

To: All Members of the STANDARDS
COMMITTEE
(Other Members for Information)

When calling please ask for:

Fiona Cameron, Democratic Services Manager &
Deputy Monitoring Officer

Policy and Governance

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Date: 3 January 2020

Membership of the Standards Committee

Cllr John Robini (Chairman)

Cllr Michael Goodridge (Vice Chairman)

Cllr Brian Adams

Cllr Paul Follows

Cllr John Gray

Cllr Jerry Hyman

Cllr Robert Knowles

Cllr Penny Marriott

Cllr Peter Marriott

Dear Councillors

A meeting of the STANDARDS COMMITTEE will be held as follows:

DATE: MONDAY, 13 JANUARY 2020

TIME: 5.00 PM

PLACE: COMMITTEE ROOM 1, COUNCIL OFFICES, THE BURYS,
GODALMING

The Agenda for the meeting is set out below.

Yours sincerely

ROBIN TAYLOR

Head of Policy and Governance

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NOTE FOR MEMBERS

Members are reminded that Contact Officers are shown in each report and members are welcome to raise questions, etc. in advance of the meeting with the appropriate officer.

AGENDA

1. **MINUTES**

To confirm the Minutes of the meeting which took place on 30 September 2019 (to be laid on the table 30 minutes before the meeting commences).

2. **APOLOGIES FOR ABSENCE**

To receive any apologies for absence.

3. **DISCLOSURES OF INTERESTS**

To receive from Members, declarations of interests in relation to any items included on the agenda for this meeting in accordance with the Waverley Code of Local Government Conduct.

4. **QUESTIONS BY MEMBERS OF THE PUBLIC**

The Chairman to respond to any written questions received from Members of the public in accordance with Procedure Rule 10.

The deadline for receipt of questions is 5pm on Monday 6 January 2020.

5. **QUESTIONS FROM MEMBERS OF THE COUNCIL**

The Chairman to respond to any written questions received from Members in accordance with Procedure Rule 11.

The deadline for receipt of questions is 5pm on Monday 6 January 2020.

MONITORING OFFICER MATTERS

6. **MONITORING OFFICER'S REPORT** (Pages 5 - 10)

The Standards Committee last received a report of complaints submitted to the Monitoring Officer under the Member Code of Conduct in January 2019. This

report summarises the complaints received since the last report, and also updates the Committee on a number of matters that fall within its remit.

Recommendation

It is recommended that the Standards Committee receives the report and makes any observations on it to the Monitoring Officer.

7. 'LOCAL GOVERNMENT ETHICAL STANDARDS' - REVIEW OF THE COMMITTEE ON STANDARD IN PUBLIC LIFE REPORT (Pages 11 - 36)

This report reviews the findings and recommendations of the report *Local Government Ethical Standards* by the Committee on Standards in Public Life.

Recommendation

It is recommended that the Standards Committee notes the summary of the recommendations of the report of the Committee on Standards in Public Life on Local Government Ethical Standards, and considers the implementation of the 15 best practice recommendations as set out in Annexe 3.

The Committee may wish to authorise the Monitoring Officer to take steps to ensure compliance with the best practice recommendations and to report to the Committee as appropriate.

8. EXCLUSION OF PRESS AND PUBLIC

To consider the following recommendation on the motion of the Chairman:

Recommendation

That, pursuant to Procedure Rule 20 and in accordance with Section 100A(4) of the Local Government Act 1972, the press and public be excluded from the meeting during consideration of the following item on the grounds that it is likely, in view of the nature of the business to be transacted or the nature of the proceedings, that if members of the public were present during the item, there would be disclosure to them of exempt information (as defined by Section 100I of the Act) of the description specified at the meeting in the revised Part 1 of Schedule 12A to the Local Government Act 1972.

**For further information or assistance, please telephone
Fiona Cameron, Democratic Services Manager & Deputy Monitoring
Officer, on 01483 523226 or by email at
fiona.cameron@waverley.gov.uk**

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WAVERLEY BOROUGH COUNCIL

STANDARDS COMMITTEE

13 JANUARY 2020

Title:

Monitoring Officer's Report

Portfolio Holder: Cllr John Ward, Leader of the Council
Cllr Paul Follows, Deputy Leader of the Council

Head of Service: Robin Taylor, Head of Policy and Governance
(Monitoring Officer)

Key decision: No

Access: Public

1. Purpose and summary

- 1.1 The Standards Committee last received a report of complaints submitted to the Monitoring Officer under the Member Code of Conduct in January 2019. This report summarises the complaints received since the last report, and also updates the Committee on a number of matters that fall within its remit.

2. Recommendation

- 2.1 It is recommended that the Standards Committee receives the report and makes any observations on it to the Monitoring Officer.

3. Reason for the recommendation

- 3.1 To ensure the Standards Committee are aware of the overall level and type of complaints submitted to the Monitoring Officer under the Member Code of Conduct over the past 12 months, and how these were dealt with.

4. Background

Introduction

- 4.1 The Localism Act gives councils an explicit duty to promote and maintain high standards of Member conduct. It requires the Council to adopt a Code of Conduct setting out the standard of conduct that is expected of Members when acting in their official capacity. Waverley Borough Council adopted its Code of Conduct in July 2012 and has subsequently revised it in July 2013, October 2016 and January 2019. The Code of Conduct is available on the [Council's website](#).

4.2 Each Town or Parish Council in the borough has its own code of conduct but these use the Waverley code as a template so are either identical or similar.

Review of complaints January 2019 to January 2020

Complaints submitted since January 2019

4.3 Nine complaints have been submitted to the Monitoring Officer since January 2019. Of those:

- 2 complaints related to Town and Parish Councillors; and
- 7 complaints related to Borough Councillors.

Complaints about Town and Parish Councillors

4.4 Of the two complaints submitted to the Monitoring Officer about Town and Parish Councillors since January 2019:

- 1 was closed when the complainant did not respond to my request to provide further information about their complaint; and
- 1 was informally investigated by the Monitoring Officer and it was concluded that there was no clear evidence of a breach of the code of conduct and therefore not a case for any further investigation to take place. The complainant subsequently wrote to the Local Government and Social Care Ombudsman (LGSCO). The LGSCO considered the complaint but concluded that it should not investigate because there was insufficient evidence of fault by the Council which would warrant an investigation.

Complaints about Waverley Borough Councillors

4.5 Of the seven complaints submitted to the Monitoring Officer about Waverley Borough Councillors since January 2019:

- 4 were closed, either because the complainant chose to withdraw their complaint or because the complainant did not respond to my request to provide further information about their complaint;
- 2 were informally investigated by the Monitoring Officer and subsequently resolved informally; and
- 1 is a live complaint currently being informally investigated by the Monitoring Officer.

Consultation with the Independent Person (IP)

4.6 Waverley participated in 2019 in a joint recruitment process with Guildford, Epsom & Ewell, Mole Valley, Reigate & Banstead, Spelthorne and Surrey Heath, to appoint a panel of at least three Independent Persons for a 4-year term of office commencing May 2019, with any of the appointed IPs being able to act for any of the councils.

- 4.7 The positions of Independent Persons were advertised on the websites of the 7 councils. Waverley also issued a news story and used the council's social media platforms on Facebook, Twitter and LinkedIn to direct interest to the website.
- 4.8 Following the joint recruitment exercise, consideration of the applications from 4 of the current IPs and 3 new applicants, and after interviews with the 3 new applicants, the Monitoring Officer recommended to the Standards Committee that all 7 Independent Persons be appointed as Independent Persons for the 7 councils, for a 4 year term from May 2019.
- 4.9 I am required as Monitoring Officer to formally consult and consider the view of the Independent Person before deciding to commence a formal investigation. I have not been required to do so during the past 12 months as all new complaints have been withdrawn, dealt with informally or are still live at the informal stage. However, within the past 12 months, I sought the view of the IP on one occasion at the informal stage and considered their view before making my decision as Monitoring Officer.

Further comments and observations

4.10 Further comments and observations on complaints:

- i. Alleged breaches of the first general obligation of the code, namely to always treat others with respect, continued to be the most common feature of complaints made to the Monitoring Officer.
- ii. In the past 12 months, a greater number of complaints cases were closed prior to informal investigation either at the request of the complainant or because the complainant chose not to respond to correspondence from me seeking further detail about their complaint than has been the case in recent years.
- iii. As is indicated by the statistics above, where matters were investigated, it was possible to deal with the majority of complaints informally. Where a mutually satisfactory informal resolution was achieved it relied upon the willingness of those members alleged to have breached their code to constructively engage with the process at the informal stage.
- iv. It was noted in last year's report that a standards panel hearing would be held to consider the conduct of a Waverley Borough Councillor. That hearing took place on 1 February 2019, within the monitoring period of this report. Having invited and considered any representations from the subject member, the complainants, the Monitoring Officer, the independent investigator and the independent person, the panel of members concluded that there was evidence of a breach of the Waverley Members code of conduct. They instructed the Monitoring Officer to arrange training for the subject member on member / officer protocols and working relationships. The panel decision was reported to Full Council on 12 February 2019. The subject member appealed the decision of the panel and the appeals panel met on 15 April 2019 to consider the appeal. The appeals panel rejected the appeal and upheld the decision and recommendation of the original

panel. The recommended training was subsequently undertaken by the subject member.

- v. Things written by elected members in emails or posted online have continued to feature heavily in complaints. Electronic communications can be created, widely transmitted, read and infinitely shared with an audience the original author may not have intended in just a few moments. This, combined with the absence of tone of voice and context, makes electronic communications far more likely to lead to allegations of code breaches than any other form, especially when sent in haste.
- vi. The statistics above do not include cases where individuals have consulted the Monitoring Officer about complaining but decided not to complain as has happened on a number of occasions. They also do not include cases where advice has been given by the Monitoring Officer to elected members, members of staff, Town and Parish clerks and councillors, and residents, but where no complaint has been made.

Borough and Town and Parish elections – May 2019

- 4.11 Elections for the Borough Council and for Waverley Town and Parish Councils took place on 2 May 2019. In signing their Acceptance of Office, councillors have given an undertaking to observe the Code and the conduct that is expected of them in the performance of their role as a borough councillor.
- 4.12 An Induction programme was delivered to all new and returning Borough councillors. This encompassed sessions on the Standards and the Code of Conduct, Member-Officer relationships, and Operating Safely as a Councillor, as well as sessions on councillors' roles in relation to Planning matters.
- 4.13 The Monitoring Officer Team has also delivered this training to Godalming Town Council, Farnham Town Council, Haslemere Town Council and Cranleigh Parish Council.

Gifts & Hospitality

- 4.14 In the past 12 months, 5 registrations of gifts to staff were made to the Monitoring Officer. None of the gifts received were significant in value (being of approximately £25 or less) and all were consumables – either bottles of drink or boxes of biscuits/chocolates.

5. Relationship to the Corporate Strategy and Service Plan

- 5.1 This report relates to the following elements of the Council's Corporate Strategy 2019-2023:
 - Open, democratic and participative governance'; and
 - 'The value and worth of all residents, regardless of income, wealth, age, disability, race, religion, gender or sexual orientation'.

6. Implications of decision

6.1 Resource (Finance, procurement, staffing, IT)

There are no direct resource implications arising from this report.

6.2 Risk management

The arrangements for investigating complaints against councillors and co-opted members under the Council's code of conduct, is a key mechanism for mitigating against the risk of reputational damage, a lack of good governance and loss of public confidence. The Council's Code of Conduct for Elected Members is based upon the 7 'Nolan Principles' of public life, promoted by the Committee for Standards in Public Life, namely.

6.3 Legal

The ethical standards regime has been governed by the Localism Act 2011 for a number of years now, and the Council's Code of Conduct under the 2011 Act is well established and has been reviewed by the Council since first being adopted in July 2012. The Monitoring Officer continues to discharge his statutory functions in relation to ethical standards by reference to the Code of Conduct and the legislative framework.

6.4 Equality, diversity and inclusion

There is a general obligation in the Code of Conduct in which Members undertake to "not do anything which may cause the Council to breach any of the equality enactments (as defined in Section 33 of the Equality Act 2010)".

6.5 Climate emergency declaration

The vast majority of correspondence related to standards matters is sent, received and stored digitally so, aside from occasional face to face visits requiring local travel, there are limited climate implications. The exception to this since the last report was the public standards hearing held on 1 February 2019 which necessitated the printing of agenda papers for various parties and a greater than usual degree of travel by those involved.

7. Consultation and engagement

7.1 N/a

8. Other options considered

8.1 It is good practice to report regularly on the Monitoring Officer's work in relation to the Code of Conduct and ethical matter.

9. **Governance journey**

- 9.1 This report is for the Standards Committee to note. The minutes of the Standards Committee will be reported to Full Council.

Background Papers

1 Feb 2019 Waverley Borough Council Standards Panel hearing papers

<https://modgov.waverley.gov.uk/documents/b9478/Full%20agenda%20pack%20issued%201%20Feb%202019%2001st-Feb-2019%2010.30%20Standards%20Panel.pdf?T=9>

12 February 2019 Waverley Borough Council Standards Panel Decision Notice

<https://modgov.waverley.gov.uk/documents/s28381/Standards%20Panel%201%20Feb%202019%20-%20Decision.pdf>

CONTACT OFFICER:

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Agreed and signed off by:

Legal Services: 3 January 2019

Head of Finance: n/a

Strategic Director: n/a

Portfolio Holder: n/a

WAVERLEY BOROUGH COUNCIL

STANDARDS COMMITTEE

13 JANUARY 2020

Title:

**'Local Government Ethical Standards' -
Review of the Committee on Standards in Public Life Report**

Portfolio Holders: Cllr John Ward, Leader of the Council
Cllr Paul Follows, Deputy Leader of the Council

Head of Service: Robin Taylor, Head of Policy & Governance and Monitoring Officer

Key decision: No

Access: Public

1. Purpose and summary

1.1 This report reviews the findings and recommendations of the report *Local Government Ethical Standards* by the Committee on Standards in Public Life.

2. Recommendation(s)

2.1 It is recommended that the Standards Committee notes the summary of the recommendations of the report of the Committee on Standards in Public Life on Local Government Ethical Standards, and considers the implementation of the 15 best practice recommendations as set out in Annexe 3.

2.2 The Committee may wish to authorise the Monitoring Officer to take steps to ensure compliance with the best practice recommendations and to report to the Committee as appropriate.

3. Reason for the recommendation(s)

3.1 To promote and maintain high standards of conduct amongst Members.

4. Background

4.1 The role of the Committee on Standards in Public Life (CSPL) is to advise the Government on ethical standards across the whole of public life. Standards in public life are based on the Nolan Principles, which were described in the first report of the CSPL in 1995, chaired by Lord Nolan.

4.2 The Localism Act 2011 introduced substantial changes to the laws and processes around the conduct of councillors. The national standards framework and powers to suspend or disqualify a Councillor were abolished, and a duty was put on individual councils to adopt their own local code of conduct. The CSPL undertook to conduct a

review once the new standards regime had bedded in, and carried this out in 2018.

- 4.3 In January 2019 the CSPL published [its report on Local Government Ethical Standards](#). The Executive Summary is attached at [Annexe 1](#). The report concludes that whilst the majority of councillors and officers maintain high standards of conduct, there is clear evidence of misconduct by a minority of councillors. A lot of the evidence gathered by the Committee pointed to improvements which could be made in current guidance and legislation. There was little appetite to return to a centralised standards regime, but the CSPL does call for more consistency and stronger powers to deal with the more serious cases of misconduct. The headline recommendation is to give local authorities the power to suspend, without allowances, councillors for up to six months, but this will require legislative changes and is part of a package of reforms.
- 4.4 The report makes 26 recommendations, mostly of a legislative and regulatory nature directed at Central Government. The report further identifies 15 best practice recommendations aimed at local authorities that promote a culture of high ethical standards. The report suggests that the best practice recommendations should be considered as good ethical practice and implemented by all local authorities. The report also suggests that the CSPL will review the implementation of their best practice recommendations in 2020.
- 4.5 Details of the recommendations to the Government and LGA, and the best practice recommendations, are set out in [Annexe 2](#) and [Annexe 3](#), respectively, with comments regarding the Council's current practice and an assessment of the extent to which they are compliant with best practice. Waverley has a good level of compliance with the recommended best practice, but there is scope to improve the Council's 'Arrangements for dealing with Standards Allegations' ([available on the Council's website](#)) to provide greater transparency about the proceedings and ensure compliance.
- 4.6 Officers understand that work is currently underway at the Ministry and Local Government Association on developing a new Model Code of Conduct, and it would be prudent to await the outcome of this work rather than making further changes to Waverley's Code of Conduct for the time being. The Code of Conduct was last reviewed and updated in 2019.
- 4.7 If the Committee agrees that the Council should aim to comply with the best practice recommendations, it is recommended that the Monitoring Officer is asked to take the necessary steps to achieve this and submit reports to the Committee as appropriate. The initial focus for this work would be to review the Council's 'Arrangements for dealing with Standards Allegations'.

5. Relationship to the Corporate Strategy and Service Plan(s)

- 5.1 This report relates to the following elements of the Council's Corporate Strategy 2019-2023:
- 'Open, democratic and participative governance'; and
 - 'The value and worth of all residents, regardless of income, wealth, age, disability, race, religion, gender or sexual orientation'.

6. Implications of decision(s)

6.1 Resource (Finance, procurement, staffing, IT)

There are no direct resource implications arising from this report. Action to achieve compliance with the Best Practice recommendations will be met from existing resources.

6.2 Risk management

The arrangements for investigating complaints against councillors and co-opted members under the Council's code of conduct is a key mechanism for mitigating against the risk of reputational damage, a lack of good governance and loss of public confidence. The Council's Code of Conduct for Elected Members is based upon the 7 'Nolan Principles' of public life, promoted by the Committee for Standards in Public Life.

6.3 Legal

There are no direct legal implications at this stage. Should good practice recommendations be implemented then the Borough Solicitor/Deputy Monitoring Officer will support the Monitoring Officer and Committee with advice to ensure the Code and supporting procedures reflect the legislative framework.

6.4 Equality, diversity and inclusion

There is a general obligation in the Code of Conduct in which Members undertake to "not do anything which may cause the Council to breach any of the equality enactments (as defined in Section 33 of the Equality Act 2010)".

6.5 Climate emergency declaration

There are no direct climate emergency implications arising from this report. Any updates to the Code of Conduct and the Arrangements for dealing with Standards Allegations will be published on the Council's website.

7. Consultation and engagement

7.1 N/a.

8. Other options considered

8.1 Failure to consider the recommendations of the CSPL could lead to a decline in ethical standards among Members.

9. Governance journey

9.1 Subject to the agreement of the Committee, the Monitoring Officer will report back to the Committee on proposed revisions to the Council's Arrangements for dealing with Standards allegations in order to meet compliance with best practice.

Annexes:

Annexe 1 – CSPL, *Ethical Standards in Local Government*, Executive Summary

Annexe 2 – CSPL, Recommendations on legislative and regulatory framework

Annexe 3 – CSPL, Recommendations on best practice

Background Papers

There are no background papers, as defined by Section 100D (5) of the Local Government Act 1972).

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Agreed and signed off by:

Legal Services: 3 January 2019

Head of Finance: n/a

Strategic Director: n/a

Portfolio Holder: n/a

Local Government Ethical Standards

**A Review by the
Committee on
Standards in Public Life**

**Committee on
Standards in
Public Life**

January 2019





Executive summary

Local government impacts the lives of citizens every day. Local authorities are responsible for a wide range of important services: social care, education, housing, planning and waste collection, as well as services such as licensing, registering births, marriages and deaths, and pest control. Their proximity to local people means that their decisions can directly affect citizens' quality of life.

High standards of conduct in local government are therefore needed to protect the integrity of decision-making, maintain public confidence, and safeguard local democracy.

Our evidence supports the view that the vast majority of councillors and officers maintain high standards of conduct. There is, however, clear evidence of misconduct by some councillors. The majority of these cases relate to bullying or harassment, or other disruptive behaviour. There is also evidence of persistent or repeated misconduct by a minority of councillors.

We are also concerned about a risk to standards under the current arrangements, as a result of the current rules around declaring interests, gifts and hospitality, and the increased complexity of local government decision-making.

Giving local authorities responsibility for ethical standards has a number of benefits. It allows for flexibility and the discretion to resolve standards issues informally. We have considered whether there is a need for a centralised body to govern and adjudicate on standards. We have concluded that whilst the consistency and independence of the system could be enhanced, there is no reason to reintroduce a centralised body, and that local

authorities should retain ultimate responsibility for implementing and applying the Seven Principles of Public Life in local government.

We have made a number of recommendations and identified best practice to improve ethical standards in local government. Our recommendations are made to government and to specific groups of public office-holders. We recommend a number of changes to primary legislation, which would be subject to Parliamentary timetabling; but also to secondary legislation and the Local Government Transparency Code, which we expect could be implemented more swiftly. Our best practice recommendations for local authorities should be considered a benchmark of good ethical practice, which we expect that all local authorities can and should implement. We will review the implementation of our best practice in 2020.

Codes of conduct

Local authorities are currently required to have in place a code of conduct of their choosing which outlines the behaviour required of councillors. There is considerable variation in the length, quality and clarity of codes of conduct. This creates confusion among members of the public, and among councillors who represent more than one tier of local government. Many codes of conduct fail to address adequately important areas of behaviour such as social media use and bullying and harassment. An updated model code of conduct should therefore be available to local authorities in order to enhance the consistency and quality of local authority codes.



There are, however, benefits to local authorities being able to amend and have ownership of their own codes of conduct. The updated model code should therefore be voluntary and able to be adapted by local authorities. The scope of the code of conduct should also be widened, with a rebuttable presumption that a councillor's public behaviour, including comments made on publicly accessible social media, is in their official capacity.

Declaring and managing interests

The current arrangements for declaring and managing interests are unclear, too narrow and do not meet the expectations of councillors or the public. The current requirements for registering interests should be updated to include categories of non-pecuniary interests. The current rules on declaring and managing interests should be repealed and replaced with an objective test, in line with the devolved standards bodies in Scotland, Wales and Northern Ireland.

Investigations and safeguards

Monitoring Officers have responsibility for filtering complaints and undertaking investigations into alleged breaches of the code of conduct. A local authority should maintain a standards committee. This committee may advise on standards issues, decide on alleged breaches and sanctions, or a combination of these. Independent members of decision-making standards committees should be able to vote.

Any standards process needs to have safeguards in place to ensure that decisions are made fairly and impartially, and that councillors are protected against politically-motivated, malicious, or unfounded allegations of misconduct. The Independent Person is an important safeguard in the current system. This safeguard should be strengthened and clarified: a local authority should only be able to suspend a councillor where the Independent

Person agrees both that there has been a breach and that suspension is a proportionate sanction. Independent Persons should have fixed terms and legal protections. The view of the Independent Person in relation to a decision on which they are consulted should be published in any formal decision notice.

Sanctions

The current sanctions available to local authorities are insufficient. Party discipline, whilst it has an important role to play in maintaining high standards, lacks the necessary independence and transparency to play the central role in a standards system. The current lack of robust sanctions damages public confidence in the standards system and leaves local authorities with no means of enforcing lower level sanctions, nor of addressing serious or repeated misconduct.

Local authorities should therefore be given the power to suspend councillors without allowances for up to six months. Councillors, including parish councillors, who are suspended should be given the right to appeal to the Local Government Ombudsman, who should be given the power to investigate allegations of code breaches on appeal. The decision of the Ombudsman should be binding.

The current criminal offences relating to Disclosable Pecuniary Interests are disproportionate in principle and ineffective in practice, and should be abolished.



Town and parish councils

Principal authorities have responsibility for undertaking formal investigations of code breaches by parish councillors. This should remain the case. This responsibility, however, can be a disproportionate burden for principal authorities. Parish councils should be required to adopt the code of their principal authority (or the new model code), and a principal authority's decision on sanctions for a parish councillor should be binding. Monitoring Officers should be provided with adequate training, corporate support and resources to undertake their role in providing support on standards issues to parish councils, including in undertaking investigations and recommending sanctions. Clerks should also hold an appropriate qualification to support them to uphold governance within their parish council.

Supporting officers

The Monitoring Officer is the lynchpin of the current standards arrangements. The role is challenging and broad, with a number of practical tensions and the potential for conflicts of interest. Local authorities should put in place arrangements to manage any potential conflicts. We have concluded, however, that the role is not unique in its tensions and can be made coherent and manageable with the support of other statutory officers. Employment protections for statutory officers should be extended, and statutory officers should be supported through training on local authority governance.

Councils' corporate arrangements

At a time of rapid change in local government, decision-making in local councils is getting more complex, with increased commercial activity and partnership working. This complexity risks putting governance under strain. Local authorities setting up separate bodies risk a governance 'illusion', and should

take steps to prevent and manage potential conflicts of interest, particularly if councillors sit on these bodies. They should also ensure that these bodies are transparent and accountable to the council and to the public.

Our analysis of a number of high-profile cases of corporate failure in local government shows that standards risks, where they are not addressed, can become risks of corporate failure. This underlines the importance of establishing and maintaining an ethical culture.

Leadership and culture

An ethical culture requires leadership. Given the multi-faceted nature of local government, leadership is needed from a range of individuals and groups: an authority's standards committee, the Chief Executive, political group leaders, and the chair of the council.

Political groups have an important role to play in maintaining an ethical culture. They should be seen as a semi-formal institution sitting between direct advice from officers and formal processes by the council, rather than a parallel system to the local authority's standards processes. Political groups should set clear expectations of behaviour by their members, and senior officers should maintain effective relationships with political groups, working with them informally to resolve standards issues where appropriate.

The aim of a standards system is ultimately to maintain an ethical culture and ethical practice. An ethical culture starts with tone. Whilst there will always be robust disagreement in a political arena, the tone of engagement should be civil and constructive. Expected standards of behaviour should be embedded through effective induction and ongoing training. Political groups should require their members to attend code of conduct training provided by a local authority, and this should also be



written into national party model group rules. Maintaining an ethical culture day-to-day relies on an impartial, objective Monitoring Officer who has the confidence of all councillors and who is professionally supported by the Chief Executive.

An ethical culture will be an open culture. Local authorities should welcome and foster opportunities for scrutiny, and see it as a way to improve decision making. They should not rely unduly on commercial confidentiality provisions, or circumvent open decision-making processes. Whilst local press can play an important role in scrutinising local government, openness must be facilitated by authorities' own processes and practices.



List of recommendations

Number	Recommendation	Responsible body
1	The Local Government Association should create an updated model code of conduct, in consultation with representative bodies of councillors and officers of all tiers of local government.	Local Government Association
2	The government should ensure that candidates standing for or accepting public offices are not required publicly to disclose their home address. The Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012 should be amended to clarify that a councillor does not need to register their home address on an authority's register of interests.	Government
3	Councillors should be presumed to be acting in an official capacity in their public conduct, including statements on publicly-accessible social media. Section 27(2) of the Localism Act 2011 should be amended to permit local authorities to presume so when deciding upon code of conduct breaches.	Government
4	Section 27(2) of the Localism Act 2011 should be amended to state that a local authority's code of conduct applies to a member when they claim to act, or give the impression they are acting, in their capacity as a member or as a representative of the local authority.	Government
5	The Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012 should be amended to include: unpaid directorships; trusteeships; management roles in a charity or a body of a public nature; and membership of any organisations that seek to influence opinion or public policy.	Government
6	Local authorities should be required to establish a register of gifts and hospitality, with councillors required to record any gifts and hospitality received over a value of £50, or totalling £100 over a year from a single source. This requirement should be included in an updated model code of conduct.	Government



Number	Recommendation	Responsible body
7	Section 31 of the Localism Act 2011 should be repealed, and replaced with a requirement that councils include in their code of conduct that a councillor must not participate in a discussion or vote in a matter to be considered at a meeting if they have any interest, whether registered or not, “if a member of the public, with knowledge of the relevant facts, would reasonably regard the interest as so significant that it is likely to prejudice your consideration or decision-making in relation to that matter”.	Government
8	The Localism Act 2011 should be amended to require that Independent Persons are appointed for a fixed term of two years, renewable once.	Government
9	The Local Government Transparency Code should be updated to provide that the view of the Independent Person in relation to a decision on which they are consulted should be formally recorded in any decision notice or minutes.	Government
10	A local authority should only be able to suspend a councillor where the authority’s Independent Person agrees both with the finding of a breach and that suspending the councillor would be a proportionate sanction.	Government
11	Local authorities should provide legal indemnity to Independent Persons if their views or advice are disclosed. The government should require this through secondary legislation if needed.	Government / all local authorities
12	Local authorities should be given the discretionary power to establish a decision-making standards committee with voting independent members and voting members from dependent parishes, to decide on allegations and impose sanctions.	Government
13	Councillors should be given the right to appeal to the Local Government Ombudsman if their local authority imposes a period of suspension for breaching the code of conduct.	Government



Number	Recommendation	Responsible body
14	The Local Government Ombudsman should be given the power to investigate and decide upon an allegation of a code of conduct breach by a councillor, and the appropriate sanction, on appeal by a councillor who has had a suspension imposed. The Ombudsman's decision should be binding on the local authority.	Government
15	The Local Government Transparency Code should be updated to require councils to publish annually: the number of code of conduct complaints they receive; what the complaints broadly relate to (e.g. bullying; conflict of interest); the outcome of those complaints, including if they are rejected as trivial or vexatious; and any sanctions applied.	Government
16	Local authorities should be given the power to suspend councillors, without allowances, for up to six months.	Government
17	The government should clarify if councils may lawfully bar councillors from council premises or withdraw facilities as sanctions. These powers should be put beyond doubt in legislation if necessary.	Government
18	The criminal offences in the Localism Act 2011 relating to Disclosable Pecuniary Interests should be abolished.	Government
19	Parish council clerks should hold an appropriate qualification, such as those provided by the Society of Local Council Clerks.	Parish councils
20	Section 27(3) of the Localism Act 2011 should be amended to state that parish councils must adopt the code of conduct of their principal authority, with the necessary amendments, or the new model code.	Government
21	Section 28(11) of the Localism Act 2011 should be amended to state that any sanction imposed on a parish councillor following the finding of a breach is to be determined by the relevant principal authority.	Government
22	The Local Authorities (Standing Orders) (England) (Amendment) Regulations 2015 should be amended to provide that disciplinary protections for statutory officers extend to all disciplinary action, not just dismissal.	Government



Number	Recommendation	Responsible body
23	The Local Government Transparency Code should be updated to provide that local authorities must ensure that their whistleblowing policy specifies a named contact for the external auditor alongside their contact details, which should be available on the authority's website.	Government
24	Councillors should be listed as 'prescribed persons' for the purposes of the Public Interest Disclosure Act 1998.	Government
25	Councillors should be required to attend formal induction training by their political groups. National parties should add such a requirement to their model group rules.	Political groups National political parties
26	Local Government Association corporate peer reviews should also include consideration of a local authority's processes for maintaining ethical standards.	Local Government Association



List of best practice

Our best practice recommendations are directed to local authorities, and we expect that any local authority can and should implement them. We intend to review the implementation of our best practice in 2020.

Best practice 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.

Best practice 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.

Best practice 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.

Best practice 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.

Best practice 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.

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

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

Best practice 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.



Best practice 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.

Best practice 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.

Best practice 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.

Best practice 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.

Best practice 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.

Best practice 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.

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

Recommendations to Government / Local Government Association

No.	Recommendation	Responsible Body	Officer Comment
1.	The Local Government Association should create an updated model code of conduct, in consultation with representative bodies of councillors and officers of all tiers of local government.	<i>Local Government Association</i>	<i>Officers understand that the MHCLG and LGA have begun the process of drafting a new model code of conduct.</i>
2.	The government should ensure that candidates standing for or accepting public offices are not required publicly to disclose their home address. The Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012 should be amended to clarify that a councillor does not need to register their home address on an authority's register of interests.	<i>Government.</i>	<p><i>The Minister wrote to local authorities on 7 March 2019 to inform them that the rules applying to local government, parish council, and local and combined authority mayor elections have been amended to remove the requirement that each candidate's home address must be published during the election process and be published on the ballot paper.</i></p> <p><i>The Minister also encouraged Monitoring Officers to look sympathetically on requests from councillors to withhold sensitive interests from the public Register of Interests.</i></p>

No.	Recommendation	Responsible Body	Officer Comment
3.	Councillors should be presumed to be acting in an official capacity in their public conduct, including statements on publicly-accessible social media. Section 27(2) of the Localism Act 2011 should be amended to permit local authorities to presume so when deciding upon code of conduct breaches.	<i>Government.</i>	<i>Waverley's Code states that it applies when councillors are acting in their role as a Member of the Council, including when using email or social media.</i>
4.	Section 27(2) of the Localism Act 2011 should be amended to state that a local authority's code of conduct applies to a member when they claim to act, or give the impression they are acting, in their capacity as a member or as a representative of the local authority.	<i>Government.</i>	
5.	The Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012 should be amended to include: unpaid directorships; trusteeships; management roles in a charity or a body of a public nature; and membership of any organisations that seek to influence opinion or public policy.	<i>Government.</i>	
6.	Local authorities should be required to establish a register of gifts and hospitality, with councillors required to record any gifts and hospitality received over a value of £50, or totalling £100 over a year from a single source. This requirement should be included in an updated model code of conduct.	<i>Government.</i>	<i>A Gifts and Hospitality Register is already in operation, with thresholds of £50 for gifts and £100 for hospitality.</i>

No.	Recommendation	Responsible Body	Officer Comment
7.	Section 31 of the Localism Act 2011 should be repealed, and replaced with a requirement that councils include in their code of conduct that a councillor must not participate in a discussion or vote in a matter to be considered at a meeting if they have any interest, whether registered or not, "if a member of the public, with knowledge of the relevant facts, would reasonably regard the interest as so significant that it is likely to prejudice your consideration or decision-making in relation to that matter".	<i>Government.</i>	<i>The Council's Code already provides that Members should not participate or vote in matters where they have an interest of this nature.</i>
8.	The Localism Act 2011 should be amended to require that Independent Persons are appointed for a fixed term of two years, renewable once.	<i>Government.</i>	<i>The specialist nature of this role means that such a requirement could be difficult to meet in practice.</i>
9.	The Local Government Transparency Code should be updated to provide that the view of the Independent Person in relation to a decision on which they are consulted should be formally recorded in any decision notice or minutes.	<i>Government.</i>	
10.	A local authority should only be able to suspend a councillor where the authority's Independent Person agrees both with the finding of a breach and that suspending the councillor would be a proportionate sanction.	<i>Government.</i>	

11.	Local authorities should provide legal indemnity to Independent Persons if their views or advice are disclosed. The government should require this through secondary legislation if needed.	<i>Government / all local authorities.</i>	
12.	Local authorities should be given the discretionary power to establish a decision-making standards committee with voting independent members and voting members from dependent parishes, to decide on allegations and impose sanctions.	<i>Government.</i>	
13.	Councillors should be given the right to appeal to the Local Government Ombudsman if their local authority imposes a period of suspension for breaching the code of conduct.	<i>Government.</i>	
14.	The Local Government Ombudsman should be given the power to investigate and decide upon an allegation of a code of conduct breach by a councillor, and the appropriate sanction, on appeal by a councillor who has had a suspension imposed. The Ombudsman's decision should be binding on the local authority.	<i>Government.</i>	
15.	The Local Government Transparency Code should be updated to require councils to publish annually: the number of code of conduct complaints they receive; what the complaints broadly relate to (e.g. bullying; conflict of interest); the outcome of those complaints, including if they are rejected as trivial or vexatious; and any sanctions applied.	<i>Government.</i>	<i>This information is reported to the Standards Committee, but could easily be published separately on the Council's website.</i>
16.	Local authorities should be given the power to suspend councillors, without allowances, for up to six months.	<i>Government.</i>	

17.	The government should clarify if councils may lawfully bar councillors from council premises or withdraw facilities as sanctions. These powers should be put beyond doubt in legislation if necessary.	<i>Government.</i>	
18.	The criminal offences in the Localism Act 2011 relating to Disclosable Pecuniary Interests should be abolished.	<i>Government.</i>	
19.	Parish council clerks should hold an appropriate qualification, such as those provided by the Society of Local Council Clerks.	<i>Parish councils.</i>	
20.	Section 27(3) of the Localism Act 2011 should be amended to state that parish councils must adopt the code of conduct of their principal authority, with the necessary amendments, or the new model code.	<i>Government.</i>	<i>Most of Waverley's Town and Parish Councils have aligned their own Code of Conduct with Waverley's. Making this a requirement would be welcomed.</i>
21.	Section 28(11) of the Localism Act 2011 should be amended to state that any sanction imposed on a parish councillor following the finding of a breach is to be determined by the relevant principal authority.	<i>Government.</i>	
22.	The Local Authorities (Standing Orders) (England) (Amendment) Regulations 2015 should be amended to provide that disciplinary protections for statutory officers extend to all disciplinary action, not just dismissal.	<i>Government.</i>	
23.	The Local Government Transparency Code should be updated to provide that local authorities must ensure that their whistleblowing policy specifies a named contact for the external auditor alongside their contact details, which should be available on the authority's website.	<i>Government.</i>	<i>The Council's Whistleblowing Policy already provides a name contact at Grant Thornton along with their contact details. These can be made available on the Council's website.</i>
24.	Councillors should be listed as 'prescribed persons' for the purposes of the Public Interest Disclosure Act 1998.	<i>Government.</i>	

25.	Councillors should be required to attend formal induction training by their political groups. National parties should add such a requirement to their model group rules.	<i>Political Groups and national political parties.</i>	
26.	Local Government Association corporate peer reviews should also include consideration of a local authority's processes for maintaining ethical standards.	<i>Local Government Association.</i>	

No.	CSPL Best Practice recommendations	Officer Comment
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.	<i>The Council's Code of Conduct prohibits 'any action that could be regarded as harassment, intimidation and/or bullying' but there is no definition of bullying or harassment, or examples of such behaviour.</i>
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><i>The Council's Arrangements for dealing with Standards Allegations already state that trivial allegations or those that appear to be vexatious, malicious or politically motivated will not be investigated.</i></p> <p><i>There is no requirement that a councillor must comply with a formal standards investigation.</i></p>
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.	<i>The Council's Code is regularly reviewed, although the views of the public and community organisations have not been sought.</i>
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.	<i>The Council's Code is readily available on the Council's website.</i>
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.	<i>Registered gifts and hospitality are recorded on the Council's website.</i>
6.	Councils should publish a clear and straightforward public interest test against which allegations are filtered.	<i>The Arrangements sets out the criteria for valid complaints, but this is not explicitly described as a public interest test.</i>

No.	CSPL Best Practice recommendations	Officer Comment
7.	Local authorities should have access to at least two Independent Persons.	<i>The Council has appointed 7 Independent Persons as part of a joint recruitment and appointment process with other Surrey districts.</i>
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.	<i>The Council's Arrangements require the MO to seek the views of an IP before taking a decision to carry out a formal investigation. The MO may seek the views of an IP at any other time.</i>
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.	<i>This is included in the Arrangements (para 9).</i>
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.	<i>Guidance on how to make a complaint and the process for handling complaints is available on the Council's website.</i>
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.	<i>This is a matter for the town and parish councils to consider, and we can consult with colleagues in the towns and parishes on how they would like to take this forward.</i>
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.	<i>This is currently included in the role of the MO, although the resource for this is limited.</i>
No.	CSPL Best Practice recommendations	Officer Comment

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.	<i>There is no explicit procedure in place to address conflicts of interests when undertaking a standards investigation. This could be included in the Arrangements for Dealing with Standards Allegations.</i>
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.	<i>The Council has not established any separate corporate bodies.</i>
15.	Senior officers should meet regularly with political group leaders or group whips to discuss standards issues.	<i>The Chief Executive meets regularly with Group Leaders, although the meetings are not exclusively about standards issues.</i>

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