

AGENDA

Meeting: Standards Committee

Place: Kennet Room - County Hall, Bythesea Road, Trowbridge, BA14 8JN

Date: Wednesday 20 April 2022

Time: Amended start time – 2.30pm

Please direct any enquiries on this Agenda to Lisa Alexander, of Democratic Services, County Hall, Bythesea Road, Trowbridge, direct line 01722 434560 or email lisa.alexander@wiltshire.gov.uk

Press enquiries to Communications on direct lines (01225) 713114/713115.

This Agenda and all the documents referred to within it are available on the Council's website at www.wiltshire.gov.uk

Membership:

| | |
|---------------------------------------|--------------------|
| Cllr Paul Oatway QPM (Chairman) | Cllr Pip Ridout |
| Cllr Allison Bucknell (Vice-Chairman) | Cllr Mike Sankey |
| Cllr Andrew Davis | Cllr Iain Wallis |
| Cllr Matthew Dean | Cllr Derek Walters |
| Cllr Ruth Hopkinson | Kathy Barnes |
| Cllr Bill Parks | Joanne Cetti |
| Cllr Sam Pearce-Kearney | Julie Phillips |
| Gordon Ball | |

Substitutes:

| | |
|----------------------|------------------------|
| Cllr Richard Britton | Cllr Mel Jacob |
| Cllr Trevor Carbin | Cllr Gordon King |
| Cllr Ernie Clark | Cllr Kathryn Macdermid |
| Cllr Howard Greenman | Cllr Dr Nick Murry |
| Cllr Jon Hubbard | Cllr Graham Wright |

Recording and Broadcasting Information

Wiltshire Council may record this meeting for live and/or subsequent broadcast. At the start of the meeting, the Chairman will confirm if all or part of the meeting is being recorded. The images and sound recordings may also be used for training purposes within the Council.

By submitting a statement or question for an online meeting you are consenting that you will be recorded presenting this, or this may be presented by an officer during the meeting, and will be available on the public record. The meeting may also be recorded by the press or members of the public.

Any person or organisation choosing to film, record or broadcast any meeting of the Council, its Cabinet or committees is responsible for any claims or other liability resulting from them so doing and by choosing to film, record or broadcast proceedings they accept that they are required to indemnify the Council, its members and officers in relation to any such claims or liabilities.

Details of the Council's Guidance on the Recording and Webcasting of Meetings is available on request. Our privacy policy can be found [here](#).

Parking

To find car parks by area follow [this link](#). The three Wiltshire Council Hubs where most meetings will be held are as follows:

County Hall, Trowbridge
Bourne Hill, Salisbury
Monkton Park, Chippenham

County Hall and Monkton Park have some limited visitor parking. Please note for meetings at County Hall you will need to log your car's registration details upon your arrival in reception using the tablet provided. If you may be attending a meeting for more than 2 hours, please provide your registration details to the Democratic Services Officer, who will arrange for your stay to be extended.

Public Participation

Please see the agenda list on following pages for details of deadlines for submission of questions and statements for this meeting.

For extended details on meeting procedure, submission and scope of questions and other matters, please consult [Part 4 of the council's constitution](#).

The full constitution can be found at [this link](#).

For assistance on these and other matters please contact the officer named above for details

AGENDA

Part 1

Items to be considered when the meeting is open to the public

1 **Apologies for Absence**

2 **Minutes** (*Pages 5 - 8*)

To confirm the minutes of the meeting held on 12 January 2022 (*copy attached*).

3 **Declarations of Interest**

To receive any declarations of disclosable interests or dispensations granted by the Standards Committee.

4 **Chairman's Announcements**

5 **Public Participation**

The Council welcomes contributions from members of the public.

Statements

If you would like to make a statement at this meeting on any item on this agenda, please register to do so at least 10 minutes prior to the meeting. Up to 3 speakers are permitted to speak for up to 3 minutes each on any agenda item. Please contact the officer named on the front of the agenda for any further clarification.

Questions

To receive any questions from members of the public or members of the Council received in accordance with the constitution.

Those wishing to ask questions are required to give notice of any such questions in writing to the officer named on the front of this agenda no later than 5pm on Monday 11 April 2022, in order to be guaranteed of a written response. In order to receive a verbal response questions must be submitted no later than 5pm on Wednesday 13 April 2022. Please contact the officer named on the front of this agenda for further advice. Questions may be asked without notice if the Chairman decides that the matter is urgent.

Details of any questions received will be circulated to Committee members prior to the meeting and made available at the meeting and on the Council's website.

6 **Status Report on Code of Conduct Complaints** (*Pages 9 - 12*)

To note the Status Report on the current position on code of conduct Complaints

7 **LGA Model Code of Conduct Working Group Update** (*Pages 13 - 36*)

To consider the recommendations of the Working Group regarding the council's Code of Conduct for Councillors.

- 8 **Local Government Ethical Standards - Governments Response Update**
(Pages 37 - 60)

To note the update on the progression of the Committee on Standards in Public Life's (COSIPL) review of Local Government Ethical Standards.

- 9 **Constitutional Changes**

Committee to consider recommendations of the Constitution Focus Group in relation to Part 3B of the Constitution

Report to follow

- 10 **Urgent Items**

Part II

Item(s) during consideration of which it is recommended that the public should be excluded because of the likelihood that exempt information would be disclosed

Standards Committee

MINUTES OF THE STANDARDS COMMITTEE MEETING HELD ON 12 JANUARY 2022 AT COUNCIL CHAMBER - COUNTY HALL, BYTHESEA ROAD, TROWBRIDGE, BA14 8JN.

Present:

Cllr Paul Oatway QPM (Chairman), Cllr Allison Bucknell (Vice-Chairman), Cllr Andrew Davis, Cllr Matthew Dean, Cllr Bill Parks, Cllr Pip Ridout, Cllr Mike Sankey, Cllr Iain Wallis, Cllr Derek Walters and Cllr Gordon King (Substitute)

Mrs Julie Phillips (non-voting) & Mr Gordon Ball (non-voting)

Also Present:

19 **Apologies for Absence**

Apologies were received from:

- Councillor Sam Pearce-Kearney (Substituted by Cllr Gordon King)
- Joanne Cetti (non-Voting Member)
- Kathy Barnes (non-voting Member)

20 **Minutes of the Previous Meeting**

The minutes of the meeting held on 27 July 2021 were presented for consideration, and it was,

Resolved:

To approve and sign the minutes as a true and correct record.

21 **Declarations of Interest**

There were no declarations.

22 **Chairman's Announcements**

As part of a restructure within the Directorate Legal and Governance, the Complaints team has moved from Legal Services to Democracy and Governance, led by Maria Doherty, Head of Democracy and Governance and

Deputy Monitoring Officer. Henry Powell has now become Democracy and Complaints Manager.

The Chairman and Committee gave thanks to the Senior Solicitor, Paul Barnett for his work and support over the years as he was due to retire.

23 **Public Participation**

There were no statements or questions submitted.

24 **Review of the Code of Conduct**

The Committee received the report detailing the recommendations of the Constitution Focus Group for the Monitoring Officer to amend the Code of Conduct (CoC) as detailed under Paragraph 10 of the attached report. Notes of the Focus Group meeting held in October 2021 were attached.

The Chairman outlined the recommendation of the Focus Group, to replace an appendix document 'The Behaviours Framework' with the currently adopted 'Epic Values' document, as set out in para 10 of the report.

The Monitoring Officer outlined the options available to the Committee as detailed in paragraphs 11 and 12 of the report.

The Chairman noted his thoughts on Wiltshire Council's current CoC, in that he considered it to be weak and that it was not able to include any sanctions.

The Monitoring Officer advised that it was unlikely that Central Government would legislate to introduce sanctions.

There was a discussion regarding the freedom of Town and Parish councils to adopt different versions of the Code of Conduct to Wiltshire Council's which resulted in there being a varied selection across the county.

The interpretation of some sections of the CoC due to ambiguous language was discussed with suggestions for areas of improvement to bring better clarity and less room for individual interpretation, which was felt could lead to bad behaviour. There was an expectation for the Council to have a robust approach to the Standards Regime and not to refer to it as a light touch.

The New Model Code included guidance and was described as being modern and easy to read. There was mixed support of adopting a refined version of the New Model Code and it was suggested that a Working Group be formed to look further into this option and feed back its findings to a future meeting.

The Monitoring Officer noted that it was his intention to work with town and parish councils during 2022 to provide guidance on the CoC in an aim to improve a better understanding and consistency in behavioural standards.

The Committee considered whether there was any significant reason to change the currently adopted CoC or whether to approve it.

Cllr Gordon King joined the meeting but refrained from voting on this item due to not being present from the start of the discussion.

After the Monitoring Officer had summarised the options available to the Committee the Chairman moved the motion to form a Working Group which would carry out a review of the New Model Code and to present its findings at a future meeting for consideration. This was seconded by Cllr Allison Bucknell.

It was:

Resolved:

To note the report and ask the Monitoring Officer, supported by a Working Group of Members and Officers, to carry out a review of the new Model Code and feedback findings to the next meeting.

25 **Status Report on Code of Conduct Complaints**

The Committee received the status report, updating on the number and outcome of Code of Conduct complaints received since 2 June 2021 and a summary of the complaints considered by the Assessment Sub Committee since 15 June 2021.

A summary of the complaints received between the period of 2 June 2021 and 3 January 2022 and a breakdown of the 30 code of conduct complaints received during that period was also provided within the report.

A table of current cases had been provided to the Chairman on 8 December 2021 for a dip sample of cases to be undertaken to enable oversight.

The Committee discussed requests for additional information in future reports, where it was confirmed that the Democracy and Complaints Manager would be including additional data within the report at the next meeting.

The Chairman highlighted that in December he had undertaken a dip sample of 8 CoC complaint cases, of which almost all had been carried out on time. It was noted that the Monitoring Officer intended to look at speeding up the whole investigation process.

The Chairman noted his observations around the long hours in which some of the Officers were currently putting in to complete work.

After a brief discussion, on the motion of the Chairman, seconded by Councillor Bucknell, it was,

Resolved:

To note the position on Code of Conduct Complaints.

26 **Urgent Items**

There were no urgent items.

(Duration of meeting: 13:00 – 14:06)

The Officer who has produced these minutes is Lisa Alexander of Democratic Services, direct line 01722 434560, e-mail lisa.alexander@wiltshire.gov.uk

Press enquiries to Communications, direct line ((01225) 713114 or email communications@wiltshire.gov.uk

Wiltshire Council

Standards Committee

20 April 2022

Code of Conduct Complaints – Status Report

Purpose

1. To provide an update on the Code of Conduct complaints received by the council since the Committee's last meeting.

Statutory background

2. All local authorities are required, by s.28 Localism Act 2011, to adopt a code of conduct for their members. All such codes are required to cover the following:
 - The principles of selflessness, integrity, objectivity, accountability, openness, honesty and leadership
 - The registration and disclosure of pecuniary and other interests.
3. Wiltshire Council, as a principal authority, is required to have in place arrangements for investigating and determining allegations that a member of the Council, or a member of a town or parish council within the council area, has failed to comply with the relevant code of conduct.

Council Code of Conduct procedures

4. Wiltshire Council's arrangements for considering complaints about alleged code of conduct breaches are set out in Protocol 11 to the Constitution, the procedure having changed with effect from 1 January 2020.
5. On receipt of such a complaint the Monitoring Officer will consider the complaint and, if appropriate, prepare a report for the Assessment Sub-Committee (ASC). The Monitoring Officer (MO) may at this point decide not to take any further action on a complaint where, on the available information, it appears to be trivial, vexatious, malicious, politically motivated or 'tit for tat', and it would not be in the public interest, including particularly the efficient use of resources, to proceed.
6. Valid code of conduct complaints are determined by the Assessment Sub-Committee, following receipt of the report from the Monitoring Officer. The Assessment Sub-Committee may conclude that no further action should be taken, it may refer the complaint for investigation, or it may recommend that an alternative resolution be explored with the parties.
7. If the Assessment Sub-Committee determines that a formal investigation should be undertaken, an Investigating Officer is appointed by the Monitoring Officer. If the

recommendation of the Investigating Officer is that there has been a substantial breach of the Code of Conduct, and that alternative resolution is not appropriate, then the Monitoring Officer, after consultation with the Independent Person, will refer the matter to a Standards Hearing Sub-Committee.

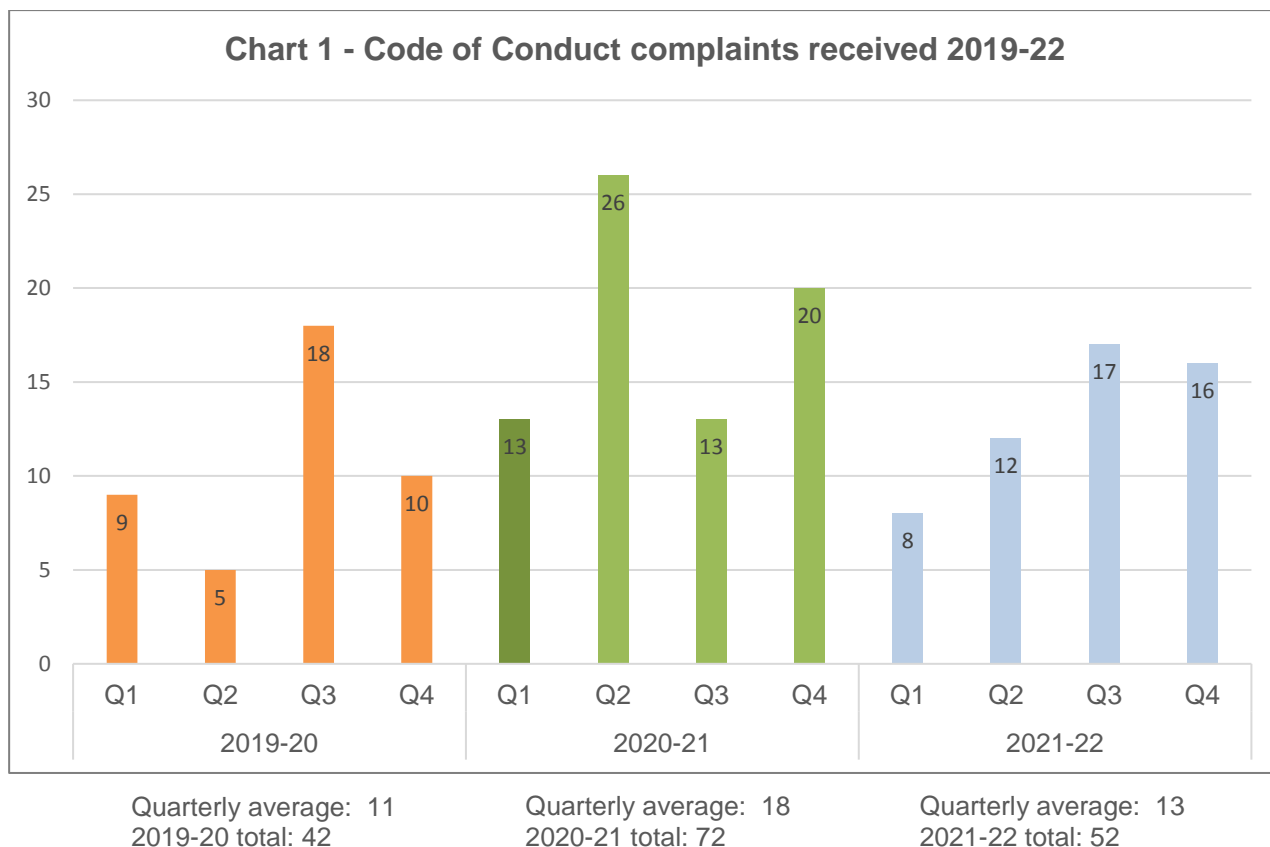
8. The Standards Hearing Sub-Committee will conduct a hearing into the complaint to determine whether there has been a breach of the Code and, if so, what sanctions, if any, should be applied to the Subject Member (the councillor who is the subject of the complaint). If the Subject Member is a member of a town or parish council, the Hearing Sub-Committee's decision regarding sanctions will be in the form of a recommendation to the relevant council.
9. There is no right of appeal of the decision of the Assessment Sub-Committee or the Hearing Sub-Committee.
10. The Standards Committee has oversight of the operation of the procedures for dealing with Code of Conduct complaints as well as a general responsibility to promote and maintain high standards of conduct by elected and co-opted members and officers.

Summary of committee meetings

11. The last Standards Committee meeting took place on 12 January 2021. Since that meeting there have been:
 - 1 meeting of the Standards Assessment Sub-Committee.
 - 0 meetings of the Standards Hearing Sub-Committee.
12. The outcome of these meetings was as follows:
 - 8 February 2022 – Two matters were dealt with by the Assessment Sub-Committee. Both were determined No Further Action.

Summary of complaints received since 4 January 2022 (following publication of the 12 January 2022 committee meeting agenda)

13. Between 4 January and 30 March 2022, the Monitoring Officer received 16 complaints under codes of conduct:
 - 2 were determined as No Further Action by Assessment Sub-Committee.
 - 14 were determined No Further Action by the Monitoring Officer.
14. It should be noted that 12 of these complaints were against members of only two councils.
15. The Monitoring Officer can determine No Further Action under paragraph 4.6 of Protocol 11 – Arrangements for dealing with Code of Conduct Complaints. This is applied where the Monitoring Officer determines that, on the information available, the complaint appears to be trivial, vexatious, malicious, politically motivated or 'tit for tat', and it would not be in the public interest for further action to be taken, including particularly the efficient use of resources.
16. **Chart 1** shows the code of conduct complaints received since 2019:



Types of complaint

14. The 16 code of conduct complaints received since 4 January 2022 can be broken down as follows:

(NFA = No Further Action MO = Monitoring Officer ASC = Assessment Sub-Committee)

- 0 were complaints against **Wiltshire Councillors**:
- 4 were complaints against **town or city councillors**:
 - 3 regarding behaviour in a meeting (1 found NFA by ASC; 2 found NFA by MO)
 - 1 regarding social media posts (found NFA by ASC)
- 12 were complaints against **parish councillors**:
 - 11 regarding behaviour in a meeting (found NFA by MO)
 - 1 regarding a text message (found NFA by MO)

Complaint resolution speed

17. Under Protocol 11 – Arrangements for Dealing with Code of Conduct Complaints, the council aims to assess all such complaints within **5 working days** of receiving the subject member’s response. This is a challenging target as complaints can be complex, require legal input and include a large amount of background information that must be reviewed.

18. Of the 14 complaints assessed by the Monitoring Officer during the reported period, the average assessment time was **7 working days**. The longest time taken was **13 working days**.

19. Complaints referred to Assessment Sub-Committee cannot usually meet the 5 working day timescale due to the need for a scheduled meeting. However, of the 2 complaints assessed by Assessment Sub-Committee, both complaints were assessed at the next scheduled Assessment Sub-Committee meeting.

20. No complaints were referred for investigation during this period. Future reports will include data regarding the time taken to conclude investigations where appropriate.

Dip Sampling

15. A table of current cases was provided to the Chairman of Standards Committee on 31 January 2022 for a dip sample of cases to be undertaken to enable oversight.

Proposal

16. The Committee are asked to note the current position on code of conduct Complaints

Perry Holmes, Director of Legal & Governance and Monitoring Officer

Report Author: Henry Powell, Democracy and Complaints Manager,
complaints@wiltshire.gov.uk

Appendices

None.

Wiltshire Council

Standards Committee

20 April 2022

Report of the Local Government Association (LGA) Model Code of Conduct Working Group

Purpose

1. To present the recommendations of the Working Group regarding the council's Code of Conduct for Councillors.

Background

2. At its meeting on 12 January 2022, the Standards Committee considered the recommendations of the Constitution Focus Group regarding amendments to the Code of Conduct. The Focus Group did not recommend the adoption of the LGA Model Code of Conduct, but agreed that the Behaviours Framework should be replaced by the council's more current Epic Values document to better reflect the position of the Staffing Policy Committee.
3. Following discussion by the Standards Committee, it was resolved to ask the Monitoring Officer, supported by a Working Group of Members and Officers, to carry out a review of the LGA Model Code and present their findings to the next meeting of the Standards Committee.

Methodology

4. The Working Group met on 2 and 22 March 2022 and comprised the following membership:

Gordon Ball
Cllr Allison Bucknell
Joanne Cetti
Cllr Ruth Hopkinson (Chair)
Cllr Mike Sankey

5. The Working Group considered and compared the current Wiltshire Council (WC) and LGA Model codes of conduct, along with their accompanying guidance.

6. It was noted that the LGA Model Code was developed its Model Councillor Code of Conduct in association with key partners and after extensive consultation with the sector, as part of its work on supporting local government to aspire to high standards of leadership and performance. The LGA Model Code is intended as a template for councils to adopt in whole and/or with local amendments. The LGA will undertake an annual review of the Code to ensure it remains fit-for-purpose, incorporating advances in technology, social media and changes in legislation. The LGA has also produced an adaptable Councillor Code of Conduct training resource for council officers to use to deliver training in their own authority and is due to launch Code of Conduct e-learning in April 2022.

Conclusions

7. Following a detailed comparison of the two codes, the Working Group propose the adoption of an **amended** LGA Model Code of Conduct, attached at **Appendix A**.
8. The proposed Code is different from the original LGA Model Code in the following respects:
 - a) It is more succinct, with much of the explanatory detailed contained within the Code’s accompanying guidance.
 - b) It **retains** two requirements that are included in the current WC Code but **not** in the LGA Model Code (for clarity, these are in **red**). These sections relate to not placing oneself under financial or other obligation to other parties, and decision-making.
 - c) The proposed code also retains some sections of the current WC Code’s Guidance, which were not included in the LGA version (these are also in **red**).
9. The working group concluded that the amended LGA code proposed offers the following advantages over the current WC Code:

| Benefits of proposed LGA Model Code over the current WC Code | Impact |
|---|---|
| Sets out expected behaviours in greater detail, including the following additional sections: <ul style="list-style-type: none"> • Respect • Bullying and harassment • Impartiality • Disclosure and use of information • Disrepute • Abiding by the Code of Conduct | Provides more clarity for councillors and the public on what is/isn’t considered acceptable conduct Provides more clarity for those assessing alleged breaches of the Code |

| Benefits of proposed LGA Model Code over the current WC Code | Impact |
|---|--|
| <ul style="list-style-type: none"> • Gifts and hospitality | <p>By being more prescriptive, demonstrates the council's full commitment to standards in public life</p> <p>Although some of the bulleted sections are mentioned in the current WC Code's guidance, guidance is not enforceable</p> |
| <p>Uses the phrasing "I will..." rather than "I must..."</p> | <p>Encourages greater personal ownership of the Code, as opposed to a code that is imposed by others</p> |
| <p>The Guidance states that the Code applies to all forms of communication and interaction, including:</p> <ul style="list-style-type: none"> • at face-to-face meetings • at online or telephone meetings • in written communication • in verbal communication • in non-verbal communication • in electronic and social media communication, posts, statements and comments. | <p>Provides greater clarity on when the Code may apply, particularly applicable in the context of the number of complaints now received about conduct on social media</p> |
| <p>Regarding Registers of Interest:</p> <ul style="list-style-type: none"> • defines 'sensitive' interests • states that you must leave the room in some circumstances • includes guidance re interests specifically for Cabinet members | <p>Provides greater clarity on handling interests</p> |
| <p>Regarding Gifts and Hospitality, requires that gifts not accepted must also be declared</p> | <p>Provides greater transparency regarding Gifts and Hospitality</p> |

Proposal

10. To recommend the Code of Conduct provided at **Appendix A** for adoption by Full Council.
11. To recommend that, if adopted by the council, the proposed Code be promoted as part of a countywide campaign to raise awareness and understanding of councillor conduct matters amongst all local councils.

Cllr Ruth Hopkinson, Chair of the LGA Model Code of Conduct Working Group

Report author: Henry Powell, Democracy and Complaints Manager,
complaints@wiltshire.gov.uk

Appendices

Appendix A Proposed Code of Conduct for Wiltshire Council

**Draft Wiltshire Council
Constitution
Part 12
Wiltshire Council Code
of Conduct for
Members**

1. Code of Conduct

3

Appendix 1 – Roles and Responsibilities of Members

Appendix 2 – [Wiltshire Council EPIC Values document](#) [replacing the Behaviours Framework document]

2. Code of Conduct Guidance

7

Appendix 1 Social Media Guidance for Councillors [currently being updated]

Appendix 2 Openness and transparency on personal interests – a guide for councillors

Appendix 3 Standards and Complaints Assessment Criteria

DRAFT PART 12

WILTSHIRE COUNCIL CODE OF CONDUCT FOR MEMBERS

As a Member or Co-opted Member of Wiltshire Council, I shall have regard to the following principles:

- **Selflessness**
- **Integrity**
- **Objectivity**
- **Accountability**
- **Openness**
- **Honesty**
- **Leadership.**

To uphold these principles, I will follow the below Code of Conduct whilst carrying out my role.

1. Respect

1.1 I treat other Councillors and members of the public with respect.

1.2 I treat local authority employees, employees and representatives of partner organisations and those volunteering for the local authority with respect and respect the role they play.

2. Bullying, harassment and discrimination

2.1 I do not bully any person.

2.2 I do not harass any person.

2.3 I promote equality and do not discriminate unlawfully against any person.

3. Impartiality of officers of the council

3.1 I do not compromise, or attempt to compromise, the impartiality of anyone who works for, or on behalf of, the local authority.

4. Confidentiality and access to information

4.1 I do not disclose information:

- (a) given to me in confidence by anyone
- (b) acquired by me which I believe, or ought reasonably to be aware, is of a confidential nature, unless

- i. I have received the consent of a person authorised to give it;
- ii. I am required by law to do so;
- iii. The disclosure is made to a third party for the purpose of obtaining professional legal advice provided that the third party agrees not to disclose the information to any other person; or
- iv. The disclosure is:
 1. Reasonable and in the public interest; and
 2. made in good faith and in compliance with the reasonable requirements of the local authority; and
 3. I have consulted the Monitoring Officer prior to its release.

4.2 I do not improperly use knowledge gained solely as a result of my role as a Councillor for the advancement of myself, my friends, my family members, my employer or my business interests.

4.3 I do not prevent anyone from getting information that they are entitled to by law.

5. Disrepute

5.1 I do not bring my role or local authority into disrepute.

6. Use of position

6.1 I do not use, or attempt to use, my position improperly to the advantage or disadvantage of myself or anyone else.

6.2 I do not place myself under a financial or other obligation to outside individuals or organisations that might seek to influence me in the performance of my official duties.

7. Use of local authority resources and facilities

7.1 I do not misuse council resources.

7.2 I will, when using the resources of the local authority or authorising their use by others:

- (a) act in accordance with the local authority's requirements; and
- (b) ensure that such resources are not used for political purposes unless that use could reasonably be regarded as likely to facilitate, or be conducive to, the discharge of the functions of the local authority or of the office to which I have been elected or appointed.

8. Complying with the Code of Conduct

8.1 I undertake Code of Conduct training provided by my local authority.

8.2 I cooperate with any Code of Conduct investigation and/or determination.

8.3 I do not intimidate or attempt to intimidate any person who is likely to be involved with the administration of any investigation or proceedings.

8.4 I comply with all sanctions **and recommendations** imposed on me following a finding that I have breached the Code of Conduct.

9. Interests

9.1 I register and disclose my interests.

10. Gifts and hospitality

10.1 I do not accept gifts or hospitality, irrespective of estimated value, which could give rise to real or substantive personal gain or a reasonable suspicion of influence on my part to show favour from persons seeking to acquire, develop or do business with the local authority or from persons who may apply to the local authority for any permission, licence or other significant advantage.

10.2 I register with the Monitoring Officer any gift or hospitality with an estimated value of at least £50 within 28 days of its receipt.

10.3 I register with the Monitoring Officer any significant gift or hospitality that I have been offered but have refused to accept.

11. Taking decisions

11.1 **When carrying out my public duties, I make all choices, such as making public appointments, awarding contracts or recommending individuals for rewards or benefits, on merit.**

11.2 **I am as open as possible about my decisions and actions and the decisions and actions of my authority, and am prepared to give reasons for those decisions and actions.**

11.3 **I am accountable for my decisions to the public and will co-operate fully with whatever scrutiny is appropriate to my office.**

This Code of Conduct sets out the minimum standards of conduct required of you as a Councillor.

This Code of Conduct should be read in conjunction with the guidance set out in this constitution as well as the following appendices:

Appendix 1 – Roles and Responsibilities of Members [unchanged]

Appendix 2 – [Wiltshire Council EPIC Values document](#) [replacing the Behaviours Framework document]

Proposed

DRAFT WILTSHIRE COUNCIL CODE OF CONDUCT GUIDANCE FOR MEMBERS

Contents

| | |
|------------------------------|----|
| 1. Purpose | 8 |
| 2. Principles of Public Life | 8 |
| 3. Application of the Code | 9 |
| 4. Code of Conduct Guidance | 9 |
| 5. Register of Interests | 14 |

Purpose

This guidance is intended to assist you in meeting your obligations under the Council's Code of Conduct.

You are encouraged to seek advice from the Monitoring Officer if you are unclear about any aspect of the Code or how it applies in your particular situation.

The statutory framework for standards in local government is contained in Part 7 of the Localism Act 2011, which can be found at:

<http://www.legislation.gov.uk/ukpga/2011/20/part/1/chapter/7/enacted>

The Principles of Public Life

Selflessness

Holders of public office should act solely in terms of the public interest.

Integrity

Holders of public office must avoid placing themselves under any obligation to people or organisations that might try inappropriately to influence them in their work.

They should not act or take decisions in order to gain financial or other material benefits for themselves, their family, or their friends. They must disclose and resolve any interests and relationships.

Objectivity

Holders of public office must act and take decisions impartially, fairly and on merit, using the best evidence and without discrimination or bias.

Accountability

Holders of public office are accountable to the public for their decisions and actions and must submit themselves to the scrutiny necessary to ensure this.

Openness

Holders of public office should act and take decisions in an open and transparent manner. Information should not be withheld from the public unless there are clear and lawful reasons for so doing.

Honesty

Holders of public office should be truthful.

Leadership

Holders of public office should exhibit these principles in their own behaviour. They should actively promote and robustly support the principles and be willing to challenge poor behaviour wherever it occurs.

Application of the Code of Conduct

The Code of Conduct applies to you as soon as you sign your declaration of acceptance of the office of Councillor or attend your first meeting as a Co-opted Member and continues to apply to you until you cease to be a Councillor.

This Code of Conduct applies to you when you are acting in your capacity as a Councillor which may include when:

- you misuse your position as a Councillor
- Your actions would give the impression to a reasonable member of the public with knowledge of all the facts that you are acting as a Councillor;

The Code applies to all forms of communication and interaction, including:

- at face-to-face meetings
- at online or telephone meetings
- in written communication
- in verbal communication
- in non-verbal communication
- in electronic and social media communication, posts, statements and comments.

You are also expected to uphold high standards of conduct and show leadership at all times when acting as a Councillor.

The Monitoring Officer has statutory responsibility for the implementation of the Code of Conduct, and you are encouraged to seek advice from the Monitoring Officer on any matters that may relate to your Code of Conduct.

Code of Conduct Guidance

This section sets out further guidance relating to your obligations, which are the minimum standards of conduct required of you as a Councillor. Should your conduct fall short of these standards, a complaint may be made against you, which may result in action being taken.

Guidance is included to help explain the reasons for the obligations set out in the Code of Conduct and how they should be followed.

1. Respect

Respect means politeness and courtesy in behaviour, speech, and in the written word. Debate and having different views are all part of a healthy democracy. As a Councillor, you can express, challenge, criticise and disagree with views, ideas, opinions and policies in a robust but civil manner. You should not, however, subject individuals, groups of people or organisations to personal attack.

In your contact with the public, you should treat them politely and courteously. Rude and offensive behaviour lowers the public's expectations and confidence in Councillors.

In return, you have a right to expect respectful behaviour from the public. If members of the public are being abusive, intimidating or threatening you are entitled to stop any conversation or interaction in person or online and report them to the local authority, the relevant social media provider or the police. This also applies to fellow Councillors, where action could then be taken under the Councillor Code of Conduct, and local authority employees, where concerns should be raised in line with the local authority's Councillor- officer protocol.

2. Bullying, harassment and discrimination

The Advisory, Conciliation and Arbitration Service (ACAS) characterises bullying as offensive, intimidating, malicious or insulting behaviour, an abuse or misuse of power through means that undermine, humiliate, denigrate or injure the recipient. Bullying might be a regular pattern of behaviour or a one-off incident, happen face-to-face, on social media, in emails or phone calls, happen in the workplace or at work social events and may not always be obvious or noticed by others.

The Protection from Harassment Act 1997 defines harassment as conduct that causes alarm or distress or puts people in fear of violence and must involve such conduct on at least two occasions. It can include repeated attempts to impose unwanted communications and contact upon a person in a manner that could be expected to cause distress or fear in any reasonable person.

Unlawful discrimination is where someone is treated unfairly because of a protected characteristic. Protected characteristics are specific aspects of a person's identity defined by the Equality Act 2010. They are age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex and sexual orientation.

The Equality Act 2010 places specific duties on local authorities. Councillors have a central role to play in ensuring that equality issues are integral to the local authority's performance and strategic aims, and that there is a strong vision and public commitment to equality across public services.

An objective test is applied in determining whether conduct amounts to bullying or intimidation; in other words the conduct will be looked at through the eyes of a notional reasonable member of the public with knowledge of all the facts, and who looks at the conduct objectively.

3. Impartiality of officers of the council

Officers work for the local authority as a whole and must be politically neutral (unless they are political assistants). They should not be coerced or persuaded to act in a way that would undermine their neutrality. You can question officers in order to understand, for example, their reasons for proposing to act in a particular way, or the

content of a report that they have written. However, you must not try and force them to act differently, change their advice, or alter the content of that report, if doing so would prejudice their professional integrity.

4. Confidentially and access to information

Local authorities must work openly and transparently, and their proceedings and printed materials are open to the public, except in certain legally defined circumstances. You should work on this basis, but there will be times when it is required by law that discussions, documents and other information relating to or held by the local authority must be treated in a confidential manner. Examples include personal data relating to individuals or information relating to ongoing negotiations.

5. Disrepute

As a Councillor, you are trusted to make decisions on behalf of your community and your actions and behaviour are subject to greater scrutiny than that of ordinary members of the public. You should be aware that your actions might have an adverse impact on you, other Councillors and/or your local authority and may lower the public's confidence in your or your local authority's ability to discharge your/its functions. For example, behaviour that is considered dishonest and/or deceitful can bring your local authority into disrepute.

You are able to hold the local authority and fellow Councillors to account and are able to constructively challenge and express concern about decisions and processes undertaken by the council whilst continuing to adhere to other aspects of this Code of Conduct.

6. Use of position

Your position as a member of the local authority provides you with certain opportunities, responsibilities, and privileges, and you make choices all the time that will impact others. However, you must not take advantage of these opportunities to further your own or others' private interests or to disadvantage anyone unfairly.

7. Use of local authority resources and facilities

You may be provided with resources and facilities by the local authority to assist you in carrying out your duties as a Councillor.

Examples include:

- office support
- stationery
- equipment such as phones, and computers
- transport
- access and use of local authority buildings and rooms.

These are given to you to help you carry out your role as a Councillor more effectively and are not to be used for business or personal gain. They should be

used in accordance with the purpose for which they have been provided and the local authority's own policies regarding their use.

8. Complying with the Code of Conduct

It is extremely important for you as a Councillor to demonstrate high standards, for you to have your actions open to scrutiny and for you not to undermine public trust in the local authority or its governance. If you do not understand or are concerned about the local authority's processes in handling a complaint you should raise this with your Monitoring Officer.

Complaints Procedure

The Council's arrangements for dealing with complaints under the Code of Conduct are set out in Protocol 11 of the Council's Constitution.

Local Assessment Criteria

Complaints under the Code are assessed or reviewed in accordance with the criteria attached at Appendix 3.

9. Interests

Section 29 of the Localism Act 2011 requires the Monitoring Officer to establish and maintain a register of interests of members of the authority.

You need to register your interests so that the public, local authority employees and fellow Councillors know which of your interests might give rise to a conflict of interest. The register is a public document that can be consulted when (or before) an issue arises. The register also protects you by allowing you to demonstrate openness and a willingness to be held accountable. You are personally responsible for deciding whether or not you should disclose an interest in a meeting, but it can be helpful for you to know early on if others think that a potential conflict might arise. It is also important that the public know about any interest that might have to be disclosed by you or other Councillors when making or taking part in decisions, so that decision making is seen by the public as open and honest. This helps to ensure that public confidence in the integrity of local governance is maintained.

You should note that failure to register or disclose a disclosable pecuniary interest as set out in Table 1, is a criminal offence under the Localism Act 2011.

The Register of Interests section below sets out the detailed provisions on registering and disclosing interests. If in doubt, you should always seek advice from your Monitoring Officer.

10. Gifts and hospitality

In order to protect your position and the reputation of the local authority, you should exercise caution in accepting any gifts or hospitality which are (or which you reasonably believe to be) offered to you because you are a Councillor. The

presumption should always be not to accept significant gifts or hospitality. However, there may be times when such a refusal may be difficult if it is seen as rudeness in which case you could accept it but must ensure it is publicly registered. However, you do not need to register gifts and hospitality which are not related to your role as a Councillor, such as Christmas gifts from your friends and family. It is also important to note that it is appropriate to accept normal expenses and hospitality associated with your duties as a Councillor. If you are unsure, do contact your Monitoring Officer for guidance.

11. Taking decisions

The decisions you take whilst undertaking your public duties should be made on an objective basis, using the best information available whilst avoiding discrimination, or bias. To ensure public confidence in the decision-making process, you should be willing to make the reasons for your decisions, as well as those of Wiltshire Council, publicly available. Information about why decisions have been taken should only be withheld in cases where there are clear and lawful reasons for doing so. As a holder of public office, you must be accountable for your decisions and actions and must submit yourself to the level of scrutiny commensurate with your position. It is important that the public are able to constructively challenge and express concern about the process by which decisions are made.

Bias and Predetermination

Decisions, particularly in regulatory matters such as planning and licensing, may be challenged and ruled unlawful on the ground of bias. The test is whether a fair-minded and informed observer, having considered the facts, would conclude that there was a real possibility that the councillor was biased. In particular, under the Council's Code of Conduct for Members, bias would occur if you placed yourself under a financial or other obligation to third parties that might seek to influence you in the performance of your official duties. The rules on registration and declaration of interests are intended to protect councillors against allegations of bias and predetermination.

The Localism Act 2011 has clarified the rules on predetermination. Predetermination occurs where someone has a closed mind so that they are unable to apply their judgment fully and properly to the issue requiring a decision. This can lead to legal challenges and decisions being set aside.

The Act makes it clear that a councillor is not deemed to have had a closed mind on an issue just because they have indicated what view they have taken or may take before the issue is decided. A councillor is not, for example, prevented from participating in discussion of an issue or voting on it if they have campaigned on the issue or made public statements about their approach to it.

The general position, however, remains that, whatever their views, councillors must approach their decision-making with an open mind in the sense that they must have regard to all material considerations and must be prepared to change their views if persuaded that they should.

Whether or not there is actual or apparent bias or predetermination is a question of fact to be considered in each case. Where this may be an issue for a councillor advice should be sought at an early stage and in any event before the decision concerned is made.

Registers of Interests

Your registration of personal interests should be guided by your duty to act in conformity with the Principles of Public Life.

The rules on registering and declaring interests are intended to promote openness and transparency to give the public confidence that councillors are putting the public interest first and are not benefiting their own financial affairs from being a councillor.

You should consider your obligations in respect of registering and declaring interests within this context. As a general rule, if you are in any doubt about your situation you should register or declare an interest. This provides openness and transparency, protects the public interest, the local authority's decision and your own position.

Your register of interests is a public document available on the Council's web site and should contain sufficient details to ensure that the nature of your interest is clear to members of the public. In the case of an interest in land this should include a sufficient description of the land to enable it to be identified.

Within 28 days of becoming a member or your re-election or re-appointment to office you must register with the Monitoring Officer the interests which fall within the categories set out in **Table 1 (Disclosable Pecuniary Interests)** which are as described in "The Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012". You should also register details of your other personal interests which fall within the categories set out in **Table 2 (Other Registerable Interests)**.

"Disclosable Pecuniary Interest" means an interest of yourself, or of your partner if you are aware of your partner's interest, within the descriptions set out in Table 1 below.

"Partner" means a spouse or civil partner, or a person with whom you are living as husband or wife, or a person with whom you are living as if you are civil partners.

1. You must ensure that your register of interests is kept up-to-date and within 28 days of becoming aware of any new interest, or of any change to a registered interest, notify the Monitoring Officer.

2. A 'sensitive interest' is as an interest which, if disclosed, could lead to the Councillor, or a person connected with the Councillor, being subject to violence or intimidation.

3. Where you have a 'sensitive interest' you must notify the Monitoring Officer with the reasons why you believe it is a sensitive interest. If the Monitoring Officer agrees they will withhold the interest from the public register.

Non participation in case of disclosable pecuniary interest

4. Where a matter arises at a meeting which directly relates to one of your Disclosable Pecuniary Interests as set out in **Table 1**, you must disclose the interest, not participate in any discussion or vote on the matter and must not remain in the room unless you have been granted a dispensation. If it is a 'sensitive interest', you do not have to disclose the nature of the interest, just that you have an interest. Dispensation may be granted in limited circumstances, to enable you to participate and vote on a matter in which you have a disclosable pecuniary interest.

5. [Where you have a disclosable pecuniary interest on a matter to be considered or is being considered by you as a Cabinet member in exercise of your executive function, you must notify the Monitoring Officer of the interest and must not take any steps or further steps in the matter apart from arranging for someone else to deal with it]

Disclosure of Other Registerable Interests

6. Where a matter arises at a meeting which **directly relates** to the financial interest or wellbeing of one of your Other Registerable Interests (as set out in **Table 2**), you must disclose the interest. You may speak on the matter only if members of the public are also allowed to speak at the meeting but otherwise must not take part in any discussion or vote on the matter and must not remain in the room unless you have been granted a dispensation. If it is a 'sensitive interest', you do not have to disclose the nature of the interest.

Disclosure of Non-Registerable Interests

7. Where a matter arises at a meeting which **directly relates** to your financial interest or well-being (and is not a Disclosable Pecuniary Interest set out in Table 1) or a financial interest or well-being of a relative or close associate, you must disclose the interest. You may speak on the matter only if members of the public are also allowed to speak at the meeting. Otherwise you must not take part in any discussion or vote on the matter and must not remain in the room unless you have been granted a dispensation. If it is a 'sensitive interest', you do not have to disclose the nature of the interest.

8. Where a matter arises at a meeting which **affects** –

- a. your own financial interest or well-being;
- b. a financial interest or well-being of a relative or close associate; or
- c. a financial interest or wellbeing of a body included under Other Registrable Interests as set out in **Table 2**

you must disclose the interest. In order to determine whether you can remain in the meeting after disclosing your interest the following test should be applied

9. Where a matter (referred to in paragraph 8 above) **affects** the financial interest or well-being:

- a. to a greater extent than it affects the financial interests of the majority of inhabitants of the ward affected by the decision and;
- b. a reasonable member of the public knowing all the facts would believe that it would affect your view of the wider public interest

You may speak on the matter only if members of the public are also allowed to speak at the meeting. Otherwise you must not take part in any discussion or vote on the matter and must not remain in the room unless you have been granted a dispensation.

If it is a 'sensitive interest', you do not have to disclose the nature of the interest.

10. [Where you have an Other Registerable Interest or Non-Registerable Interest on a matter to be considered or is being considered by you as a Cabinet member in exercise of your executive function, you must notify the Monitoring Officer of the interest and must not take any steps or further steps in the matter apart from arranging for someone else to deal with it]

This table sets out the explanation of Disclosable Pecuniary Interests as set out in the [Relevant Authorities \(Disclosable Pecuniary Interests\) Regulations 2012](#).

| Table 1: Disclosable Pecuniary Interests | |
|--|--|
| Subject | Description |
| Employment, office, trade, profession or vocation | Any employment, office, trade, profession or vocation carried on for profit or gain. |
| Sponsorship | Any payment or provision of any other financial benefit (other than from the council) made to the Councillor during the previous 12-month period for expenses incurred by him/her in carrying out his/her duties as a Councillor, or towards his/her election expenses. This includes any payment or financial benefit from a trade union within the meaning of the Trade Union and Labour Relations (Consolidation) Act 1992. |
| Contracts | Any contract made between the Councillor or his/her spouse or civil partner or the person with whom the Councillor is living as if they were spouses/civil partners (or a firm in which such person is a partner, or an incorporated body of which such person is a director* or a body that such person has a beneficial interest in the securities of*) and the council — (a) under which goods or services are to be provided or works are to be executed; and (b) which has not been fully discharged. |

Table 1: Disclosable Pecuniary Interests

| Subject | Description |
|----------------------------|--|
| Land and property | <p>Any beneficial interest in land which is within the area of the council.</p> <p>‘Land’ excludes an easement, servitude, interest or right in or over land which does not give the Councillor or his/her spouse or civil partner or the person with whom the Councillor is living as if they were spouses/ civil partners (alone or jointly with another) a right to occupy or to receive income.</p> |
| Licenses | <p>Any licence (alone or jointly with others) to occupy land in the area of the council for a month or longer</p> |
| Corporate tenancies | <p>Any tenancy where (to the Councillor’s knowledge)—</p> <ul style="list-style-type: none"> (a) the landlord is the council; and (b) the tenant is a body that the Councillor, or his/her spouse or civil partner or the person with whom the Councillor is living as if they were spouses/ civil partners is a partner of or a director* of or has a beneficial interest in the securities* of. |
| Securities | <p>Any beneficial interest in securities* of a body where—</p> <ul style="list-style-type: none"> (a) that body (to the Councillor’s knowledge) has a place of business or land in the area of the council; and (b) either— <ul style="list-style-type: none"> (i) the total nominal value of the securities* exceeds £25,000 or one hundredth of the total issued share capital of that body; or (ii) if the share capital of that body is of more than one class, the total nominal value of the shares of any one class in which the Councillor, or his/ her spouse or civil partner or the person with whom the Councillor is living as if they were spouses/civil partners have a beneficial interest exceeds one hundredth of the total issued share capital of that class. |

* ‘director’ includes a member of the committee of management of an industrial and provident society.

* ‘securities’ means shares, debentures, debenture stock, loan stock, bonds, units of a collective investment scheme within the meaning of the Financial Services and Markets Act 2000 and other securities of any description, other than money deposited with a building society.

Table 2

You must register as an Other Registerable Interest:

- a) any unpaid directorships
- b) any body of which you are a member or are in a position of general control or management and to which you are nominated or appointed by your authority
- c) any body

- (i) exercising functions of a public nature
- (ii) directed to charitable purposes or
- (iii) one of whose principal purposes includes the influence of public opinion or policy (including any political party or trade union) of which you are a member or in a position of general control or management

Guidance Appendices

Appendix 1 Social Media Guidance for Councillors [currently being updated]

Appendix 2 Openness and transparency on personal interests – a guide for councillors

Appendix 3 Standards and Complaints Assessment Criteria

Proposed

This page is intentionally left blank

Wiltshire Council

Standards Committee

20 April 2022

Local Government Ethical Standards Update

Purpose

1. To update the Standards Committee on the progression of the Committee on Standards in Public Life's review of Local Government Ethical Standards.

Background

2. On 29 January 2018 the Committee on Standards in Public Life (COSIPL) undertook a review of Local Government Ethical Standards.
3. On 30 January 2019 the COSIPL released its report into Local Government Ethical Standards and an executive summary of its conclusions was presented to the Standards Committee on 1 May 2019.
4. The Standards Committee considered the consultation questions and provided a response on behalf of the council, which is included as Appendix 1.

Main Considerations

5. On 18 March 2022 the Government formally responded to the report and recommendations of the Committee on Standards in Public Life. This response is set out in full at Appendix 2.
6. Some of the most significant recommendations from the Committee included reintroducing the ability to suspend councillors as a sanction following an investigation and hearing, and that the criminal offences relating to Disclosable Pecuniary Interests within the Localism Act 2011 should be abolished. Other recommendations included that parish councils should adopt the Code of their principal authority.
7. The government did not agree with the major recommendations listed above, but did agree to keep some recommendations under review or to seek further engagement. This included engaging with local government on options to strengthen sanctions for serious incidents of bullying, harassment and disruptive behaviour. It also stated it would keep under review matters relating to registration of disclosable interests, but did not have current plans to amend legislation or regulations.

Recommendation:

8. The Committee are asked:

To note the update on the Government response to the Committee on Standards in Public Life's Review of Local Government Ethical Standards.

Perry Holmes, Director of Legal & Governance and Monitoring Officer

Report Author: Lisa Alexander, Senior Democratic Services Officer,
lisa.alexander@wiltshire.gov.uk

Appendices

Appendix 1 – Council’s response to COSIPL Review of Local Government
Ethical Standards

Appendix 2 – Government response to the COSIPL

Review of Local Government Ethical Standards: Stakeholder Consultation

Responses on behalf of Wiltshire Council

1. Wiltshire Council welcomes the opportunity to contribute to the review of local government ethical standards, being undertaken by the Committee on Standards in Public Life. The consultation questions have been considered by the Council's Standards Committee and the responses set out below have been prepared by the Council's Monitoring Officer, taking into account the comments made by members of that Committee.
2. Wiltshire Council is a large unitary authority with 98 members. There are also 252 parish councils within the County, the majority representing rural areas with small populations. The Monitoring Officer for Wiltshire Council deals with all Code of Conduct complaints relating to these parish councils. Most of the issues that have arisen with the operation of the ethical standards regime in Wiltshire have involved parish councillors, rather than Unitary councillors.
3. In response to the specific questions posed by the Committee, the Council's comments are as follows. Some of the comments of necessity overlap between different questions:
 - a. *Are the existing structures, processes and practices in place working to ensure high standards of conduct by local councillors? If not, please say why.*
 - b. *What, if any, are the most significant gaps in the current ethical standards regime for local government?*
4. A significant concern that the Council has with the current regime is that it only deals with the ethical standards of individual councillors and does not address the problem of poor standards of decision-making and procedures that may exist within a parish council itself as a corporate body. The Monitoring Officer receives many complaints about the actions of parish councils as well as ones about the conduct of individual councillors. Many parish councils in Wiltshire struggle to attract and retain sufficient numbers of people with appropriate skills and experience to serve as parish councillors. At the May 2017 elections only 44 out of the 252 parish councils in Wiltshire had contested elections, the majority of those being the larger town councils. A number of parish councils continue to operate with one or more vacancies, as they have not been able to fill those vacancies by co-option. In addition, some parish clerks (particularly in the smaller parish councils) need more support

and training on governance matters and there is a problem of a high turnover of clerks in some parish councils.

5. There is currently no mechanism for members of the public to challenge poor practices by a parish council itself (other than by legal proceedings or, if relevant, referral to the appointed auditor). This can lead to attempts to frame such challenges as Code of Conduct complaints against individual members of the parish council, leading to frustration and wasted time by all concerned. Wiltshire Council recently had a case where separate Code of Conduct complaints were brought against all members of a parish council, in an attempt to challenge a decision taken by that council.
6. The Council has concerns about the effectiveness of sanctions under the current regime and this is addressed below.

c. Are local authority adopted codes of conduct for councillors clear and easily understood? Do the codes cover an appropriate range of behaviours? What examples of good practice, including induction processes, exist?

7. The Council considers that it would be preferable to have a single Code of Conduct that applied either nationally, or across a principal authority's area, rather than requiring each individual parish council to adopt its own Code. Whilst many parish councils in Wiltshire have adopted the Wiltshire Council Code of Conduct, a number have adopted their own Codes, which can cause confusion in interpretation, especially where the drafting of some of the provisions may not be particularly clear. In addition, there are some parish councils that have still not adopted a Code of Conduct and there is little that this Council can do, other than to remind them of their legal obligations. The Council feels that it may be worth considering having an 'opt out' system, whereby all parish councils are automatically covered by a standard Code of Conduct (with standard interpretation of terms), unless they positively determine to adopt a different one. A standard Code of Conduct would also assist councillors who sit on more than one parish council, or who are both parish and Unitary councillors.
8. Wiltshire Council conducts a comprehensive induction programme for new Unitary Councillors, immediately after election. However, it is not practicable to provide such induction to all parish councillors, given the number and geographic spread of parish councils in the county. The Council is looking at providing on-line training for parish councillors, however it would not be possible to ensure that all councillors undertook such training.

9. The Council has also prepared and adopted Guidance on the interpretation of the Wiltshire Council Code of Conduct, which is included in its constitution. However, that guidance does not apply to differently worded Codes that have been adopted by parish councils.

d A local authority has a statutory duty to ensure that its adopted code of conduct for councillors is consistent with the Seven Principles of Public Life and that it includes appropriate provision (as decided by the local authority) for registering and declaring councillors' interests. Are these requirements appropriate as they stand? If not, please say why.

10. The Council considers that these requirements are appropriate as they stand. However, as mentioned above, the Council feels that this duty could be strengthened by having a standard code applicable to all councils, which could avoid ambiguities and ensure that the seven Principles were addressed and applied to all councils consistently.

e. Are allegations of councillor misconduct investigated and decided fairly and with due process?

i What processes do local authorities have in place for investigating and deciding upon allegations? Do these processes meet requirements for due process? Should any additional safeguards be put in place to ensure due process?

11. The processes operated by Wiltshire Council for investigating Code of Conduct complaints are considered to be robust and few concerns have been raised about the operation of those processes by those who have participated in them. The Council's arrangements provide for an initial assessment of a complaint to be undertaken by a representative of the Monitoring Officer and there is a right for either the complainant or the Subject Member to ask for a review of that assessment. This is undertaken by a Sub-Committee of the Council's Standards Committee. Similarly, if, following an investigation of a complaint, the Monitoring Officer determines that no further action should be taken, the Complainant can ask for a review of that decision by the Review Sub-Committee. Whilst the inclusion of these reviews can increase the time taken to determine a complaint, it is felt that they provide useful safeguards for all parties.

ii. Is the current requirement that the views of an Independent Person must be sought and taken into account before deciding on an allegation sufficient to ensure the objectivity and fairness of the decision process? Should this requirement be strengthened? If so, how?

12. The Council considers that the involvement of an Independent Person in the complaints process is very helpful and provides a useful safeguard to all parties. The Council has adopted a procedure whereby, on receipt of a complaint, an IP is allocated to assist the

Subject Member, if requested, with another IP assisting the decision-maker. This has proved to be successful and appreciated by those involved during what can be quite a stressful process. Where a complaint is referred to a Review Sub-Committee for assessment, the IP that has been allocated to assist the decision-maker will attend the meeting of the Sub-Committee to present their views, together with the IP supporting the subject member if required.

iii. Monitoring Officers are often involved in the process of investigating and deciding upon code breaches. Could Monitoring Officers be subject to conflicts of interest or undue pressure when doing so? How could Monitoring Officers be protected from this risk?

13. The arrangements operated by Wiltshire Council ensure, so far as is possible, that the Monitoring Officer is protected from conflicts of interest. The initial assessment of complaints is undertaken by the Deputy Monitoring Officer, or an experienced member of the Council's Legal Team. A different Legal officer will advise the Review Sub-Committee, if a review is requested. The Council also has experienced investigating officers in its Corporate Complaints Team. The Monitoring Officer himself would only usually become directly involved in a complaint on completion of an investigation and if that complaint then went to a hearing. It is accepted, however, that Councils with smaller legal teams may have more difficulty in maintaining these separations of functions during the complaints process.

Sanctions

f. Are existing sanctions for councillor misconduct sufficient?

i. What sanctions do local authorities use when councillors are found to have breached the code of conduct? Are these sanctions sufficient to deter breaches and, where relevant, to enforce compliance?

ii. Should local authorities be given the ability to use additional sanctions? If so, what should these be?

14. Wiltshire Council has had very few complaints that have been upheld following investigation and censure has been the sanction applied in those cases. There have been other cases where the complaint has not been upheld, but where, in its decision, the Council has made a recommendation of some other form of resolution, such as mediation (either formal or informal) or has suggested that training be provided to the councillors concerned, or to the parish council as a whole.

15. For most breaches of the Code, censure may well be a sufficient sanction. However, there is a perception amongst some complainants that it is inadequate and this has dissuaded them from pursuing a formal complaint. There have been a number of occasions where the Monitoring Officer's staff have been contacted by a person wanting to complain about the actions of a councillor. When the process has been explained to them, and they have been told that, if the complaint is upheld after investigation, the ultimate sanction would be likely to be a censure, they have taken the view that it is not worth the effort to make a formal complaint.

16. Where the complaint involves a breach of the Code which is also a criminal offence, such as participating in a discussion and vote on a matter in which the councillor has a disclosable pecuniary interest, the Council refers the matter to the police for investigation and it has a protocol with the local police for this. However, unless the offence is a serious one that can be proved to the criminal standard, the police tend not to pursue the complaint beyond an initial investigation. The Council feels, therefore, that there may be benefit in considering an intermediate form of sanction (between censure and criminal prosecution) for such cases e.g suspension. Suspension may also be warranted in other cases of serious misconduct.

g. Are existing arrangements to declare councillors' interests and manage conflicts of interest satisfactory? If not please say why.

i. A local councillor is under a legal duty to register any pecuniary interests (or those of their spouse or partner), and cannot participate in discussion or votes that engage a disclosable pecuniary interest, nor take any further steps in relation to that matter, although local authorities can grant dispensations under certain circumstances. Are these statutory duties appropriate as they stand?

ii. What arrangements do local authorities have in place to declare councillors' interests, and manage conflicts of interest that go beyond the statutory requirements? Are these satisfactory? If not, please say why.

17. At the moment, the legislation does not require a councillor to declare an interest at a meeting, if it is included within their register of interests. The Council considers that this can cause confusion and that it would be preferable for all interests to be declared at the appropriate point in a meeting, irrespective of whether that interest has already been registered.

18. The Council considers that there needs to be clarity as to whether a councillor who has declared a disclosable pecuniary interest at a meeting can still participate in that meeting as a member of the public - for example, where the Council's procedures allow members of the

public to make representations on planning applications at the start of Planning Committee meetings. It is the Council's view that, whilst councillors should not be able to take advantage of their position as a councillor in relation to matters in which they have a pecuniary or other interest, they should not be placed in a worse position than other members of the public by virtue of their office of councillor. Having declared an interest and left the meeting, a councillor should, nevertheless, be able to effectively become a member of the public during consideration of the matter in question. This Council has reflected that position in its Standing Orders which provides that, 'where a member has declared a pecuniary interest in an item on an agenda, they must withdraw from the meeting in their capacity as a councillor for the duration of that item and not speak or vote on the item with the exception of exercising their right to speak as a member of the public.'

19. Finally, on this point, the Council considers that, where a councillor has declared a disclosable pecuniary interest (and is not exercising any rights of the public as mentioned above) there should be a consistent position as to whether they are required to leave the meeting room during consideration of the item concerned. At the moment, this is a matter for individual councils to determine and again this can cause confusion where councillors serve on more than one council with differing requirements.

Whistleblowing

- h. What arrangements are in place for whistleblowing, by the public, councillors, and officials? Are these satisfactory?*

20. The Council has a whistleblowing policy which allows concerns to be raised in confidence in writing or via a dedicated telephone number. The details are then passed on to a designated senior officer who will contact the person who has raised the concerns and, if appropriate, refer the matter for investigation. The investigation is carried out by a specialist who reports to the Monitoring Officer and the relevant Corporate Director, who is responsible for taking any remedial action identified in the investigation report.

Improving standards

- i. What steps could **local authorities** take to improve local government ethical standards?*
- j. What steps could **central government** take to improve local government ethical standards?*

21. As stated above, Wiltshire Council is seeking to provide training to both parish councillors and clerks on ethical standard requirements, particularly in relation to the disclosure of interests and related issues. However, it is difficult to see how such training could be made compulsory and it would require considerable resources to try to ensure that all councillors and clerks received the training, given the numbers involved and the rate of turnover of both parish councillors and clerks.
22. Wiltshire Council considers that central government could seek to improve ethical standards in local government by amending the current legislation in the following ways, which have been mentioned above:
- a. Providing that all councils (either nationally or within the relevant county) are automatically subject to a standard code of conduct which can be applied and interpreted consistently across all councils;
 - b. Requiring councillors with a disclosable pecuniary interest to declare that interest at the meeting determining whether there is then a requirement to withdraw from the room during consideration of the matter, to ensure a consistency of approach;
 - c. Providing clarity within the legislation as to whether, having declared a pecuniary interest in a matter, a councillor still has the same opportunity as other members of the public to participate in the meeting;
 - d. Considering an alternative sanction to censure for breaches of the requirements regarding disclosable interests which do not merit the use of criminal procedures and for cases of serious misconduct.

Intimidation of local councillors

k. What is the nature, scale, and extent of intimidation towards local councillors?

i. What measures could be put in place to prevent and address this intimidation?

23. The Council does not keep any specific data on incidents of intimidation towards local councillors. It is accepted, however, that the rise in the use of social media has increased the risk of such intimidation, particularly where councillors are involved in matters that are controversial within their locality.
24. Wiltshire Council would be pleased to provide additional information on any of these matters if it would assist the Committee.

This page is intentionally left blank

Coronavirus (COVID-19) (/coronavirus)

Latest updates and guidance

1. [Home \(https://www.gov.uk/\)](https://www.gov.uk/)
 2. [Regional and local government \(https://www.gov.uk/regional-and-local-government\)](https://www.gov.uk/regional-and-local-government)
 3. [Local government \(https://www.gov.uk/regional-and-local-government/local-government\)](https://www.gov.uk/regional-and-local-government/local-government)
 4. [Local government ethical standards: government response to the Committee on Standards in Public Life report \(https://www.gov.uk/government/publications/local-government-ethical-standards-government-response-to-the-committee-on-standards-in-public-life-report\)](https://www.gov.uk/government/publications/local-government-ethical-standards-government-response-to-the-committee-on-standards-in-public-life-report)
- [Department for Levelling Up, Housing & Communities \(https://www.gov.uk/government/organisations/department-for-levelling-up-housing-and-communities\)](https://www.gov.uk/government/organisations/department-for-levelling-up-housing-and-communities)

Policy paper

Government response to the Committee on Standards in Public Life review of local government ethical standards

Published 18 March 2022

Contents

[Letter from Kemi Badenoch MP to Lord Evans, Chair, Committee on Standards in Public Life](#)

[Recommendation 1](#)

[Recommendation 2](#)

[Recommendation 3](#)

[Recommendation 4](#)

[Recommendation 5](#)

[Recommendation 6](#)

[Recommendation 7](#)

[Recommendation 8](#)

[Recommendation 9](#)

[Recommendation 10](#)

[Recommendation 12](#)

[Recommendation 13](#)

[Recommendation 14](#)

[Recommendation 16](#)

[Recommendation 11](#)

[Recommendation 15](#)

[Recommendation 17](#)

[Recommendation 18](#)

[Recommendation 20](#)

[Recommendation 21](#)

[Recommendation 22](#)

[Recommendation 23](#)

[Recommendation 24](#)



© Crown copyright 2022

This publication is licensed under the terms of the Open Government Licence v3.0 except where otherwise stated. To view this licence, visit nationalarchives.gov.uk/doc/open-government-licence/version/3 or write to the Information Policy Team, The National Archives, Kew, London TW9 4DU, or email: psi@nationalarchives.gov.uk.

Where we have identified any third party copyright information you will need to obtain permission from the copyright holders concerned.

This publication is available at <https://www.gov.uk/government/publications/local-government-ethical-standards-government-response-to-the-committee-on-standards-in-public-life-report/government-response-to-the-committee-on-standards-in-public-life-review-of-local-government-ethical-standards>

Letter from Kemi Badenoch MP to Lord Evans, Chair, Committee on Standards in Public Life

From: Kemi Badenoch MP – Minister of State for Equalities and Levelling Up Communities

To: Lord Evans of Weardale, KCB, DL – Chair, Committee on Standards in Public Life

Dear Lord Evans,

On behalf of the government, I would like to thank the Committee on Standards in Public Life for its report and the recommendations arising from its review of Local Government Ethical Standards, and to all those who engaged with the Committee's work. Attached is the government response to the Committee's individual recommendations that were directed at government.

Vibrant local democracies flourish where the reputation of the local authority is held in high regard, where councillors' decision-making is transparent, valued and trusted by the communities they serve, and where people are willing and confident to put themselves forward as potential candidates. The standards and conduct framework within which local authorities operate must drive out corruption and promote commitment to the principles on standards in public life, and tolerance to the differing views of others. In responding to the review, the Government has taken into account the importance of protecting free speech and freedom of association within the law.

The government is committed to working with local authorities and their representative organisations to ensure that local government is supported in reinforcing its reputation for ethical local standards.

The fact that this review had been conducted in such a collaborative way with the sector has been apparent from the outset and is borne out in the final report. I am keen that government builds on the sector-wide enthusiasm for improvement.

The government agrees with the Committee's conclusion that there have been benefits from local authorities being responsible for ethical standards, including the flexibility and discretion to resolve standards issues informally. However, we also recognise the role of government in ensuring that the system is robust.

The number of requests for legislation in the Committee's recommendations to strengthen the standards and conduct framework and its safeguards is considerable. As indicated in this response, the government believes that some of these suggestions do not need a legislative response but can be more appropriately, effectively, and swiftly taken forward by local authorities as best practice. The Committee will recognise that the Government and Parliament has taken a different view on these matters when it legislated for the Localism Act 2011.

I thank the Committee for their work on the review and for their patience whilst government carefully considered their recommendations, and I personally look forward to continuing to work with you as government progresses the commitments made in this response with the sector.

Yours sincerely
Kemi Badenoch MP

This government response confines itself to the Committee's recommendations directed at government, other than with regards to the first recommendation. The response to recommendations 10, 12, 13, 14 and 16 have been grouped together and therefore appear out of numerical order below.

Recommendation 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.

The Localism Act 2011 states that relevant authorities must promote and maintain high standards of conduct by members and co-opted members. It requires these authorities to adopt a code of conduct for their councillors.^{[[footnote 1](#)]} Authorities can determine the content of their own code of conduct. However, codes must conform to the 7 ‘Nolan’ principles of standards in public life: selflessness, integrity, objectivity, accountability, openness, honesty, and leadership. Relevant authorities for the purposes of these requirements include local authorities in England, namely county councils, district councils, London borough councils and parish and town councils.

It is for individual councils to set their own local code, in line with the Act. The government has previously published a light-touch illustrative code of conduct.

The Local Government Association has worked with sector representative bodies to update its own suggested code of conduct, with the intention that this new suggested code could establish a consistent benchmark that local authorities can amend or add to as they see fit to reflect local circumstances and priorities. The Local Government Association published the [updated code of conduct \(https://www.local.gov.uk/local-government-association-model-councillor-code-conduct-2020-0\)](https://www.local.gov.uk/local-government-association-model-councillor-code-conduct-2020-0) in January 2021. However, it remains a local decision on whether this model code is adopted.

Recommendation 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.

This issue was brought up in the Committee’s work on intimidation in public life, and the government has already taken forward several steps in this regard. The government is open and receptive to further steps to help prevent intimidation.

The government agrees with the principle behind this recommendation – which safeguards elected representatives – and considers amending the Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012 would be an option to achieve it.

The government will engage with interested parties on the best means to ensure that candidates and councillors are not required publicly to disclose their home address.

Notwithstanding, it is important that home addresses are internally registered with monitoring officers, to help avoid conflicts of interest.

Recommendation 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.

The government's view is that it is for individual local authorities to consider if their code of conduct is adequate in addressing the issue of inappropriate use of social media.

As the government outlined to Parliament in March 2021 on tackling intimidation in public life: 'It is important to distinguish between strongly felt political debate on the one hand, and unacceptable acts of abuse, intimidation and violence on the other. British democracy has always been robust and oppositional. Free speech within the law can sometimes involve the expression of political views that some may find offensive': a point that the government has recognised in a [Department for Education policy paper \(https://www.gov.uk/government/publications/higher-education-free-speech-and-academic-freedom\)](https://www.gov.uk/government/publications/higher-education-free-speech-and-academic-freedom). But a line is crossed when disagreement mutates into intimidation, which refuses to tolerate other opinions and seeks to deprive others from exercising their free speech and freedom of association.'

It is important to recognise that there is a boundary between an elected representative's public life and their private or personal life. Automatically presuming (irrespective of the context and circumstances) that any comment is in an official capacity risks conflating the two.

Recommendation 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.

The government agrees that local authority elected representatives should act in good faith in the public interest and not seek to influence decisions for personal gain, for malicious intent or to further the interests of any business or any other organisations which they may be affiliated with.

The Local Government Association have updated their own suggested [code of conduct \(https://www.local.gov.uk/publications/local-government-association-model-councillor-code-conduct-2020\)](https://www.local.gov.uk/publications/local-government-association-model-councillor-code-conduct-2020) to state that the code applies when "[a member's] actions could give the impression to a reasonable member of the public with knowledge of all the facts that [they] are acting as a [member]".

It is for individual local authorities to ensure that their codes of conducts are regularly updated, comprehensive and fit for purpose. Elected members receive the necessary training to make them aware of their personal responsibilities in upholding the code.

The government will keep this matter under review but has no immediate plans to amend the regulations.

Recommendation 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.

The electorate must have confidence that the decisions of their elected representatives are being made in the best interests of the community they have been elected to serve. Unpaid roles may need to be declared, if it is relevant to council business, and councillors should recuse themselves, if necessary, if discussions relate to private bodies they are involved in.

The government is mindful that councillors have a right to a private life, and rights of freedom of association outside their role as a councillor. It is frequently the case that people in public life have a complex pattern of interests and play a variety of roles with different types of organisations, including community interest groups and charities.

The government will keep this matter under review but has no immediate plans to amend the regulations.

Recommendation 6

Local authorities should be required to establish a register of gifts and hospitality, with councillors required to record 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.

The Local Government Association's suggested code of conduct published in January 2021 includes a requirement for members to "register... any gift or hospitality with an estimated value of at least £50". However, it did not contain any requirements relating to the total value of gifts or hospitality received from the same source over a sustained period.

Local authorities have the autonomy to set gifts and hospitality requirements in their own codes of conduct. The government accepts that there is merit in best practice guidance on the thresholds for gifts and hospitality and agrees that a register of gifts and hospitality should be publicly available.

Recommendation 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 the matter".

Section 31 of the Localism Act 2011 requires that a councillor must not participate in a discussion or vote on a matter where they have a disclosable pecuniary interest in any matter to be considered at the meeting. Section 30(3) of the Localism Act 2011 further provides that any relevant pecuniary interests of a councillor's spouse or partner are considered as a disclosable pecuniary interest of the councillor.

The Committee's report reflects concerns that the disclosable pecuniary interest arrangements infringe on the privacy of a councillor's spouse or partner. Where there would be a potential conflict of interest, the principle of integrity requires that any such interests should nevertheless be declared and resolved.

The Government will keep this matter under review but has no immediate plans to repeal Section 31 of the Localism Act 2011.

Recommendation 8

The Localism Act 2011 should be amended to require that Independent Persons are appointed for a fixed term of 2 years, renewable once.

The government does not accept this recommendation as appropriate for legislation on the basis that it would be likely to be unworkable. The government's view is that it would be more appropriately implemented as a best practice recommendation for local authorities.

In principle, it may be attractive to limit the terms Independent Persons serve to keep their role and contribution "fresh" and avoid them becoming too closely affiliated with the overriding organisational culture. However, discussions with Monitoring Officers indicate that in practice most local authorities would likely find servicing this rate of turnover unachievable. There is frequently a small pool of people capable and willing to undertake the role, who also fit the stringent specifications of being amongst the electorate, having no political affiliation, no current or previous association with the council, and no friends or family members associated with the council.

When local authorities have found effective Independent Persons who demonstrate the capability, judgement and integrity required for this quite demanding yet unpaid role, it is understandable that they may be reluctant to place limitations on the appointment.

Recommendation 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.

The government does not agree with this. The Local Government Transparency Code is a statutory requirement to publish information; it does not regulate the content of councils' minutes or decision notices.

The substantive policy suggestion has merit but will depend on circumstances. In cases where there is no case to answer from an unfounded complaint, it should not necessarily be a legal requirement to publish details of that unfounded complaint.

Recommendation 10

A local authority should only be able to suspend a councillor where the authority's Independent Person agrees both with the finding or a breach and that suspending the councillor would be a proportionate sanction.

Recommendation 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.

Recommendation 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.

Recommendation 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, an appeal by a councillor who has had a suspension imposed. The Ombudsman's decision should be binding on the local authority.

Recommendation 16

Local authorities should be given the power to suspend councillors, without allowances, for up to 6 months.

There is no provision in current legislation for a sanction to suspend a councillor found to have breached the code of conduct, and this was a deliberate policy decision by the Coalition Government at the time of the Localism Act 2011 to differentiate from the previous, failed Standards Board regime. The Standards Board regime allowed politically motivated and vexatious complaints and had a chilling effect on free speech within local government. These proposals would effectively reinstate that flawed regime.

It would be undesirable to have a government quango to police the free speech of councillors; it would be equally undesirable to have a council body (appointed by councillors, and/or made up of councillors) sitting in judgment on the political comments of fellow councillors.

On the rare occasions where notable breaches of the code of conduct have occurred, local authorities are not without sanctions under the current regime. Councillors can be barred from Cabinet, Committees, or representative roles, and may be publicly criticised. If the elected member is a member of a political group, they would also expect to be subject to party discipline, including being removed from that group or their party. Political parties are unlikely to reselect councillors who have brought their group or party into disrepute. All councillors are ultimately held to account via the ballot box.

As part of the government's response to the Committee's report on intimidation in public life, the government recommended that every political party establish their own code of conduct for party members, including elected representatives.

The government will engage with sector representative bodies of councillors and officers of all tiers of local government to seek views on options to strengthen sanctions to address breaches of the code which fall below the bar of criminal activity and related sanctions but involve serious incidents of bullying and harassment or disruptive behaviour.

Recommendation 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.

The government agrees in principle.

Initial soundings with the sector indicate that some local authorities already provide legal indemnity for Independent Persons.

The government endorses providing legal indemnity for Independent Person as local authority best practice but does not currently see the need to require this through secondary legislation.

Recommendation 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.

The government believes that this is better addressed through the sector adopting as best practice a regular pattern of annual reporting by Standard Committees of the cases and complaints handled and would encourage this as best practice by the sector.

The government does not believe that there is a requirement to prescribe to local authorities the form and content of such Standard Committee annual reports.

Recommendation 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.

The criminal law, overseen by the police and courts, provides for more appropriate and effective action against breaches of public order, for anti-social behaviour, and against harassment.

The occasion where councils would seek to bar councillors from council premises are thought to be extremely rare. We will consider this further.

Recommendation 18

The criminal offences in the Localism Act 2011 relating to Disclosable Pecuniary Interests should be abolished.

It is a criminal offence to fail to declare pecuniary interests, which acts as a strong deterrent against corruption.

The government does not agree with this recommendation, but rather believes the criminal offence of a non-disclosure of pecuniary interest to be a necessary and proportionate safeguard and deterrent against corruption.

The high bar of police involvement has served to discourage politically motivated and unfounded complaints.

Recommendation 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.

The government does not agree that this is necessary and has no plans to repeal Section 27(3) of the Localism Act 2011.

The government considers that the adoption of the principal authority's code or the new model code is a matter for local determination.

There are merits in achieving consistency within principal authority areas to eliminate potential confusion amongst constituents and elected members but there may be instances where a parish council may want to add to the code of their principal authority to reflect local circumstances.

Recommendation 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.

The government has no current plans to repeal Section 28 (11) of the Localism Act 2011 but will give this matter further consideration.

Recommendation 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.

The 3 statutory officers in local government are the Monitoring Officer, the Head of Paid Service (Chief Executive) and the Chief Finance Officer (often referred to as the Section 151 Officer).

Under the current disciplinary arrangements for statutory officers, any decision to dismiss a statutory officer must be taken by full council, following a hearing by a panel that must include at least 2 Independent Persons. The Committee consider that the disciplinary protections for statutory officers should be enhanced, by extending disciplinary protections to all disciplinary actions (such as suspension or formal warnings), not just dismissal.

The government agrees in principle with this recommendation and recognises this will be pertinent to Monitoring Officers who may not necessarily be afforded the same seniority in the organisational hierarchy of a local authority as the 2 other statutory officers (Head of Paid Service and the Section 151 Officer), and who may be subject to personal pressures when conducting high profile breach of conduct investigations.

The government will engage with sector representative bodies of all tiers of local government to seek views on amending the Local Authorities (Standing Orders) (England)(Amendment) Regulations to provide disciplinary protections for statutory officers.

Recommendation 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.

The government agrees with the principle that openness is essential.

Most local authorities already publish their whistleblowing policy, procedures and a named contact on their websites, and Government is recommending that this is adopted as a best practice recommendation.

The government published the UK National Action Plan for Open Government 2021- 2023 in January 2022. This includes a [commitment on local transparency \(https://www.gov.uk/government/publications/uk-national-action-plan-for-open-government-2021-2023/uk-national-action-plan-for-open-government-2021-2023#local-transparency\)](https://www.gov.uk/government/publications/uk-national-action-plan-for-open-government-2021-2023/uk-national-action-plan-for-open-government-2021-2023#local-transparency). The Department for Levelling Up Housing and Communities (DLUHC) will work with the local government community to develop a set of specific actions to advance transparency in the sector. DLUHC will support local government to solidify their transparency policies and processes and encourage proactive publication of open data across councils.

Recommendation 24

Councillors should be listed as 'prescribed persons' for the purposes of the Public Interest Disclosure Act 1998.

Prescribed persons are individuals or organisations that a worker may approach outside their workplace to report suspected or known wrongdoing and still be protected by the rights afforded to them under whistleblowing legislation. They are prescribed by an order made by the Secretary of State (for Business, Energy and Industrial Strategy) for this purpose. See a [complete list of prescribed persons \(https://www.gov.uk/government/publications/blowing-the-whistle-list-of-prescribed-people-and-bodies--2\)](https://www.gov.uk/government/publications/blowing-the-whistle-list-of-prescribed-people-and-bodies--2).

Local councillors would not meet the criteria of being external to an individual's workplace in relation to matters affecting the council and could therefore not be considered as a 'prescribed person' for the purposes of the Public Interest Disclosure Act 1998. Disclosures relating to local authorities can be made to the external auditor of the relevant authority, the Comptroller and Auditor General (National Audit Office), or a Member of Parliament.

However, the government recognises that this may provide a further check and balance against council corruption or wrongdoing and is open to further representations on the matter on how local accountability can be strengthened in this regard.

-
1. References to councillors in this document also should be deemed to include elected mayors.
-

OGL

All content is available under the [Open Government Licence v3.0](#), except where otherwise stated

© [Crown copyright](#)

This page is intentionally left blank