

CODE OF CONDUCT WORKING GROUP

WORK PLAN

The remit of the Working Group was to:-

- 1) Consider the Committee on Standards in Public Life report on Local Government Ethical Standards.
- 2) Consider whether changes to the Code and Local Arrangements should be made as a result of the Report or otherwise.
- 3) Consider whether any changes should be made to any other elements of Part 5 of the Constitution which relate to standards.

An analysis of the Committee on Standards in Public Life suggests that all of the recommendations and best practice set out in the Report which could potentially be actioned by the Council can be grouped under the following headings

- Code of Conduct
- Interests, Gifts and Hospitality
- Local Arrangements
- Part 5 of the Constitution

It was therefore decided that the Working Group would pursue these 4 work streams in the order set out above. The tables in the rest of this document set out how each of the issues set out in the Committee on Standards in Public Life Report recommendations and best practice over which the Council has any control related to each of these work streams and how they were addressed by the Working Group

Code of Conduct Working Group Report to Audit Committee Appendix A

Work stream 1 – Code of Conduct

No	CSPL 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.	<p>There was no specific mention in the current Code although there is a category of Respect which it is considered would cover it together with a Protocol on Harassment Intimidation and Unacceptable Behaviour.</p> <p>The amended Code incorporates bullying and harassment into the Code and refers members to the Protocol</p>
2	Councils should include provisions in their code of conduct requiring councillors to comply with any formal standards investigation, and prohibiting trivial or malicious allegations by councillors.	<p>No specific mention of this in the current Code.</p> <p>The amended Code contains the requirement to comply with investigations. The Council does not have an issue with trivial or malicious allegations and these should be capable of being dealt with through the new Local Arrangements which provides for trivial or malicious complaints generally not to be pursued.</p>
3	Principal authorities should review their code of conduct each year and regularly seek, where possible, the views of the public, community organisations and neighbouring authorities.	<p>There has not been a specific review period for the Code of Conduct to date.</p> <p>It is proposed that Audit Committee receive an annual report on the workings of the Code and complaints made under it in the light of which they could determine whether to undertake a review.</p>

Code of Conduct Working Group Report to Audit Committee Appendix A

No	CSPL 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.	<p>The Code is part of the Constitution and is already on the Council's website as such.</p> <p>A separate section on the new website should be created to make the Code and Local Arrangements more readily accessible.</p>

Work stream 2 – Interests, Gifts and Hospitality

Recommendations

No	Recommendation	Commentary
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.	<p>The law currently requires the address to be disclosed unless its disclosure could lead to violence or intimidation (a sensitive interest).</p> <p>The Monitoring Officer should write to all Councillors reminding them of the sensitive interest provisions and the potential for a home address to be withheld in specific circumstances.</p>
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

Code of Conduct Working Group Report to Audit Committee Appendix A

No	Recommendation	Commentary
	body of a public nature; and membership of any organisations that seek to influence opinion or public policy.	disclosable pecuniary interests. The Working Group did not consider it necessary to widen the scope of interests to be registered but have included wording in the Code of Conduct to remind members that the obligation to resolve conflicts in the public interest may require them to declare interests which are not statutory DPis
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. An amended Protocol on Gifts and Hospitality has been developed and the Code of Conduct amended to make it a provision of the Code that offers of gifts and hospitality received over a value of £50, or totalling £100 over a year from a single source are registered

Code of Conduct Working Group Report to Audit Committee Appendix A

List of best Practice

No	CSPL Best Practice Recommendation	Commentary
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.	The Gifts and Hospitality register under the new provisions would be published on the Council's website

Work stream 3 – Local Arrangements

Recommendations

No	Recommendation	Commentary
3	Councillors should be presumed to be acting in an official capacity in their public conduct, including statements on publicly-accessible social media.	Under the new Local Arrangements this remains a judgment to be made in each case. However paragraph 3.4 of the amended Local Arrangements identifies relevant considerations in reaching this judgment.
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 The relevant considerations included in paragraph 3.4 of the amended Local Arrangements includes where the member claimed to act, or give the impression they are acting, in their capacity as a member or as a representative of the local authority.

Code of Conduct Working Group Report to Audit Committee Appendix A

No	Recommendation	Commentary
8	The Localism Act 2011 should be amended to require that Independent Persons are appointed for a fixed term of two years, renewable once.	<p>Not the law at present</p> <p>It is open to the Council to introduce this. The last time the Council sought to appoint an Independent Person the term of years was left for the Council to decide and the Working Group endorsed this approach.</p>
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.	<p>Not the law at present.</p> <p>This could be done by the Council voluntarily. It would be relevant to any final decision on the determination of a complaint that has been considered by the Local Panel.</p> <p>The Independent Persons should be made aware that the Council may do this.</p>
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.	<p>Not something done at present as IPs views and advice are not disclosed.</p> <p>The current legal power to grant such an indemnity is uncertain.</p>
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	<p>The power to appoint such a committee already exists. It is the voting rights which would be new.</p> <p>The role of determining complaints under the Local</p>

Code of Conduct Working Group Report to Audit Committee Appendix A

No	Recommendation	Commentary
	sanctions.	Arrangements ultimately lies with a Panel drawn from Audit Committee and the Working Group does not propose any change to these arrangements.
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.	No requirement to do this at present. This information should be included in the proposed annual report to Audit Committee.

List of best Practice

No	CSPL Best Practice Recommendation	Commentary
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. The revised Local Arrangements contain a public interest test which is based on public perception of or trust in the Council and local democracy
7	Local authorities should have access to at least two Independent Persons.	LCC already seeks to have two Independent Persons.

Code of Conduct Working Group Report to Audit Committee Appendix A

No	CSPL Best Practice Recommendation	Commentary
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. It is reflected in the revised Local Arrangements
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 The Appendix to the revised Local Arrangements provides for the Monitoring Officer to prepare a decision notice and to make the decision notice available for public inspection on the expiry of two working days after the formal decision notice was sent to the Subject Councillor and (where applicable) Group Leader and to report the decision to the next convenient meeting of the Audit Committee.
10	A local authority should have straightforward and accessible guidance on its website on how to make a complaint under the code of conduct, the process for handling complaints, and estimated timescales for investigations and outcomes.	The existing Local Arrangements are part of the Constitution and available on the website as such. The revised Local Arrangements if approved will also appear on the website. The revised Local Arrangements contain estimated timescales for acknowledging receipt of a complaint and for a response to be given at the initial consideration stage following receipt by the Monitoring Officer of all relevant information. The Local Arrangements

Code of Conduct Working Group Report to Audit Committee Appendix A

No	CSPL Best Practice Recommendation	Commentary
		also include a requirement on the Monitoring Officer to keep all parties informed at regular intervals.
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. The revised Local Arrangements make provision for conflicts of interest
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.

Code of Conduct Working Group Report to Audit Committee Appendix A

Work stream 4 – Part 5 of the Constitution

Recommendations

No	Recommendation	Commentary
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. The Working Group recommends that this should be done.