery is available from Democratic Services.
- Stationery must not be adapted to include political logos.
- The Multi-Function Devices are regularly re-stocked with printer paper; you should contact Democratic Services to re-stock if necessary rather than taking paper from other locations in the building
- Electronic versions of Councillor letterheads are available via Democratic Services on request.

Printing

- Photo security passes enable Councillors to print, scan and photocopy from the Multi-Function Devices located around the Council Offices including in the Members' Room. These are the only printing facilities available.
- Councillors should be economical in their use of print.
- Due to the high costs associated with colour printing, Councillors should always print/copy in black and white unless colour is required to enable the document to be understood.
- Each Councillor has a monthly, pre-set print limit of £10.

Business Cards

- Councillors can request a supply of 250 business cards via Democratic Services.

Room Hire for Constituency Surgeries

- Councillors should seek to use meeting rooms that do not incur a charge to the Council if they wish to hold constituency surgeries. These can include community facilities and some Council premises. Democratic Services can help you identify a suitable venue.
- If no suitable premises are available free of charge an application for the cost of hiring an alternative venue will need to be approved by the Service Manager, Democratic and Scrutiny Services.

Conferences, Seminars and Training

- Attendance at conferences, seminars and training events for which a fee is payable or which will incur mileage or subsistence claims must be approved in advance by the Service Manager, Democratic and Scrutiny Services in accordance with the Members Development Policy and the Members' Allowance Scheme.

Clothing

- Members may occasionally be required to wear Council clothing such as Council branded coats, high visibility items or other protective clothing when attending events or outside locations. In these circumstances, appropriate clothing will be supplied by the Communications Team and must be returned immediately after the event/photoshoot.

Report To:	STANDARDS AND PERSONNEL APPEALS COMMITTEE	Date:	2 OCTOBER 2019
Heading:	COMMITTEE ON STANDARDS IN PUBLIC LIFE – UPDATE FROM THE WORKING GROUP		
Portfolio Holder:	NOT APPLICABLE		
Ward/s:	NOT APPLICABLE		
Key Decision:	NO		
Subject to Call-In:	NO		

Purpose of Report

The purpose of this report is to update the Committee on the work undertaken so far by the Standards Committee Working Group in respect of the Best Practice Recommendations of the Committee on Standards in Public Life (CSPL) in their January 2019 report relating to Local Government Ethical Standards.

Recommendation(s)

To note the work undertaken so far by the Standards Committee Working Group in respect of the Best Practice Recommendations of the Committee on Standards in Public Life (CSPL) in their January 2019 report relating to Local Government Ethical Standards.

Reasons for Recommendation(s)

To ensure the Committee charged with ensuring high standards of conduct is aware of the CSPL report and to ensure it considers if any of the best practice recommendations contained in that report should be implemented by this Council. The CSPL will review implementation of its best practice recommendations to local authorities during 2020.

Alternative Options Considered

(with reasons why not adopted)

There are no other options considered appropriate at this stage.

Detailed Information

COMMITTEE ON STANDARDS IN PUBLIC LIFE – REPORT ON LOCAL GOVERNMENT ETHICAL STANDARDS

The Committee on Standards in Public Life (CSPL) advises the Prime Minister on ethical standards across the whole of public life in England. It is an independent advisory non-departmental public body.

During 2018, the CSPL undertook a review of local government ethical standards. *“The review was not prompted by any specific allegations of misconduct, but rather to assure ourselves that the current framework, particularly since the Localism Act 2011, is conducive to promoting and maintaining the standards expected by the public.”*

Members will recall receiving a summary report at its meeting in July 2019. The Committee resolved that:

- “a) informal working groups be arranged to discuss the findings of the CSPL report and feed back to the Committee in October for recommendation to Council;*
b) the Director of Legal and Governance (and Monitoring Officer) will explore the possibility of sharing the Monitoring Officer function to avoid investigation conflict via the Nottinghamshire Network.” (Min. Ref. SP.24)

The informal working group has met on two occasions so far (10 and 17 September 2019) supported by the Monitoring Officer.

The table below sets out a summary of each Best Practice Recommendations of the CSPL and the actions agreed by the working group so far:

CSPL – Summary of Best Practice Recommendations

Number	Best Practice	Current position	Action/Comments from Working Group
1	Local authorities should include prohibitions on bullying and harassment in codes of conduct. These should include a definition of bullying and harassment, supplemented with a list of examples of the sort of behaviour covered by such a definition.	Prohibition for bullying (2.3 in the Code of Conduct) included but no definitions or examples	<ul style="list-style-type: none">• Agreed to review Code of Conduct to insert definitions.• Consider if definitions also needed for other elements such as respect etc. to ensure consistency.• Research definitions of “bullying” for consideration (see below)• Not sure examples should sit in the Code itself – may be

			better in a Protocol/Guidance Note appended to the Code
2	Councils should include provisions in their code of conduct requiring councillors to comply with any formal standards investigation, and prohibiting trivial or malicious allegations by councillors.	<p>Requirement to comply with investigation not in Code but there is a provision in the complaints process which states that if a member fails to co-operate then the investigation continues and failure to take part will be taken into account.</p> <p>Complaints process allows "<i>malicious, politically motivated or tit-for-tat</i>" complaints to be refused by MO but no prohibition in the code.</p>	<ul style="list-style-type: none"> • Agreed to review Code of Conduct – see further comments below. • Agreed to review complaints process • Prohibitions to be included but include the Council's existing wording in the complaints process as well
3	Principal authorities should review their code of conduct each year and regularly seek, where possible, the views of the public, community organisations and neighbouring authorities.	<p>Code reviewed frequently (generally every 2 years).</p> <p>No consultation carried out previously outside the organisation.</p>	<ul style="list-style-type: none"> • Introduce annual review but some concern was raised at how resource intensive this may become when there will often be little change to be made. • Agreed to consider consultation options, but again question the value this will produce compared to the resource effort. • Suggested consultation with existing channels (rather than creating new ones) such as the Citizens' Panel, Youth Council. To consider other stakeholders?

4	An authority's code should be readily accessible to both councillors and the public, in a prominent position on a council's website and available in council premises.	Code is available on the internet but not very prominent.	<ul style="list-style-type: none"> • Agreed to consider how to make Code more prominent on website. • Agreed to make copies available at offices.
5	Local authorities should update their gifts and hospitality register at least once per quarter, and publish it in an accessible format, such as CSV.	<p>Currently review returns annually. Do not publish or report to Committee.</p> <p>Reminder to Members sent annually.</p> <p>Average 1-3 declarations per year.</p>	<ul style="list-style-type: none"> • Agreed to develop a Register on the Website • Agreed to introduce quarterly reporting through Committee • Agreed to produce a Guidance Note for Members (in line with the annual reminder) which could form an appendix to the Code
6	Councils should publish a clear and straightforward public interest test against which allegations are filtered.	The Complaint process, which is published, does include assessment criteria with some mention of proportionality.	<ul style="list-style-type: none"> • Agreed to review complaints process to incorporate a clearer/more detailed test. • As per previous actions, agreed to ensure this is then published in an accessible/easy to find location on the website.
7	Local authorities should have access to at least two Independent Persons.	Already have 2 IPs	<ul style="list-style-type: none"> • No action needed
8	An Independent Person should be consulted as to whether to undertake a formal investigation on an allegation, and should be given the option to review and comment on allegations which the responsible officer is minded to dismiss as being without merit, vexatious, or trivial.	<p>Already happens for each complaint received.</p> <p>Review process to consider wording "<i>without merit, vexatious or trivial</i>"</p>	<ul style="list-style-type: none"> • Agreed to review the complaints process to consider the current wording and the suggested wording.
9	Where a local authority makes a decision on an allegation of misconduct following a formal investigation, a decision notice should be published as soon	A decision notice is always produced including all suggested	<ul style="list-style-type: none"> • Agreed with the need to publish in a suitable place on the website.

	<p>as possible on its website, including a brief statement of facts, the provisions of the code engaged by the allegations, the view of the Independent Person, the reasoning of the decision-maker, and any sanction applied.</p>	<p>elements except that the views of the IP have not normally been included.</p> <p>It is some considerable time since an investigation led to a finding of misconduct.</p> <p>Information has been published in the past, but not necessarily the full decision notice.</p>	<ul style="list-style-type: none"> • Include as part of the Complaints Process. • Agreed a template decision notice could be produced to ensure consistency.
10	<p>A local authority should have straightforward and accessible guidance on its website on how to make a complaint under the code of conduct, the process for handling complaints, and estimated timescales for investigations and outcomes.</p>	<p>The complaints process setting out this detail is available on the website but it is not always easy for the public to find it.</p> <p>An electronic complaint form has already been developed to make the process easier.</p>	<ul style="list-style-type: none"> • Agreed as set out previously to consider suitable location on the website. • Agreed to consider (as part of the complaints process review) if it is clear. • Agreed to introduce electronic complaint form.
11	<p>Formal standards complaints about the conduct of a parish councillor towards a clerk should be made by the chair or by the parish council as a whole, rather than the clerk in all but exceptional circumstances.</p>	<p>Currently accept complaints however made, including if made directly by the clerk.</p>	<ul style="list-style-type: none"> • Committee questioned the purpose of this recommendation and how practical it is to enforce such an approach – would a complaint made by the clerk be refused? • Agreed to contact the parish clerks for their views • Agreed to contact NALC for its view • Agreed to check the detailed explanation in the CSPL report

			<p>for the background detail (see below)</p> <ul style="list-style-type: none"> • Agreed one example of an exceptional circumstance would be the complaint being about the Chairman
12	<p>Monitoring Officers' roles should include providing advice, support and management of investigations and adjudications on alleged breaches to parish councils within the remit of the principal authority. They should be provided with adequate training, corporate support and resources to undertake this work.</p>	<p>Advice, support and investigations relating to alleged breaches already provided as far as existing resources allows.</p> <p>Can be a disproportionate number of complaints.</p> <p>MO has 2-3 DMOs to support.</p> <p>Training provided annually to MO and DMO.</p> <p>Small budget available for investigations. Due to budgetary pressures not possible to increase resources.</p>	<ul style="list-style-type: none"> • Acknowledged the extent of the role of MO for the Parish complaints. • Acknowledged that resources are limited. • Agreed to check the detailed explanation in the CSPL report (see below) • Agreed to seek the views of the Parish and NALC.
13	<p>A local authority should have procedures in place to address any conflicts of interest when undertaking a standards investigation. Possible steps should include asking the Monitoring Officer from a different authority to undertake the investigation.</p>	<p>MO from another authority has investigated an ADC complaint in the past and the MO as investigated for others if time</p>	<ul style="list-style-type: none"> • Agreed to support a discussion taking place at a County level to develop something suitable and acceptable • Committee took the view that a pre-requisite would be to recharge for the MO/DMO time

		allowed. This is as part of an informal arrangement.	
14	Councils should report on separate bodies they have set up or which they own as part of their annual governance statement, and give a full picture of their relationship with those bodies. Separate bodies created by local authorities should abide by the Nolan principle of openness, and publish their board agendas and minutes and annual reports in an accessible place.	This used to take place for Ashfield Homes Ltd. No relevant separate bodies currently.	<ul style="list-style-type: none"> • No action needed at this time.
15	Senior officers should meet regularly with political group leaders or group whips to discuss standards issues.	Regular meetings take place with all Group Leaders generally with CEO but standards issues not necessarily discussed routinely. CEO and Mo meet with the Leadership team weekly. CEO and MO discussions will take place on an ad hoc basis regarding specific issues.	<ul style="list-style-type: none"> • Committee were concerned that introducing quarterly meetings, for example, would be too frequent and not necessarily needed; they were happy with the CEO and MO using their discretion to have ad hoc meetings when considered necessary/helpful.

Best Practice Recommendation 1

Bullying and Harassment – definitions and examples

The Working Group has looked at possible bullying and harassment definitions and examples which might be incorporated into the Code.

Page 33 of the CSPL report produced an extract from Newcastle City Council's code of conduct which the Working Group considered:

"You must not bully or harass any person (including specifically any council employee) and you must not intimidate or improperly influence, or attempt to intimidate or improperly influence, any person who is involved in any complaint about any alleged breach of this code of conduct.

(Note: Bullying may be characterised as: offensive, intimidating, malicious or insulting behaviour; or an abuse or misuse of power in a way that intends to undermine, humiliate, criticise unfairly or injure someone. Harassment may be characterised as unwanted conduct which has the purpose or effect of violating an individual's dignity or creating an intimidating, hostile, degrading, humiliating or offensive environment for an individual.)"

Whilst there is no statutory definition of bullying, the Advisory, Conciliation and Arbitration Service (ACAS) have codified a definition:

"offensive, intimidating, malicious or insulting behaviour, an abuse or misuse of power through means that undermine, humiliate, denigrate or injure the recipient".

Harassment as defined in the Equality Act 2010 is:

"Unwanted conduct related to a relevant protected characteristic, which has the purpose or effect of violating an individual's dignity or creating an intimidating, hostile, degrading, humiliating or offensive environment for that individual."

Examples of bullying behaviour set out in the ACAS guidance and repeated in the CSPL report include:

- spreading malicious rumours, or insulting someone by word or behaviour
- copying memos that are critical about someone to others who do not need to know
- ridiculing or demeaning someone – picking on them or setting them up to fail
- exclusion or victimisation
- unfair treatment
- overbearing supervision or other misuse of power or position
- unwelcome sexual advances – touching, standing too close, display of offensive materials, asking for sexual favours, making decisions on the basis of sexual advances being accepted or rejected
- making threats or comments about job security without foundation
- deliberately undermining a competent worker by overloading and constant criticism
- preventing individuals progressing by intentionally blocking promotion or training opportunities

Bullying or harassment are instances of serious misconduct which are likely to be persistent behaviours rather than one-off instances.

A councillor should not be considered to be bullying or harassing an officer or other councillor simply by making persistent enquiries or requests for information and not by saying something the

individual simply dislikes or with which they strongly disagree (Chapter 2, page 35 of the CSPL report).

Bullying and harassment is not necessarily face to face, it may occur through written communications, visual images, email and telephone.

The Working Group has indicated its preference to use the ACAS definition and examples of bullying set out above and the definition of harassment set out in the Equality Act 2010, but noted that harassment may not be confined to only those with protected characteristics.

Best Practice Recommendation 2

Compliance with standards processes

Councils should include provisions in their code of conduct requiring councillors to comply with any formal standards investigation, and prohibiting trivial or malicious allegations by councillors.

Extract page 41 of the CSPL report:

“Complying with standards investigations, and not seeking to misuse the standards process, is an important aspect of ethical conduct. This is for three reasons. First, there is a strong public interest in an effective standards process that is not subject to disruption or abuse. Secondly, councillors should seek to maintain an ethical culture in their authority, and showing appropriate respect for the process contributes to this. Thirdly, non-compliance and misuse wastes public money and the time of officers.

Councillors should not seek to disrupt standards investigations by, for example, not responding to requests for information, clarification or comment in a timely way, or refusing to confirm their attendance at a standards hearing. Nor should councillors seek to misuse the standards process, for example, by making allegations against another councillor for the purposes of political gain.”

The Working Group has some concerns about including a provision in the Code requiring involvement in complaints investigations. If a requirement to comply with investigations is added to the Code, failing to do so would itself become a breach of the code and the Working Group question what positive difference this will make in practice due to the current lack of sanctions with “teeth” thus providing no deterrent and therefore no incentive to comply. The Working Group was concerned this may lead to a further increase in workload for the Monitoring Officer and then consequently the Committee without necessarily seeing an improvement in behaviours. The Working Group acknowledges that implementation of recommendations 10 and 16, by the introduction of legislation, thereby introducing a sanction to suspend a councillor without allowances, would provide a deterrent and make the inclusion of a compliance clause more likely to be successfully adhered to. This highlights the potential problem associated with local authorities introducing the best practice recommendations without government also introducing the recommendations through legislation as the CSPL report ought to be implemented in its entirety for it to have the desired impact.

Best Practice Recommendation 11

Chapter 5 - Town and Parish Councils

The CSPL report acknowledges that the vast majority of Parish Councillors serve for the benefit of their community, but that evidence suggests poor behaviour and serious misconduct by some Parish Councillors is creating significant disruption in some communities. This misconduct can create a disproportionate and increased workload for the relevant principal authority.

The oversight regime for parishes is light touch and they fall outside the remit of the Local Government Ombudsman. Under the Localism Act 2011, standards complaints fall to the principal authority. The CSPL report comments that principal authorities should be a point of support and advice on standards issues, and this contact is often between the Monitoring Officer and the Clerk. The CSPL had received evidence that some parishes have an antagonistic relationship with their principal authority and do not respect its formal remit on standards matters; there is a need to balance parish autonomy with accountability.

The report considers that oversight of parish councils must be proportionate in relation to their comparative budget and remit and that if the relationship is positive between the clerk and parish councillors there is often little need for support or additional accountability from the principal authority.

The CSPL found that 15% of parish councils experience serious behavioural issues such as bullying or disrespect towards fellow councillors or the clerk and in 5% of parishes there are such serious issues the parish is unable to carry out some/all of its functions.

The CSPL had received evidence which suggests difficulties persist in resolving complaints within a parish where clerks are not well supported by the parish council itself to formally make and resolve complaints or prevent recurring bad behaviour. The CSPL has therefore recommended that the parish council should take corporate responsibility when allegations of a councillor bullying an employee are received by the parish council, or the chairman, lodging a formal standards complaint, rather than the clerk having to do this themselves (Best Practice Recommendation 11).

The Working Group supports the premise that a parish council should take responsibility for reporting complaints relating to bullying of its employees to the principal authority. However, it is also of the view that there should be nothing to prevent a clerk lodging the complaint.

The Working Group does not feel the District Council is able to implement this recommendation and that this rests with the parish itself. The Working Group has asked the MO to contact the parishes for their views and also to contact the Nottinghamshire Association of Local Councils.

Best Practice Recommendation 12

Chapter 5 - Town and Parish Councils

The CSPL received evidence that dealing with standards issues in parish councils can be onerous for Monitoring Officers and that many issues are long standing disputes or tensions which are not easily remedied. It found that a small number of Monitoring Officers have decided not to provide advice or accept complaints due to insufficient resources. To this end, the CSPL recommended that Monitoring Officers need to be given the resources within their principal authority to allow them to carry out their duties in respect of parishes (Best Practice Recommendation 12).

The resources provided to this Council's Monitoring Officer are set out briefly above. The Group also discussed the recent support given to Selston Parish Council to assist in resolving tensions within the Parish whereby the Deputy Monitoring Officer attended Council meetings on a monthly basis for over 12 months and supported the Clerk as an example of a significant resource being provided but one which is not sustainable indefinitely. It is the Working Group's view that this Council provides a proportionate and reasonable level of support to its two parishes when needed and that in light of the Council's financial situation there is little opportunity for increasing this resource.

Implications

Corporate Plan:

The Council will strive to ensure effective community leadership, through good governance, transparency, accountability and appropriate behaviours.

Legal:

The best practice recommendations discussed in this report do not require legislation for the Council to implement them if they choose to do so.

Finance:

Budget Area	Implication
General Fund – Revenue Budget	No direct financial implications arising from this report.
General Fund – Capital Programme	No direct financial implications arising from this report.
Housing Revenue Account – Revenue Budget	No direct financial implications arising from this report.
Housing Revenue Account – Capital Programme	No direct financial implications arising from this report.

Risk:

Risk	Mitigation
The Council has recognised the following Corporate Risk: <i>Members' Ethical Framework – Failure to demonstrate high standards of behaviour (CR003)</i>	Consideration of this report and the consequential work of the Committee and its working group demonstrates the Council's commitment to maintaining high levels of ethical behaviour and its commitment to reviewing and implementing best practice.

Human Resources:

There are no HR implications contained in the body of the report.

Equalities:

There are no equalities issues as a direct result of the recommendations in this report.

Other Implications:

None.

Report Author and Contact Officer

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Report To:	STANDARDS AND PERSONNEL APPEALS COMMITTEE	Date:	2 OCTOBER 2019
Heading:	QUARTERLY COMPLAINTS MONITORING REPORT		
Portfolio Holder:	NOT APPLICABLE		
Ward/s:	NOT APPLICABLE		
Key Decision:	NO		
Subject to Call-In:	NO		

Purpose of Report

This report provides an update in respect of Members' Code of Conduct complaints.

Recommendation(s)

The Committee is requested to note the updated position in respect of Members' Code of Conduct complaints as set out in the Appendix.

Reasons for Recommendation(s)

To reflect good practice. To enable Members to monitor the volume and progress of complaints.

Alternative Options Considered

No alternative options are considered appropriate.

Detailed Information

This report outlines in the Appendix the number of complaints of alleged Member misconduct which remain outstanding and a summary overview of the status of ongoing complaints.

Since the last update to the Committee:

- 1 complaint relating to District Councillors has been concluded with summary details contained in the report;

- 8 complaints relating to District Councillors are currently being investigated;
- There have been no new formal complaints in this period.

Implications

Corporate Plan:

The Council will strive to ensure effective community leadership, through good governance, transparency, accountability and appropriate behaviours.

Legal:

There are no legal implications associated with this monitoring report.

Finance:

Budget Area	Implication
General Fund – Revenue Budget	The Authority incurs costs in investigating complaints of alleged Member misconduct if investigations are carried out externally, and these charges are borne by the General Fund. The Council investigates complaints in house as far as possible to reduce costs. Where complaints need to be investigated externally these costs are expected to be contained within existing budgets. One investigation is currently being carried out externally as set out in the Appendix.
General Fund – Capital Programme	N/A
Housing Revenue Account – Revenue Budget	N/A
Housing Revenue Account – Capital Programme	N/A

Risk:

Risk	Mitigation
<p>The Council has recognised the following Corporate Risk:</p> <p><i>Members' Ethical Framework – Failure to demonstrate high standards of behaviour (CR003)</i></p> <p>Significant resource to deal with implications of Code of Conduct Complaints.</p>	<p>The Standards and Personnel Appeals Committee approves an annual work programme to consider how it will ensure high standards of ethical behaviour.</p> <p>Presentation of Quarterly Complaint Monitoring reports to Standards and Personnel Appeal Committee ensures ongoing monitoring of complaints to identify trends and areas for improvement.</p> <p>Council has approved the appointment of two Parish</p>

<p>Potential for negative perception of the Council which impacts upon the Council's reputation.</p> <p>Potentially adverse impact upon the workings of the Council.</p> <p>The legislation does not provide "strong" sanctions for breaches to the Code which may make regulation of poor ethical behaviour difficult and leave complainants dissatisfied with outcomes.</p>	<p>Co-optees to the Committee to encourage Parish involvement in the process in light of recently high levels of complaints in relation to one of the Parishes.</p>
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Human Resources:

There are no HR issues relating to this monitoring report.

Equalities:

There are no equalities issues relating to this monitoring report.

Other Implications:

None.

Report Author and Contact Officer

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QUARTERLY UPDATE OF COMPLAINTS – AS AT 20 SEPTEMBER 2019

REFERENCE	DATE COMPLAINT RECEIVED BY MONITORING OFFICER	COMPLAINANT TYPE	COMPLAINT ABOUT A DISTRICT OR PARISH COUNCILLOR	ALLEGED BREACH	PROGRESS UPDATE	OUTCOME
ADC2019-01	6 January 2019	District Councillor	District Councillor x 3	3.2 Use of Council resources for political purposes	Referrals Sub-Committee considered the complaint on 18 March 2019. Investigation underway	Investigation
ADC2019-04	March 2019	District Councillor Selston Parish Council Parish Councillor	District Councillor	2.1 Respect 2.2 Contrary to high standards of conduct. 2.7 Disrepute 2.3 Do not bully any person.	Investigation underway Witnesses interviewed Report expected shortly	Investigation
ADC2019-05	March 2019	District Councillor	District Councillor	2.1 Respect 2.2 Contrary to high standards of conduct.	Investigation underway Witnesses interviewed Report expected shortly	Investigation

ADC2019-06	March 2019	District Councillor	District Councillor	2.1 Respect 2.2 Contrary to high standards of conduct.	Investigation underway Witnesses interviewed Report expected shortly	Investigation
ADC2019-07	March 2019	District Councillor	District Councillor	2.1 Respect 2.2 Contrary to high standards of conduct.	Investigation underway Witnesses interviewed Report expected shortly	Investigation
ADC2019-08	March 2019	District Councillor	District Councillor	2.1 Respect 2.2 Contrary to high standards of conduct. 2.3 Do not bully any person.	Investigation underway Witnesses interviewed Report expected shortly	Investigation
ADC2019-09	March 2019	District Councillor	District Councillor	2.1 Respect 2.2 Contrary to high standards of conduct. 2.3 Do not bully any person.	Investigation underway Witnesses interviewed Report expected shortly	Investigation
ADC2019-10	March 2019	District Councillor	District Councillor	2.1 Respect 2.2 Contrary to high standards of conduct.	Investigation underway Witnesses interviewed Report expected shortly	Investigation

				2.3 Do not bully any person.		
ADC2019-12	14 June 2019	Public	District Councillor	2.1 Respect 2.2 Contrary to high standards of conduct. 2.7 Disrepute	Awaiting assessment Discussions regarding informal resolution underway	
ADC2019-13	19 June 2019	Public	District Councillor	Complaint needs clarifying. Potentially reported to police	Assessed as requiring no further action – the complaint related to an incident when the Councillor was not acting in their Councillor capacity and therefore this falls outside the remit of the Code of Conduct.	No further action
SPC2019-01	19 June 2019	Parish Councillor	Parish Councillor	2.1 Respect 2.3 Do not bully any person. 2.4 Intimidation	Assessed as suitable for other action taken. The other action has been concluded.	Other action

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