

Report To:	STANDARDS AND PERSONNEL APPEALS COMMITTEE	Date:	24 MARCH 2021
Heading:	COMMITTEE ON STANDARDS IN PUBLIC LIFE AND CODE OF CONDUCT UPDATE		
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 in respect of the Committee on Standards in Public Life (CSPL) report Best Practice Recommendations, the Local Government Association's (LGA) Model Code of Conduct following the consultation exercise in 2020 and consider changes to the Council's Members' Code of Conduct.

Recommendation(s)

Committee is asked to:

- 1. Note the updated position regarding the implementation of the Committee on Standards in Public Life best practice recommendations;**
- 2. Agree to include the ongoing work in relation to the best practice recommendations to the Committee's Work Plan for 2021/22;**
- 3. Note the update regarding the Local Government Association's (LGA) Model Code of Conduct following the consultation exercise in 2020;**
- 4. Consider recommending a revised Members' Code of Conduct to the Council AGM in May 2021.**

Reasons for Recommendation(s)

To ensure the Committee charged with ensuring high standards of conduct is aware of the most up to date position regarding the Committee on Standards in Public Life best practice recommendations and the LGA's Model Code of Conduct following the recent consultation exercise.

Alternative Options Considered

In relation to the Code of Conduct the Committee could decide to:

- Not suggest any changes to the Council's existing Code of Conduct (Appendix 1); or
- Recommend adoption of the LGA's Model Code of Conduct (Appendix 2);
- Recommend the adoption of the revised Code of Conduct (Appendix 3) which is a hybrid version of the existing Code and the LGA's Model Code.

In the event that Members are minded to recommend the adoption of Appendix 3 as the new Code, there are some issues for Members to consider before finalising this version as set out below.

Detailed Information

Committee on Standards in Public Life (CSPL) – Best Practice Recommendations

At the Committee in December 2020 I updated Members in relation to the update each Council was asked to submit to the CSPL. Progress was reported against the 15 best practice recommendations published as part of the CSPL's report on Ethical Standards, issued in January 2019. The best practice represents a benchmark for ethical practice which the CSPL expect local authorities to implement.

The most up to date position is set out below:

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. • Definitions based on those in the LGA's Model Code of Conduct have been incorporated into the revised Code which Committee is being asked to consider for recommendation to Council (see below and Appendix 3).
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.	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	<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. • Incorporated into the revised Code which Committee is

		<p>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>	<p>being asked to consider for recommendation to Council (see below and Appendix 3).</p> <ul style="list-style-type: none"> • The Complaints Process will be updated in the event the Council approves the revised Code as part of the 2021-20 Work Plan.
3	<p>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>	<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.
4	<p>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.</p>	<p>Code is available on the internet but not very prominent.</p>	<ul style="list-style-type: none"> • Agreed to consider how to make Code more prominent on website. • The Council is moving 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. They can be made available on request if people are unable to access them electronically. • This will be considered and implemented in the event the

			Council adopts a revised Code at the AGM in May 2021.
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.	Currently review returns annually. Do not publish or report to Committee. Reminder to Members sent annually. Average 1-3 declarations per year.	<ul style="list-style-type: none"> • Agreed to develop a Register on the Website. • Agreed to introduce quarterly reporting through Committee, but Members are concerned this is disproportionate to the number of declarations made in an annual basis. • 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.	Already happens for each complaint received. Review process to consider wording " <i>without merit, vexatious or trivial</i> "	<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 as possible on its website, including a brief statement of facts, the provisions of the	A decision notice is always produced including all suggested elements except that the views of the IP have not	<ul style="list-style-type: none"> • Agreed with the need to publish in a suitable place on the website. • Include as part of the Complaints Process.

	code engaged by the allegations, the view of the Independent Person, the reasoning of the decision-maker, and any sanction applied.	<p>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"> • Agreed 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.	<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. • An electronic complaint form is available.
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.	Currently accept complaints however made, including if made directly by the clerk.	<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 for the background detail (see below)

			<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 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 allowed. This is as part of an</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.

		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.

Local Government Association's (LGA) Proposed Model Code of Conduct

Members will recall at the last Committee meeting in December 2020 the LGA's Model Code of Conduct was circulated as a late addendum to the agenda having been published a few days before the meeting. The lateness of the publication of the Code meant that a full analysis was not possible at that meeting. The Committee therefore resolved to hold an informal Working Group to consider the LGA's published Model Code and compare it to the draft LGA Code and the Council's current Code of Conduct to enable recommendations to be made to this Committee meeting.

The Working Group met on 1 and 11 March. The meeting on 1 March compared the draft LGA Code with the final version and then considered this in detail in conjunction with the Council's current code. It was noted that the final version of the LGA Code had some considerable changes which the Members and officers considered were an improvement. At this meeting it was agreed that the Monitoring Officer would produce a draft Code of Conduct for consideration at a further Working Group prior to formal consideration at this Committee. The Working Group charged the Monitoring Officer with producing a hybrid version which combined elements from both the Council's existing Code of Conduct (Appendix 1) and the LGA's Model Code (Appendix 2).

A revised Code of Conduct was presented to the informal meeting on 11 March and which is attached as Appendix 3. Members at the informal meeting confirmed that combining the two codes was definitely the best approach to take as there are many useful additions from the Council's current Code that would be lost if we adopted the LGA Model Code as a blanket approach. Members also recognised that there are some positive additions to be made from the LGA Model Code and are happy to see them included. Some specific issues were raised with Members regarding some key differences between the Council's current approach and that of the LGA; these are set out below with the Member's preferred approach:

1. **Rule 11.4/Appendix B – Disclosable Personal Interests** – The definition of what is included as a Disclosable Personal Interest is not set out in legislation and so is currently at the discretion of the Council. The definition in the Council's existing Code is different to that in the LGA's Code. The ones highlighted in yellow are the LGA's; the ones highlighted in green are from the Council's Code. Members can decide to include all the categories, just the LGA's or just the Council's.

Those in attendance at the Working Group meeting were content to retain the Council's existing definition. There was some discussion about including the line regarding "any body directed to charitable purposes". The Chairman asked for the Committee to discuss this further at this meeting.

2. **Rule 11.4 – Disclosable Personal Interests** – These interests are registered in advance but are not currently governed by legislation. The LGA code requires these interests to be declared at a meeting if it relates to a matter of business and then the Member cannot take part in the discussion or vote and must leave the meeting for that item. In the Council's current code, Members are required to declare the interest but they can stay and take part and vote; however, the Member may decide not to take part if they are pre-determined / biased.

Members indicated at the information meeting that they are happy to continue with Council's more nuanced approach to Member involvement in discussion / voting after declaring interests. The feeling is that the LGA approach lacks flexibility.

3. **Rule 11.5 – "Non-disclosable Pecuniary/Other interest" or "Non-Registrable Interests"**. The former is the name used by the Council, the latter is from the LGA's Code.

Members at the informal meeting were happy to adopt the phrase "Non-Registrable Interests" in place of "Non-disclosable Pecuniary/Other Interest".

4. **Rule 11.5 – "Non-Registrable Interests"**. These interests are not currently governed by legislation. The LGA code requires these interests to be declared at a meeting if it relates to a matter of business and then the Member cannot take part in the discussion or vote and must leave the meeting for that item. In the Council's current code, Members are required to

declare the interest but they can stay and take part and vote; however, the Member may decide not to take part if they are pre-determined / biased.

Again, Members were content to continue with the Council's current approach to Member involvement in discussion / voting after declaring interests.

- Rule 12.23** – The Council's current position states a financial value (£50) when a declaration has to be made if the gift is declined. The LGA's version does not state a financial value but requires a declaration for a "significant" gift.

Members wished to maintain the monetary figure in the Code to avoid ambiguity and to make the rule easier to interpret.

The revised Code is attached as Appendix 3 subject to any changes required as a result of the queries set out above and any other the Committee may wish to consider at the meeting. A final version may then be recommended to the Council AGM in May for approval. It is also suggested that in advance of the AGM the formatting issues with the amended Code will be resolved and that improvements will be made to the presentation to enable easy differentiation between the Rules and the Guidance in the new Code.

Implications

Corporate Plan:

To ensure we deliver high-quality public services we have adopted a set of corporate values which underpin the successful delivery of our priorities. How we work is as important as what we do. The Council's values are: People Focussed; Honest; Proud; Ambitious.

Legal:

The revised Code of Conduct is consistent with existing legislation (Localism Act 2011).

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: Ethical Governance – failure/delay to implement changes to the Members' Code of Conduct and	This report demonstrates the Council's commitment to maintaining high levels of ethical behaviour and an intention to implement a suitable revised code and the recommendations of the CSPL.

recommendations of the Committee on Standards in Public Life (CSPL) and Peer Challenge (CR003).	The adoption of a revised Code as recommended would mitigate part of this risk. The Committee work plan for 2021/22 will includes ongoing work to address further best practice recommendations.
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Human Resources:

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

Environmental/Sustainability

There are no Environmental/Sustainability issues as a direct result of the recommendations in this 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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