



# Report to Standards and General Purposes Committee

**Date:** 2 July 2020

**Title:** Committee on Standards in Public Life report on Local Government Ethical Standards and Local Government Association consultation on a Model Code

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**Ward(s) affected:** None specific

## **Recommendations:**

The Committee is asked: -

- 1. To note the Committee on Standards in Public Life (CSPL) recommendations on Local Government Ethical Standards attached at Appendix 1**
- 2. To consider whether any of the CSPL best practice recommendations not already in place should be reported to a future meeting for action.**
- 3. To consider and give comments on the model member code of conduct proposed by the Local Government Association (LGA) and attached at Appendix 2**
- 4. To authorise the Service Director for Legal and Democratic Services in consultation with the Chairman of the Committee, to submit a formal response to the LGA's consultation questions on the model code attached at Appendix 3, having regard to the Committee's comments.**

**Reason for decision:** To ensure the Council acts in accordance with current best practice in relation to ethical standards and has an opportunity to respond to the LGA's national consultation on a model member code of conduct before the deadline of 17 August 2020.

## Content of report

- 1.1.** The Committee on Standards in Public Life (CSPL) advises the Prime Minister on ethical standards across the whole of public life in England. It monitors and reports

on issues relating to the standards of conduct of all public office holders and promotes the 7 principles of public life. In 2018 the CSPL carried out a review into the ethical framework for local authorities which included stake holder consultation. Its report was published in January 2019 and the Executive Summary and Recommendations are attached at Appendix 1.

1.2. The main findings, observations and conclusions are summarised below: -

- High standards of conduct in local government are needed to protect the integrity of decision-making, maintain public confidence and safeguard local democracy.
- Evidence supports the view that the vast majority of councillors and officers maintain high standards of conduct. Where there is misconduct most of the cases involve bullying or harassment or other disruptive behaviour.
- Having considered the need for a centralised body to govern and adjudicate on standards the Committee concluded that whilst the consistency and independence of the system could be enhanced, there is no reason to reintroduce a centralised body and local authorities should retain ultimate responsibility for implementing and applying the 7 principles of public life in local government.
- There is considerable variation in the length, quality and clarity of code of conduct and many codes 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 consistency and quality of local authority codes.
- 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 and this role should be strengthened and clarified
- The current sanctions available to local authorities are insufficient. Party discipline whilst it has an important part to play in maintaining high standards, lacks the necessary independence and transparency to play the central role in the standards system.

1.3. The report makes 26 recommendations, mainly to Government but also to the Local Government Association and Parish Councils in some cases. The key recommendation are that: -

- An updated Voluntary Model Code of Conduct be created by the Local Government Association in consultation with representative bodies of councillors and officers at all tiers of local government
- The register of interests should include categories of non-pecuniary interests
- Current rules on declaring interests should be repealed and replaced with an objective test

- Independent persons should have fixed terms of 2 years, renewable once and protection by legal indemnity put in place if their advice or views are disclosed
- Councils to be given discretion to establish decision-making standards committees with voting independent members and voting members from dependant parishes
- Councils to be given the power to suspend councillors for up to 6 months, to include parish councillors, if an Independent Person agrees to the suspension
- Councillors should be given the right to appeal against suspension to the Local Government Ombudsman
- The criminal offences relating to disclosable pecuniary interests should be abolished
- Parish councils should be required to adopt the code of their principal authority (or the new model code) and a principal authority's 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 to parish councils. Clerks should also hold an appropriate qualification
- Political groups should set clear expectations of behaviour by their members and senior officers should maintain effective relationships with political groups
- Political groups should require their members to attend code of conduct training provided by local authorities and write this into national party model group rules.

1.4 The CSPL also made 15 best practice recommendations shown in the Table below which are directed at local authorities. The Committee expects that any local authority can and should implement these recommendations. The Table indicates the current position at Buckinghamshire Council in terms of compliance with these recommendations.

	<b>Recommended Best Practice</b>	<b>Current Position</b>	<b>RAG</b>
1	Prohibition on bullying and harassment included in code of conduct together with a definition and a list of examples of the behaviour this covers	The Code includes bullying.  Guidance for members refer to definition and examples of the behaviour	
2	Codes should require councillors to comply with any formal standards investigation and prohibit trivial or malicious allegations by	Tit for tat complaints discouraged in complaints	

	councillors	procedure	
3	Codes should be reviewed annually and where possible, views sought from the public, community organisations and neighbouring authorities	Reviews due to be carried out annually but external consultation is not currently proposed	
4	Codes should be readily accessible to councillors and the public in a prominent position on the council's website and available in council premises	Included in the Council's Constitution and accessible when searching under complaints	
5	Council's should update their gifts and hospitality register at once a quarter and publish it in an accessible format, such as CSV	Gifts and hospitality of £25 or more registrable under the code of conduct and published with the member's register of interests. Separate register not currently kept.	
6	Council's should publish a clear and straightforward public interest test against which allegations are filtered	Assessment criteria listed in complaints procedure	
7	Councils should have access to at least 2 Independent Persons	The Council appoints 3 IPs	
8	Independent Person should be consulted on whether to undertake a formal investigation and be given the option to review and comment on allegations which the MO is minded to dismiss as being without merit, vexatious or trivial.	These provision are included in the adopted complaints procedure	
9	Decisions following a formal investigation should be published as soon as possible on the Council's 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.	Complaints procedure provides for decision to be published	
10	Councils should have straightforward and accessible guidance on their website on	Guidance on the complaints procedure to	

	how to make a complaint under the code, the process for handling complaints, the estimated timescales for investigations and outcomes	be considered by the Committee on 2 July 2020	
11	Formal standards complaints about the conduct of a parish councillor towards a clerk should be made by the chair or the parish council as a whole, rather than the clerk in all but exceptional circumstances	This is a matter for parish councils to adopt	
12	MO roles should include providing advice, support and management of investigations and adjudications on alleged breaches to parish councils within their area. MOs should be provided with adequate training, corporate support and resources to undertake this work	The council's complaints procedure applies to complaints about parish and town councillors and these will be investigated if the relevant assessment criteria are met	
13	Councils should have procedures in place to address any conflicts of interest when undertaking a standards investigation. Possible steps include asking the MO from a different council to undertake the investigation.	Complaints procedure allows for an external investigator to be appointed which addresses any potential conflicts of interest.	
14	Councils should report on separate bodies they have set up as part of their annual governance statement and give a full picture of their relationship with those bodies.  Separate bodies created by Councils should abide by the Nolan principles and publish their board agendas, minutes and annual reports in an accessible place.	Details of separate bodies are included in the Council's annual governance statement  Publication of board agendas, minutes and reports is subject to the Constitution and procedure rules of each body and relevant statutory provisions	
15	Senior officers should meet regularly with political group leaders or group whips to discuss standards issues	Meetings are held informally as and when required	



- 1.5. The Committee will note that most of the best practise recommendations are already in place but are invited to consider whether to ask the monitoring officer to bring a report on the outstanding areas to a future meeting of the committee for further consideration.
- 1.6 One of the CSPL recommendations addressed to Local Government Association (LGA) was to review their model code of conduct. The LGA have undertaken this review, holding an event on Civility in Public Life with a range of stakeholders at the end 2019 and three consultation workshops at the beginning of 2020. Their consultants also examined examples of good practice, both in local government and other professions. The result of this initial work is a consultation on a draft model code of conduct attached at Appendix 2. The LGA also intend to create additional guidance, working examples and explanatory text to go alongside the model code.
- 1.7 Consultation on the code runs until 17 August and consultees are asked to respond by completing the questionnaire attached Appendix 3. Members are advised that the LGA would particularly like to know if the model code stands up to the new ways of working that have been introduced and gives enough of a steer on social media and online activity. The Committee is therefore invited to consider and comment on the model code and authorise the Service Director Legal and Democratic Services to submit a final response in consultation with the Chairman of the Committee.

### Other options considered

- 1.8 Where other options are open to the Committee these have already been covered in the commentary above.

### Legal and financial implications

- 1.9 The best practise recommendations made by the CSPL do not have the status of statutory guidance but should be considered by the Council when developing and reviewing its current standards procedures. Apart from officer time there are other legal or financial implications arising directly from bringing forward further reports on best practise or to submitting a response to the LGA consultation on their model code of conduct.

### Corporate implications

- 1.10 There are no direct links to the Council's main policy objectives. But the Council has a duty under the Localism Act 2011 to promote and maintain high standards of conduct by its members. Ensuring that the Council adopts best practise and that all members understand

their obligations under the Council's code of conduct is a matter of good governance and is important in preserving the confidence of local communities.

## Next steps and review

Any reports requested on best practice will be added to the Committee's work programme. A formal response to the LGA consultation on the model code of conduct will be drafted and shared with the Chairman of the Committee for agreement before formal submission.

## Background papers

Local Government Ethical Standards: A review by the Committee on Standards in Public Life January 2019

Local Government Association Consultation on Model Member Code of Conduct June 2020

