



## Audit and Standards Committee Report

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**Report of:** Gillian Duckworth, Monitoring Officer

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**Date:** 20 March 2020

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**Subject:** Review of the Members Code of Conduct

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**Author of Report:** Gillian Duckworth

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**Summary:** To provide the Committee with an amended Code of Conduct and Councillor Complaints Procedure taking into account recommendations from the Audit and Standards Committee on 24<sup>th</sup> October 2019 arising from the ethical standards workshop held with the Committee Members on the 26<sup>th</sup> September 2019 which considered the report by the Committee on Standards in Public Life dated January 2019.

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**Recommendations:** To accept the proposed changes to the Code of Conduct and the Procedure for Dealing with Complaints regarding City, Parish and Town Councillors and Co-Opted Members for approval and forwarding to Full Council for adoption.

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### **Background Papers:**

Report to Audit and Standards Committee on 24<sup>th</sup> October 2019

Report by the Committee on Standards in Public Life on Local Government Ethical Standards dated January 2019

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**Category of Report:** OPEN

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\* Delete as appropriate

## Statutory and Council Policy Checklist

<b>Financial Implications</b>
YES/NO - Cleared by:
<b>Legal Implications</b>
YES/NO - Cleared by:
<b>Equality of Opportunity Implications</b>
YES/NO - Cleared by:
<b>Tackling Health Inequalities Implications</b>
NO
<b>Human rights Implications</b>
NO:
<b>Environmental and Sustainability implications</b>
NO
<b>Economic impact</b>
NO
<b>Community safety implications</b>
NO
<b>Human resources implications</b>
NO
<b>Property implications</b>
NO
<b>Area(s) affected</b>
None
<b>Relevant Cabinet Portfolio Member</b>
Councillor Terry Fox`, Cabinet Member for Finance
<b>Is the item a matter which is reserved for approval by the City Council?</b>
NO
<b>Press release</b>
NO

## **REPORT TITLE**

### **1.0 INTRODUCTION**

- 1.1 The Committee on Standards in Public Life published a review on Local Government Ethical Standards in January 2019.
- 1.2 At its meeting on 13<sup>th</sup> June 2019, the Audit and Standards Committee agreed to hold a workshop to look at the best practice recommendations for local government included within the review.
- 1.3 On 26<sup>th</sup> September, an Ethical Standards Workshop was held to look at whether the Authority was meeting the best practice and what needed to be done in the areas that did not meet best practice. Recommendations from the workshop were discussed at the Audit and Standards Committee held on 24<sup>th</sup> October 2019.

### **2.0 BACKGROUND**

- 2.1 The Committee on Standards in Public Life published a review on Local Government Ethical Standards in January 2019 (the full report can be found on the gov.uk website). The report set out 26 recommendations to the Government, the LGA, Parish Councils and Political Groups which are designed to strengthen the current regime. All of the recommendations require actions by bodies other than local authorities, e.g. Government, before they can be implemented.
- 2.2 Also included within the report were 15 areas of best practice which it suggested local authorities should be following. The Committee on Standards in Public Life will review implementation of best practice in 2020.

### **3.0 MAIN BODY OF THE REPORT**

Including Legal, Financial and all other relevant implications (if any)

- 3.1 On 26<sup>th</sup> September, an Ethical Standards Workshop was held to look at whether the Authority was meeting the best practice and what needed to be done in the areas that did not meet best practice.
- 3.2 Invited to the workshop were all members of the Audit and Standards Committee, including the Independent Co-opted Member and Parish Council representatives. Also invited were the Council's two Independent Members. There were seven attendees present at the workshop.
- 3.3 Officers had assessed the 15 areas of best practice against the current practice of the Council and put them into a 'traffic light' system.

## 4.0 OUTCOMES OF THE WORKSHOP

4.1 The workshop looked at the areas of best practice and made the following recommendations.

4.2 **1. AMBER - 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.**

- SCC current code is not detailed enough.
- ACAS definition included with the review document should be included within the Code of Conduct.
- Examples should be included as an appendix to the Code (should be made clear that the examples are not an exhaustive list!).
- The NALC model code had no definition. This should be a question to NALC.

4.3 **2. RED - 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.**

- Provisions should be included in SCC Code.
- All Members should be asked to sign up to comply with the sanctions.
- Should follow the wording on P.41 of the review document.
- Should apply to the whole code.

4.4 **3. AMBER - 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.**

- A system should be devised that is as inclusive as possible to get the views of the public.
- Carry out consultation with disability groups etc.
- Possible online consultation that is open all year round, requesting feedback on Councillors and the Code of Conduct.
- Consider how to reach those who don't have online access.

4.5 **4. RED - An authority's Code of Conduct should be readily accessible to both Councillors and the public, in a prominent position on the Council's website and available**

- in Council premises.
  - Consider providing hard copies in libraries, First Point etc.
  
- 4.6      **5. GREEN - Local authorities should update their gifts and hospitality register at least once per quarter and publish it in an accessible format, such as CSV.**
  - £50 is too high, should be amended to £10 to match staff.
  
- 4.7      **6. RED - Councils should publish a clear and straightforward public interest test against which allegations are filtered.**
  - The Northern Ireland definition on p.53 of the review report is simple and would work well.
  - Would be useful to look to see if there are any other examples.
  - The criteria for the test would need to be made clear – possible publication of how many points would need to apply.
  
- 4.8      **7. GREEN - Local authorities should have access to at least two Independent Persons.**
  - Possibly look at increasing the number – but no more than 4.
  
- 4.9      **8. AMBER - 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.**
  - Agreed – should be written into the procedure.
  
- 4.10     **9. GREEN - 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.**
  - More information on the website regarding complaints over and above the complaint form and guidance e.g. what sort of evidence would be taken into account.
  - Add a link to the Code of Conduct from the councillor page of the website.
  
- 4.11     **10. AMBER - 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.**

- See 9 above.
- 4.12      **11. Formal standards complaints about the conduct of a parish councillor towards a Clerk should be made by the Chair or by the parish council as a whole, rather than the Clerk in all but exceptional circumstances.**
- For Parish Councils to endorse
  - A robust system would need to be in place for it to work.
- 4.13      **12. AMBER - Monitoring Officer roles should include providing advice, support and management of investigations and adjudications on alleged breaches to parish councils within the remit of the principal authority. They should be provided with adequate training, corporate support and resources to undertake this work.**
- It was felt that a financial contribution could cause precepts to be increased.
  - An annual fee could be charged to PC's.
- 4.14      **13. RED - 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.**
- This was a good idea as it was better to be independent.
  - Could be written into the procedure.
  - Depending on the level of conflict Deputy Monitoring Officer could be used.
  - Use the reciprocal arrangement with Barnsley MBC.
- 4.15      **14. GREEN - 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, minutes and annual reports in an accessible place.**
- Not Green - should be white, as no bodies currently meeting the criteria.
  - Should look at having measures in place just in case.
- 4.16      **15. GREEN - Senior officers should meet regularly with political group leaders or group whips to discuss standards issues.**
- All groups were invited to send a representative to the regular

Whips meeting.

## **5. CHANGES TO THE CODE OF CONDUCT**

- 5.1 Taking into account the above, the following (please see Appendix A) changes have been recommended to the Code of Conduct:
- 5.2 A minor revision has been made to the introduction to make it clearer and more concise.
- 5.3 A definition of bullying has been added to paragraph 1.1(c) (see Best Practice 1), in order to ensure Members are clear on the kinds of behaviour that are not acceptable.
- 5.4 Paragraph 1.1 has also been amended to include that Members should comply with any sanctions imposed and not make any trivial or malicious complaints, as outlined in Best Practice 2.
- 5.5 Paragraph 2.3 has been amended so that the Members gifts and hospitality regime reflects that of Officers, as per the discussion at the Ethical Standards Workshop (Best Practice 5).
- 5.6 A minor revision to paragraph 4.3 regarding equalities to ensure that the Code of Conduct reflects the Council's current equality responsibilities.
- 5.7 Prior to publication, the format will be changed to reflect the new corporate style.
- 5.8 Work is being carried out at a national level to formulate a model code of conduct, therefore the Council will consider the Code again once this work is completed and a model code is published.

## **6. COMPLAINTS CONCERNING A CITY, PARISH AND TOWN COUNCILLOR AND CO-OPTED MEMBERS**

- 6.1 Revisions have been made in line with the best practice recommendations to the Procedure for Dealing with Complaints regarding City, Parish and Town Councillors and Co-Opted Members which is an appendix to Part 5 (b) of the Monitoring Officer Protocol (please see Appendix B).
- 6.2 As per best practice 13, insertions of paragraphs 1.4 and 1.5 into the introduction have been made which explain about possible conflicts of interest of officers appointed by the Monitoring Officer when undertaking standards investigations and also that the Monitoring Officer considers the interests of the public when assessing complaints against Councillors.
- 6.3 The procedure now clearly explains who the Independent Persons are and what the purpose of their role is. It also states when the Independent Person is consulted at various stages in the standards process.

- 6.4 At part 4 of the procedure - Making a Complaint/Withdrawing a Complaint, more detailed information has been included around the circumstances of requests for confidentiality by a complainant. This information was formally part of the 'complain about a councillor form', however it was felt better placed at part 4 of the document, this helps keep the 'complain about a councillor' form simpler and easier for complainants to complete.
- 6.5 Throughout the document the word 'potential' has been removed. A complaint will no longer be considered a 'potential breach'. Complaints will now be considered either 'a breach' of the Members' Code of Conduct or 'not a breach' of the Members' Code of Conduct'. This is in line with what neighbouring authorities have adopted in their Councillor complaints procedures.
- 6.6 At the foot of the document a complaints procedure flow chart has been included. This shows clearly each step in the process and also outlines what options are available to the Monitoring Officer/Consideration Sub-Committee/Hearing Sub-Committee should a breach of the Members' Code of Conduct be found.
- 6.7 In line with best practice 10, work has been undertaken to improve the complaint form used by the public to lodge a complaint against a councillor. The form is now more easily accessible on the Council's website. A new online complaint form has also been devised and will be launched in the next few months.