

Appendix C

Commentary on Committee on Standards in Public Life recommendations and best practice.

Recommendations

The recommendations are aimed to enable councillors to be held to account effectively and would enhance the fairness and transparency of the standards process. A number of these recommendations would involve legislative change with the CSPL believe the government should implement.

No	Recommendation	Commentary
1	The Local Government Association should create an updated model code of conduct	There is already a model Code from LGA and MHCLG. The Council should have regard to this as and when it becomes available.
2	Regulations should be amended to clarify that a councillor does not need to register their home address on an authority's register of interests.	The law currently requires the address to be disclosed unless its disclosure could lead to violence or intimidation (a sensitive interest). The government has called on Councils to remind members of the potential for a sensitive interests dispensation
3	Councillors should be presumed to be acting in an official capacity in their public conduct, including statements on publicly-accessible social media.	Not part of the current law. A Councillor must be acting in their capacity as a Councillor for the Code of Conduct to apply. That is a judgement to be made in each case on the evidence.
4	A local authority's code of conduct should apply 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.	See above
5	Disclosable Pecuniary Interests should include: unpaid directorships; trustees; management roles in a charity or a	Not part of the current law but the Council currently has the power to widen the scope of interests beyond statutory

Appendix C

Commentary on Committee on Standards in Public Life recommendations and best practice.

No	Recommendation	Commentary
	body of a public nature; and membership of any organisations that seek to influence opinion or public policy.	disclosable pecuniary interests.
6	Local authorities should be required to establish a register of gifts and hospitality, with councillors required to record any gifts and hospitality received over a value of £50, or totalling £100 over a year from a single source. This should be included in an updated model code of conduct.	Not part of the current law. However, the Councils Protocol on Councillors Involvement in Commercial Transactions in Part 5 of the Constitution includes a Gifts and Hospitality requirement.
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".	<p>The repeal of the criminal offences in the Localism Act would require legislation.</p> <p>The wording in brackets would serve to clarify when a member would be required not to participate in a discussion or vote</p>
8	The Localism Act 2011 should be amended to require that Independent Persons are appointed for a fixed term of two years, renewable once.	Not the law at present
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	Not the law at present

Appendix C

Commentary on Committee on Standards in Public Life recommendations and best practice.

No	Recommendation	Commentary
	be formally recorded in any decision notice or minutes.	
10	A local authority should only be able to suspend a councillor where the authority's Independent Person agrees both with the finding of a breach and that suspending the councillor would be a proportionate sanction.	No current power to suspend so can only be done through legislation.
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.	Not something done at present as IPs views and advice are not disclosed. The current legal power to grant such an indemnity is uncertain.
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.	The power to appoint such a committee already exists. It is the voting rights which would be new. This role currently played by Audit Committee.
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.	No power to suspend at present.
14	The Local Government Ombudsman should be given the power to investigate and decide upon an allegation of a code of conduct breach by a councillor, and the appropriate sanction, on appeal by a councillor who has had a suspension imposed. The Ombudsman's decision should be binding on the local authority.	No power to suspend at present.
15	The Local Government Transparency Code should be updated to require councils to publish annually: the number	No requirement to do this at present.

Appendix C

Commentary on Committee on Standards in Public Life recommendations and best practice.

No	Recommendation	Commentary
	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.	
16	Local authorities should be given the power to suspend councillors, without allowances, for up to six months.	Requires legislation. No such power now
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 law is unclear at present. Would have to be judged in a particular case.
18	The criminal offences in the Localism Act 2011 relating to Disclosable Pecuniary Interests should be abolished.	Requires legislation
19	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.	Requires legislation
20	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	Requires legislation to change the Transparency Code but the Council could implement this if it chose.
21	Councillors should be listed as 'prescribed persons' for the purposes of the Public Interest Disclosure Act 1998.	Requires legislation
22	Councillors should be required to attend formal induction	Not a matter for the Council.

Appendix C

Commentary on Committee on Standards in Public Life recommendations and best practice.

No	Recommendation	Commentary
	training by their by their political groups. National parties should add such a requirement to their model group rules.	
23	Local Government Association corporate peer reviews should also include consideration of a local authority's processes for maintaining ethical standards.	Not a matter for the Council.

List of best Practice

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

No	Best Practice Recommendation	Commentary
1	Local authorities should include prohibitions on bullying and harassment in codes of conduct. These should include a definition of bullying and harassment, supplemented with a list of examples of the sort of behaviour covered by such a definition.	No specific mention in the current Code. There is a category of Respect.
2	Councils should include provisions in their code of conduct requiring councillors to comply with any formal standards investigation, and prohibiting trivial or malicious allegations by councillors.	No specific mention of this in the current Code. There are categories of Accountability and Respect.
3	Principal authorities should review their code of conduct each year and regularly seek, where possible, the views of the public, community organisations and neighbouring authorities.	There has not been a specific review period for the Code of Conduct

Appendix C

Commentary on Committee on Standards in Public Life recommendations and best practice.

No	Best Practice Recommendation	Commentary
4	An authority's code should be readily accessible to both councillors and the public, in a prominent position on a council's website and available in council premise.	The Code is part of the Constitution and on the Council's website as such.
5	Local authorities should update their gifts and hospitality register at least once per quarter, and publish it in an accessible format, such as CSV.	Gifts and hospitality register is part of the Protocol on Councillor Involvement in Commercial Transactions in Part 5 of the Constitution.
6	Councils should publish a clear and straightforward public interest test against which allegations are filtered.	The Council's existing Local Arrangements contain a test based on damage to the reputation of the Council
7	Local authorities should have access to at least two Independent Persons.	LCC seeks to have two Independent Persons.
8	An Independent Person should be consulted as to whether to undertake a formal investigation on an allegation, and should be given the option to review and comment on allegations which the responsible officer is minded to dismiss as being without merit, vexatious, or trivial.	This is current practice.
9	Where a local authority makes a decision on an allegation of misconduct following a formal investigation, a decision notice should be published as soon as possible on its website, including a brief statement of facts, the provisions of the code engaged by the allegations, the view of the Independent Person, the reasoning of the decision-maker, and any sanction applied.	The current Local Arrangements do not state what will happen if a decision is made on an allegation of misconduct following a formal investigation
10	A local authority should have straightforward and accessible guidance on its website on how to make a	The existing Local Arrangements are part of the Constitution and available on the website as such.

Appendix C

Commentary on Committee on Standards in Public Life recommendations and best practice.

No	Best Practice Recommendation	Commentary
	complaint under the code of conduct, the process for handling complaints, and estimated timescales for investigations and outcomes.	
11	A local authority should have procedures in place to address any conflicts of interest when undertaking a standards investigation. Possible steps should include asking the Monitoring Officer from a different authority to undertake the investigation.	The current Local Arrangements make no explicit provision for this.
12	Councils should report on separate bodies they have set up or which they own as part of their annual governance statement, and give a full picture of their relationship with those bodies. Separate bodies created by local authorities should abide by the Nolan principle of openness, and publish their board agendas and minutes and annual reports in an accessible place.	Appropriate mention is made of commercial trading activities 'in general' in the Annual Governance Statement. Assurance statements are obtained from companies as part of the background audit work but the Council's current commercial activity is limited.
13	Senior officers should meet regularly with political group leaders or group whips to discuss standards issues.	This does not happen at present specifically for standards.

This page is intentionally left blank