

CSPL local government ethical standards 15 best practice recommendations

Name of local authority: Ashfield District Council

The Standards and Personnel Appeals Committee, which is responsible for governance and ethical standards at Ashfield District Council, has received numerous reports relating to the CSPL report since 2019. The Committee established a Working Group of the Committee which met on a number of occasions specifically to consider, with the Monitoring Officer, in greater detail the best practice recommendations, develop responses and inform the subsequent Committee reports and recommendations.

The meeting of the Committee due to take place in March 2020 did not take place due to COVID-19 restrictions. In light of the pressures placed upon the Council's limited resources as a result of responding to the pandemic further progress since that time has been limited. The Committee had also agreed to pause further detailed work on the best practice recommendations pending the outcome of the LGA's Model Code of Conduct consultation and potential launch of the a Code. The Committee met on two occasions to consider the Model Code of Conduct consultation and submitted a response. Further progress with the actions agreed below will be limited as officer resources are prioritised for responding to the pandemic.

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.

Progress:

The Council's existing Code of Conduct includes a prohibition for bullying but no definitions or examples.

Prior to the LGA's proposed Model Code and Consultation, the Committee had drafted and agreed wording for inclusion in the Council's Code of Conduct to cover the definition of bullying and harassment. These were based on the ACAS definition and examples of bullying and the definition of harassment set out in the Equality Act 2010. The Committee had agreed to produce a Protocol/Guidance Note to append to the Code to contain examples. However, in light of the potential LGA Model Code and to avoid abortive work, the Committee did not recommend making such changes to the Code at the AGM in April 2020 as it wished to consider the LGA's proposals before making a final recommendation. Due to the delayed consultation and launch by the LGA of its Model Code as a result of COVID-19 no recommendations to

Council to amend the existing Code have been made as yet. The Committee meeting due to take place on 9 December 2020 will include an update on the LGA's consultation and Code launch if this is available.

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.

Progress:

The Council's existing Code of Conduct does not contain a requirement to comply with an investigation but there is a provision in the Council's existing complaints process which states that if a Member fails to co-operate then the investigation can continue and failure to take part will be taken in to account as part of the process.

The Council's existing complaints process allows "*malicious, politically motivated or tit-for-tat*" complaints to be refused by the Monitoring Officer but there is no prohibition in the Code or process.

The Committee has agreed to review the Code of Conduct and the complaints process but, as set out above, this is on hold pending the launch of the LGA's Code of Conduct.

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.

Progress:

The Council reviews the Code frequently and has done so since its introduction in 2012 (this has generally been every 2 years). No consultation carried out previously outside the organisation.

The Committee has agreed to:

- Introduce an 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 questioned 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.
-

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.

Progress:

The Code is available on the internet but is not in a very prominent position. The Council's website is currently being reviewed and redesigned and the Committee has agreed that the prominence of the Code should be considered as part of this.

When requested, the Council provides copies of the Code to the public either electronically or in hardcopy format. Public access to the Council Offices are currently by appointment only due to the COVID-19 restrictions. The Council is currently reviewing all its resources to move to a digital/electronic platform and so it is not expected that the Council will provide paper copy Code of Conduct documents in its 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.

Progress:

The existing register for Member Gifts and Hospitality is in hardcopy format. The register is reviewed by the Monitoring Officer annually but the report has not been published or reported to the Committee. Members are reminded of their responsibilities to declare gifts and hospitality annually. There are an average of 1-3 declarations per year.

The Committee has agreed to develop an online register which is made public and this is underway but not yet ready for publication. Once the "new" register has been developed, the Committee has agreed to introduce quarterly reporting to the Committee, but are concerned this is disproportionate to the number of declarations made on an annual basis. A Guidance Note for Members is being developed to be circulated to Members in addition to the annual reminder sent to Members.

6: Councils should publish a clear and straightforward public interest test against which allegations are filtered.

Progress:

The Complaint process which is published does include an assessment criteria with some mention of proportionality. The Committee has, however, agreed to review the complaints process to incorporate a clearer/more detailed test. As per previous actions, it is accepted that this will then be published in an accessible/easy to find location on the website.

7: Local authorities should have access to at least two Independent Persons.

Progress:

The Council already has two Independent Persons.

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.

Progress:

Already happens for each complaint received.

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 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.

Progress:

A decision notice is always produced including all suggested elements except that the views of the Independent Person have not normally been included. It is some considerable time since a breach of the Code of Conduct has been found by the Sub-Committee necessitating such a notice to be published. Information has been published in the past, but not necessarily the full decision notice.

The Committee has agreed:

- With the need to publish in a suitable place on the website.
- Include as part of the Complaints Process.

- A template decision notice could be produced to ensure consistency
-

10: 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.

Progress:

The complaints process setting out these details is available on the website but it is not always easy for the public to find it; as part of the redesign of the website, this will be considered.

An electronic complaint form is available on the website.

The Committee agreed as part of the complaints process review to consider if the guidance is clear.

11: 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.

Progress:

The Council currently accept complaints however made, including if made directly by the Clerk. The Committee questioned the purpose of this recommendation and how practical it is to enforce such an approach – it did not consider it appropriate for a complaint made by the clerk be refused for example. The Committee also considered this is not within its own gift but would consider any views raised by its Parishes.

12: 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.

Progress:

Advice, support and investigations relating to alleged breaches already provided as far as existing resources allows. Further support would not be possible from a resources point of view.

There is often a mistaken belief that the Monitoring Officer's role with the Parishes is wider than it is which often leads to unrealistic expectations by the public or the Parish Councillors themselves as to what the Monitoring Officer can do.

The Parishes can be the source of a disproportionate number of complaint and thus pull on the Monitoring Officer's resource.

As Ashfield the Monitoring Officer has 3 Deputies to support but these are shared with another Local Authority as part of a formal shared service which Ashfield hosts. Training is provided annually to the Monitoring Officer and Deputies.

The Monitoring Officer has a budget of £2,500 per annum for all investigations (Parish and District) which barely is sufficient to cover 1 external investigation (if that). Due to budgetary pressures it is simply not possible to increase resources.

13: 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.

Progress:

The Monitoring Officer from another local authority has investigated an Ashfield complaint in the past and this has been reciprocated. This is as part of an informal arrangement and can only be provided is time pressures/resources allow which as set out above are limited.

The Committee has agreed to support a discussion which is already taking place between Nottinghamshire Monitoring Officers to develop somethings suitable and acceptable. The Committee took the view that a pre-requisite would be to recharge.

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.

Progress:

No relevant separate bodies currently.

15: Senior officers should meet regularly with political group leaders or group whips to discuss standards issues.

Progress:

CEO and Monitoring Officer discussions currently take place on an ad hoc basis regarding specific issues when required.

The Committee were concerned that quarterly meetings were too frequent, could become a drain on resources when not necessarily needed; they were happy with the CEO and Monitoring Officer using their discretion to have ad hoc meetings when considered necessary/helpful.
