

# Public Document Pack

## Southend-on-Sea Borough Council

### Legal & Democratic Services

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01 October 2019

### STANDARDS COMMITTEE - THURSDAY, 3RD OCTOBER, 2019 SUPPLEMENTARY REPORTS PACK: AGENDA ITEMS 3 AND 4

Please find enclosed, for consideration at the next meeting of the Standards Committee taking place on Thursday, 3rd October, 2019, the following report(s) that were unavailable when the agenda was printed.

| Agenda<br>No | Item |
|--------------|------|
|--------------|------|

|    |                                                          |
|----|----------------------------------------------------------|
| 3. | <b><u>Monitoring Officer's Report (Pages 1 - 20)</u></b> |
|----|----------------------------------------------------------|

Report of the Executive Director (Legal & Democratic Services) attached

|    |                                                                                                                                                 |
|----|-------------------------------------------------------------------------------------------------------------------------------------------------|
| 4. | <b><u>Committee on Standards in Public Life (CSPL): Annual Report 2018/19 and Local Government Ethical Standards Review (Pages 21 - 76)</u></b> |
|----|-------------------------------------------------------------------------------------------------------------------------------------------------|

Report from the Executive Director (Legal & Democratic Services) attached

Robert Harris  
Principal Democratic Services Officer  
Legal & Democratic Services

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# Southend-on-Sea Borough Council

Agenda  
Item No.

3

## Report of Monitoring Officer

### to Standards Committee

on  
3<sup>rd</sup> October 2019

Report prepared by: John Williams, Executive Director (Legal  
& Democratic Services) & Monitoring Officer

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## Monitoring Officer's Report

### Part 1 Public Agenda Item

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#### 1. Purpose of Report

To provide the Standards Committee with an update on ethical issues and the need to promote and maintain high standards of conduct for Councillors and Co-opted Members.

#### 2. Recommendation

**That the report be noted.**

#### 3. Background

##### 3.1 Standards Regime

- (a) On 19<sup>th</sup> July 2012 the Council adopted a new standards regime for Councillors and Co-opted Members pursuant to the provisions of the Localism Act 2011.
- (b) The current standards regime:
  - Requires Councils to promote and maintain high standards of conduct for its Councillors and Co-opted Members.
  - Requires Councils to adopt their own Members' Code of Conduct, consistent with a new set of principles and the provisions of the Localism Act 2011.
  - Defines "Disclosable Pecuniary Interests" which must be registered and declared by Councillors and Co-opted Members – and imposes criminal sanctions for non-compliance.

- Abolished the previous National Code, the Standards Board for England and the associated legislation.
  - Requires the compilation and publication on the internet of the Register of Members' Interests.
  - Requires Councils to put in place arrangements for dealing with breaches of the Code: However there are very limited sanctions if such a breach is found, essentially naming and shaming and possibly withdrawal of facilities in some cases.
  - Requires Councils to appoint at least one "Independent Person" to assist with dealing with complaints. Southend has appointed 2 Independent Persons.
  - Applies the same principles to parish and town councils, except that the principal council will operate the arrangements in respect of the Code.
- (c) The Committee on Standards in Public Life ("the CSPL") is a body which advises the Prime Minister on ethical standards across the whole of public life in the UK. It monitors and reports on issues relating to the standards of conduct of all public office holders, including monitoring the impact of changes to the local government standards regime by the Localism Act 2011.

The CSPL published its Annual Report for 2018/19 in June 2019 (see **Agenda Item 4**) and attention is drawn to the section on Local Government Ethical Standards on page 8 with its reference to the CSPL's "Local Government Ethical Standards Review" published in January 2019.

### 3.2 Members' Code of Conduct

The key document agreed by Council on the 19<sup>th</sup> July 2012 was the new Members' Code of Conduct "**the Code**".  
(Leigh on Sea Town Council adopted essentially the same Code on the 12<sup>th</sup> September 2012).

The Code is contained in Part 5(a) of the Constitution and a copy is attached at **Appendix 1**.

The Code covers 4 matters:

- Some general obligations about Councillor conduct
- Rules on registration of interests
- Rules on declarations of interest
- Rules on gifts and hospitality.

The Code replaced a National Code which had existed previously. However to ensure some common standards across Essex, the new Code (and the associated documents for dealing with complaints) was developed by the Public Law Partnership, which is a partnership of local authority legal departments across Essex and beyond: This was at the request of the Essex Chief Executives and Leaders Group.

No legislative changes have required the Code to be amended. The Department for Communities and Local Government (DCLG) did issue revised guidance in September 2013 advising Councillors to register personal trade union interests, but this obligation was already included in the Code.

The Code is kept under review and the report at **Agenda Item 4** recommends a few changes in the light of the best practice recommendations from the CSPL Review referred to in 3.1(c) above.

There are 2 other documents contained within the Council's Constitution which provide further guidance on ethical conduct:

- Probity in Planning - Guidance for Councillors and Officers (Part 5(b)); and
- Protocol on Councillor/Officer Relations (Part 5(d)) – **Agenda Item 5** refers to the refresh of this Protocol.

### 3.3 Registration of Members' Interests

A public Register is kept by the Monitoring Officer of interests which Councillors and Co-opted Members are obliged to register pursuant to paragraph 11 of the Code and S.29 Localism Act 2011. The registration requirements include any gifts or hospitality accepted with a value in excess of £50.

All new Councillors must complete the Register. Furthermore at the start of each municipal year all existing Councillors are asked to confirm in writing that their registered interests are still correct, or to amend them as required. The same applies to Co-opted Members.

The Register is open to public inspection on the Council's website as required by S.29 (5) of the Localism Act 2011

The Register of interests of Councillors of Leigh on Sea Town Council is published on the Town Council's website.

### 3.4 Declarations of Interests at meetings

The Code contains specific requirements for Councillors and Co-opted Members to declare interests at meetings of the Council, Cabinet, committees, sub-committees etc.

There is an item at the start of every meeting for the declaration of interests. Councillors and Co-opted Members also complete a slip so that the declarations are accurately recorded in the minutes. More sophisticated arrangements operate at full Council Meetings.

### 3.5 Training

(a) Training for Councillors and Co-opted Members is provided in a number of ways. For example:

- New Councillor induction always includes a one-to-one session with the Monitoring Officer, where the ethical framework and the provisions of the Code are examined in detail. Other items considered include the Constitution and the Council's decision making processes. A copy of the letter sent to new Councillors in connection with the Code and associated issues is attached at **Appendix 2**.
- Planning Training sessions for the Development Control Committee at the start of each municipal year generally include a section on the Code, given the frequency of interest issues arising at the Committee.
- Ad hoc advice is provided to Councillors individually and collectively on the Code – see 3.6 below.

(b) The Committee is asked for ideas on what additional training it would like to see for all Councillors in 2019/20.

### 3.6 Ad hoc advice from the Monitoring Officer

The Monitoring Officer regularly gives advice to individual Councillors, including Co-opted Members, about the obligations in the Code and particularly in connection with the registration and declaration of interests.

Often such advice is given outside meetings, but when necessary it will be provided at the meeting.

In addition the Monitoring Officer will provide advice to a wider group of Councillors when this is required.

### 3.7 Complaints

Since the new Standards regime was introduced in July 2012 there have been a small number of complaints alleging that a Councillor has breached the Code.

However, following consultation with the Independent Person, as required by the relevant procedures in Part 4(i) of the Constitution, none of these complaints has passed the threshold to merit further investigation.

### 3.8 Councillor requests for dispensations

The Standards Committee has power to grant dispensations to permit a councillor to participate in Council business despite having a disqualifying pecuniary interest.

In November 2017 the Standards Committee granted such dispensations to eight Councillors who were residential landlords to permit them to speak and vote on two specific issues.

### 3.9 Promoting and maintaining high standards of conduct for Councillors & Co-opted Members

The previous sections of this report set out the various steps which have already been taken, or put in place, to promote and maintain high standards of conduct for Councillors and Co-opted Members.

Training is of course an on-going matter as is monitoring the Code and compliance with it.

However the views of the Committee on further action which might be taken would be welcome.

### 3.10 Other ethical matters

(a) On 25<sup>th</sup> February 2016 the Council agreed a new Employee Code of Conduct, replacing the outdated Code in Part 5(c) of the Council's Constitution. At the same time six new HR policies were adopted to support the new Code.

(b) The Local Code of Governance in Part 5(e) of the Constitution sets out the Council's governance framework and the systems of internal control. A report recommending revisions to this Local Code of Governance is programmed to be submitted to Cabinet on 5 November 2019.

## **4. Corporate Implications**

### **4.1 Contribution to the Council's Southend 2050 Road Map**

The promotion and maintenance of high standards of conduct for Councillors and Co-opted Members contributes to all aspects of the Southend 2050 Road Map. Also Values and Behaviours are an essential part of the agreed Transforming Together programme.

### **4.2 Financial Implications** None

### **4.3 Legal Implications** As set in the report

### **4.4 People Implications** None

### **4.5 Property Implications** None

### **4.6 Consultation** None

### **4.7 Equalities and Diversity Implications** None

### **4.8 Risk Assessment** There are no significant risk issues associated with this report.

### **4.9 Value for Money** No significant issues.

### **4.10 Community Safety Implications** None

### **4.11 Environmental Impact** None

## **5. Background Papers**

None

## **6. Appendices**

**Appendix 1** – Members' Code of Conduct

**Appendix 2** - Letter sent to new Councillors in connection with the Code





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# Part 5(a) – Members’ Code of Conduct

## General Provisions

### Introduction and Interpretation

As a Member you are a representative of Southend-on-Sea Borough Council (“the Authority”) and the public will view you as such. Therefore your actions impact on how the Authority as a whole is viewed and your actions can have both positive and negative impacts on the Authority.

This Code as a whole is consistent with “Nolan Principles” which are set out in **Appendix 1** and the provisions of S29(1) Localism Act 2011.

In this Code:

“**meeting**” means any meeting of:

- (a) The Authority;
- (b) The Executive of the Authority;
- (c) Any of the Authority’s or its Executive’s Committees, Sub-Committees, Joint Committees, Joint Sub-Committees or Areas Committees whether or not the press and public are excluded from the meeting in question by virtue of a resolution of Members;
- (d) Any briefings by officers and site visits organised by the Authority.

“**relevant period**” means the period of 12 months ending with the day on which you give notification to the Authority’s monitoring officer of any disclosable pecuniary interests you had at the time of the notification.

“**profit or gain**” includes any payments or benefits in kind which are subject to Income Tax.

“**beneficial interest**” means having an economic benefit as a legal owner or holding it on trust for the beneficial owner, having a right to the income from the land or securities or a share in it or the right to the proceeds of sale or share of part of the proceeds of sale.

“**Member**” includes a co-opted member.

### 1. Who does the Code apply to?

- 1.1 This Code applies to all Members of the Authority including co-opted members.
- 1.2 It is your responsibility to comply with the provisions of this Code.

### 2. What does the Code apply to?

- 2.1 You must comply with this Code whenever you:
  - (a) Conduct the business of the Authority, or
  - (b) You are acting as a representative of the Authority.
- 2.2 This Code has effect in relation to your conduct in your official capacity.

**2.3** Where you act as a representative of the Authority

- (a)** On another relevant authority, you must, when acting for that other authority, comply with that other authority's code of conduct, or
- (b)** On any other body, you must, when acting for that other body, comply with the Authority's code of conduct, except and insofar as it conflicts with any other lawful obligations to which that other body may be subject

**3. General Obligations**

**3.1** You must treat others with respect

**3.2** You must uphold the law

**3.3** You must not

- (a)** Do anything which may cause the Authority to breach any of the equality enactments
- (b)** Bully any person
- (c)** Intimidate or attempt to intimidate any person who is or is likely to be
  - (i)** a complainant,
  - (ii)** a witness, or
  - (iii)** involved in the administration of any investigation or proceedingsin relation to an allegation that a Member (including yourself) has failed to comply with the Authority's code of conduct, or
- (d)** Do anything which compromises or is likely to compromise the impartiality of those who work for, or on behalf of, the Authority

**4. Confidential Information**

You must not

- (a)** Disclose information given to you in confidence by anyone, or information acquired by you which you believe, or ought reasonably to be aware, is of a confidential nature, except where
  - (i)** you have the consent of a person authorised to give it,
  - (ii)** you are required by law to do so,
  - (iii)** the disclosure is made to a third party for the purpose of obtaining professional advice provided that the third party agrees not to disclose the information to any other person, or
  - (iv)** the disclosure is
    - (aa)** reasonable and in the public interest; and
    - (bb)** made in good faith and in compliance with the reasonable requirements of the Authority
- (b)** Prevent another person from gaining access to information to which that person is entitled by law

## 5. Conferring an Advantage or Disadvantage

You must

- (a) Not use or attempt to use your position as a Member improperly to confer on or secure for yourself or any other person, an advantage or disadvantage,
- (b) When using or authorising the use by others of the resources of the Authority
  - (i) act in accordance with the Authority's reasonable requirements,
  - (ii) ensure that such resources are not used improperly for political purposes (including party political purposes),
- (c) Have regard to any applicable Local Authority Code of Publicity made under the Local Government Act 1986

## Members' Interests

### 6. Disclosable Pecuniary Interests<sup>1</sup>

6.1 You have a Disclosable Pecuniary Interest in any business of the Authority if it is of a description set out in 6.2 below and is either

- (a) An interest of yours, or
- (b) An interest (of which you are aware) of a spouse, civil partner or a person you are living with as a spouse or civil partner (known as "Relevant Persons")

6.2 A Disclosable Pecuniary Interest is an interest which relates to or is likely to affect

- (i) Any employment, office, trade, profession or vocation carried on by you or a Relevant Person for profit or gain,
- (ii) Any payment or provision of any other financial benefit (other than from the Authority) made or provided within the relevant period in respect of any expenses incurred in carrying out your duties as a Member, or towards your 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,
- (iii) Any contract for goods, services or works which has not been fully discharged made between you or a Relevant Person (or a body in which you or they have a beneficial interest) and the Authority,
- (iv) A beneficial interest in any land in the Authority's area,
- (v) A licence of any land in the Authority's area (alone or jointly with others) that you or a Relevant Person occupy for a month or longer,
- (vi) Any tenancy where to your knowledge
  - (a) the landlord is the Authority, and
  - (b) the tenant is a body in which you or a Relevant Person has a beneficial interest,

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<sup>1</sup> The Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012 set out the pecuniary interests specified for the purposes of Chapter 7 of Part 1 Section 30(3) of the Localism Act 2011

- (vii) Any beneficial interest in securities of a body where
1. that body (to your knowledge) has a place of business or land in the area of the Authority and
  2. either
    - a. the total nominal value of the securities exceeds £25,000 or one hundredth of the total issued share capital of that body, or
    - b. the beneficial interest exceeds one hundredth of the total issued share capital of the share capital of that body, if of more than one class, the total nominal value of the shares of any one class

## 7. Other Pecuniary Interests

You have an Other Pecuniary Interest in any business of the Authority where it relates to or is likely to affect

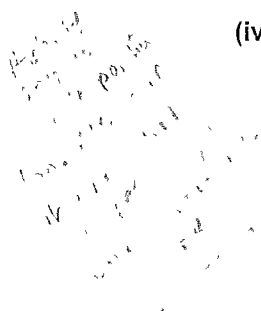
- (i) any person or body who employs or has appointed you,
- (ii) any contract for goods, services or works made between the Authority and you or a firm in which you are a partner, a company of which you are a remunerated director, or a person or body of the description specific in paragraph 6.2 (vii) which has been fully discharged within the last 12 months

## 8. Non-Pecuniary Interests

You have a non-pecuniary interest in any business of the Authority where

- (i) It relates to or is likely to affect any body of which you are a member or in a position of general control or management and to which you are appointed or nominated by the Authority,
- (ii) It relates to or is likely to affect any body
  1. exercising functions of a public nature,
  2. directed to charitable purposes, or
  3. 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,
- (iii) It relates to or is likely to affect the interests of any person from whom you have received a gift or hospitality with an estimated value of at least £50 within the last 3 years,
- (iv) a decision in relation to that business might reasonably be regarded as affecting your wellbeing or the wellbeing or financial position of a friend, relative or close associate to a greater extent than the majority of
  - (a) (in the case of authorities with electoral divisions or wards) other council tax payers, ratepayers or inhabitants of the electoral division or ward, as the case may be, affected by the decision, or
  - (b) (in all other cases) other council tax payers, ratepayers or inhabitants of the Authority's area

**Note:** Only items (i) – (iii) are registerable non-pecuniary interests



## **9. Disclosure of Interests (Disclosable Pecuniary Interests, Other Pecuniary Interests and Non-Pecuniary Interests)**

- 9.1** Subject to sub-paragraphs 9.2 to 9.3, where you have a Disclosable Pecuniary Interest, Other Pecuniary Interest or Non-Pecuniary Interest in any business of the Authority and you are present at a meeting of the Authority at which the business is considered, you must disclose to that meeting the existence and nature of that interest whether or not such interest is registered on your Register of Interests or for which you have made a pending notification
- 9.2** Sub-paragraph 9.1 only applies where you are aware or ought reasonably to be aware of the existence of the Interest
- 9.3** Where you have an interest in any business of the Authority which would be disclosable by virtue of paragraph 9.1 but by virtue of paragraph 12 (Sensitive Information) details of the interest are not registered in the Authority's published Register of Members' Interests and the interest is a Disclosable Pecuniary Interest or Other Pecuniary Interest you need not disclose the nature of the interest to the meeting
- 9.4** Where you have a Pecuniary Interest in any business of the Authority which would be Disclosable by virtue of paragraph 9.1 and a function of the Authority may be discharged by you acting alone in relation to that business, you must ensure you notify the Authority's monitoring officer of the existence and nature of that interest within 28 days of becoming aware that you will be dealing with the matter even if more than 28 days before you will actually deal with the business
- 9.5** Where you have an interest in any business of the Authority which would be disclosable by virtue of paragraph 9.1 and you have made an executive decision in relation to that business you must ensure that any written statement of that decision records the existence and nature of that interest. In this paragraph "executive decision" is to be construed in accordance with any regulations made by the Secretary of State under section 22 of the Local Government Act 2000

## **10. Effect of Interests on Participation**

### **10.1 Disclosable Pecuniary Interests**

- (a)** If you are present at a meeting of the Authority or of any committee, sub-committee, joint committee or joint sub-committee of the Authority and you or a Relevant Person has a Disclosable Pecuniary Interest in any matter to be considered, or being considered, at the meeting and you are aware of that Interest
- (i)** You must not participate, or participate further, in any discussion of the matter at the meeting, or participate in any vote, or further vote, taken on the matter at the meeting,
- (ii)** You must withdraw from the room or chamber where the meeting considering the business is being held unless you have received a dispensation from the Standards Committee or the Authority's proper officer<sup>2</sup>
- (b)** If you have a Disclosable Pecuniary Interest in any business of the Authority you must not
- (i)** exercise executive functions in relation to that business, or
- (ii)** seek improperly to influence a decision about that business
- (c)** If a function of the Authority may be discharged by a Member acting alone and you have a Disclosable Pecuniary Interest in any matter to be dealt with or being dealt with in the course of discharging that function you may not take any steps or any further steps in relation to the matter (except for the purpose of enabling the matter to be dealt with otherwise than by yourself)

<sup>2</sup> On 11 July 2012 the Standards Committee granted the following general dispensations and these were endorsed by Council on 19th July 2012 -

- i) where the matter relates to the housing functions of the Council and the Member is a tenant of the Council (provided that the matter does not relate particularly to the Member's tenancy or lease)
- ii) school meals or school transport and travelling expenses, where the Member is a parent or guardian of a child in full time education, or are a parent governor of a school, unless it relates particularly to the school which the child attends
- iii) an allowance, payment or indemnity given to Members
- iv) any ceremonial honour given to Members
- v) setting Council Tax or a precept under the Local Government Finance Act 1992
- vi) where an Executive Councillor attends a meeting of a Scrutiny Committee in respect of executive matters, including call-in and pre-Cabinet Scrutiny items

## **10.2. Other Pecuniary Interests**

If you have an Other Pecuniary Interest in any business of the Authority and you are present at a meeting of the Authority at which such business is to be considered or is being considered you must

- (i) Disclose the existence and nature of the interest in accordance with paragraph 9 1 (but subject to paragraph 9 3), and
- (ii) Withdraw from the room or chamber where the meeting considering the business is being held

## **10.3 Non-Pecuniary Interests**

After having declared an interest in accordance with paragraph 9 1 you may then participate and vote unless a member of the public with knowledge of the relevant facts would reasonably regard your interest as so significant that it is likely to prejudice your judgment of the public interest or your interest may give rise to a perception of conflict of interest or bias in which case you must withdraw

## **11. Registration of Members' Interests**

- (a) Subject to paragraph 12, you must, within 28 days of

- (i) This Code being adopted by or applied to the Authority, or
- (ii) Your election, re-election or appointment or re-appointment to office (where that is later), or co-opted onto the Authority

register in the Authority's Register of Members' Interests (maintained by the Monitoring Officer under Section 29(1) of the Localism Act 2011) details of

- i. Disclosable Pecuniary Interests as referred to in paragraph 6 that you or a Relevant Person has in so far as you are aware of their interests at that time,
  - ii. Other Pecuniary Interests referred to in paragraph 7 that you have, and
  - iii. Non-pecuniary interests referred to in paragraph 8 (sub paragraphs (i) – (iii)) that you have
- (b) You must keep your register of interests up to date by notifying the Monitoring Officer of any changes to your interests referred to in (a) above within 28 days of the change occurring or becoming aware of the change

## **12. Sensitive Information**

- 12.1** Where you have a Disclosable Pecuniary Interest referred to in paragraph 6 or Other Pecuniary Interest referred to in paragraph 7 and the nature of the interest is such that you and the Authority's monitoring officer consider that disclosure of details of the interest could lead to you or a person connected with you being subject to violence or intimidation if the interest is entered in the Authority's Register then copies of the register available for inspection and any published version of the Register should not include details of the interest but may state that you have an interest details of which are withheld under s32(2) of the Localism Act 2011 and/or this paragraph
- 12.2** You must, within 28 days of becoming aware of any change of circumstances which means that information excluded under paragraph 12 1 is no longer sensitive information, notify the Authority's Monitoring Officer
- 12.3** In this Code "sensitive information" means information whose availability for inspection by the public creates, or is likely to create, a serious risk that you or a person who lives with you may be subject to violence or intimidation



### **13. Register of Gifts and Hospitality**

- 13.1** You must within 28 days of receipt, notify the Authority's monitoring officer in writing of any gift, benefit or hospitality with a value in excess of £50 which you have accepted as a Member from any person or body other than the Authority
- 13.2** The Monitoring Officer will place your notification on a public register of gifts and hospitality
- 13.3** This duty to notify the monitoring officer does not apply where the gift, benefit or hospitality comes within any description approved by the Authority for this purpose

**The Nolan Principles (as revised by the Committee on Standards in Public Life in January 2013) and Section 28(1) of the Localism Act 2011**

**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 declare 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.

**Endnotes**

# Southend-on-Sea Borough Council

## Legal & Democratic Services

Strategic Director (Legal & Democratic Services)

John Williams

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Our ref: JKW  
Your ref:  
Date: May 2019  
Telephone: 01702 215102  
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Dear Councillor

## New Councillors – The Members' Code of Conduct, Registration of Interests and Declarations of Interests

### 1. The Members' Code of Conduct

I attach a copy of the Members' Code of Conduct ("the Code") which was adopted by the Council on 19<sup>th</sup> July 2012 (**Appendix 1**) and which you agreed to abide by when you signed the Declaration of Acceptance of Office book, following your recent election

### 2. Register of Members' Interests

- (a) The Code requires all Councillors to complete the Register of Members' Interests form (attached at **Appendix 2**) and return this to me.

Please complete this as clearly as possible as the forms make up a Council Register of Members' Interests which is publicly available in hard copy and on the Council's website.

You must complete this form and return it to me within 28 days of your election, i.e. by Friday, 31 May 2019. If you fail to complete the form, or complete it incorrectly, you remain a Councillor but are in breach of the Code and may commit an offence

I have produced a guidance note (**Appendix 3**) to assist with completion of the form, which I hope you will find useful. However if you have any questions please contact me

Councillors must notify me of any changes to the details registered within 28 days of becoming aware of them.

- (b) On the last page of the Register referred to in (a) you are also required to give me written notification of any gifts or hospitality received with a value in excess of £50, within 28 days of receipt

This obligation only applies to gifts or hospitality which you receive in connection with your official duties as a Councillor. You do not need to register gifts / hospitality which are not related to your role as a Councillor, e.g. Christmas gifts from relatives or friends.

Notwithstanding this provision, you need to be cautious about accepting any gift or hospitality

### **3. Declaration of Interests at Meetings**

If you have an interest under the Code in respect of any business of the Council and are present at a meeting of the Authority at which the business is considered, then you must declare that interest at the start of the meeting, even if you have already registered it.

Furthermore, unless a dispensation has been granted, you must withdraw from the meeting while that business is considered if your interest is.

- Pecuniary, or
- A disqualifying non-pecuniary interest (i.e. a member of the public with knowledge of the relevant facts would reasonably regard your interest as so significant that it is likely to prejudice your judgement of the public interest or may give rise to a conflict of interest or bias).

If you are aware of something on an agenda of a meeting and are not sure whether you have an interest or not, please contact me in advance and I will be pleased to offer advice. However if in doubt it is always best to err on the side of caution and declare an interest and if necessary withdraw

### **4. Guidance**

A summary of the requirements in the Code in terms of declaring and registering interests is attached at **Appendix 4**.

My summary reflects the content of a revised guide for councillors entitled "Openness and Transparency on personal interests" issued by the Department for Communities and Local Government in September 2013 (**Appendix 5**)

## **5. Blogging & Social Networking**

I attached a guidance note on Blogging and Social Networking which the Standards Committee asked me to send to all Councillors (**Appendix 6**). This reflects Guidance issued by the Local Government Association

Yours sincerely

John Williams  
Strategic Director (Legal and Democratic Services) and Monitoring Officer

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# Southend-on-Sea Borough Council

Agenda  
Item No.

4

Report of Monitoring Officer

To

Standards Committee

On

3<sup>rd</sup> October 2019

Report prepared by: John Williams, Executive Director (Legal  
& Democratic Services)

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## Committee on Standards in Public Life Annual Report 2018/19 & Local Government Ethical Standards Review

### Part 1 Public Agenda Item

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#### 1. Purpose of Report

To provide the Standards Committee with the 2018/19 Annual Report of the Committee on Standards in Public Life (“the CSPL”) and address the Best Practice recommendations in the CSPL’s Local Government Ethical Standards Review.

#### 2. Recommendations

2.1 That the Committee on Standards in Public Life (CSPL) Annual Report 2018/19 (Appendix 1) be noted.

2.2 That the Council’s response to the Best Practice recommendations in the CSPL’s “Local Government Ethical Standards Review” should be as set out in section 3.9 of this report and that the Council be recommended to make the minor amendments to the Members’ Code of Conduct (Part 5(a) of the Constitution) as set out in Appendix 3.

#### 3. Background

3.1 The CSPL advises the Prime Minister on ethical standards across the whole of public life in England. It monitors and reports on issues relating to the standards of conduct of all public office holders. The CSPL is an independent advisory non-departmental public body.

3.2 A copy of the CSPL’s Annual Report for 2018/19 is attached at Appendix 1. Attention is drawn to the section on “Local Government Ethical Standards” on page 8 with its reference to the CSPL’s “Local Government Ethical Standards Review” (see 3.3 below).

3.3 During 2018, the CSPL undertook a Review of Local Government Ethical Standards. This Review was not prompted by any specific allegations of misconduct or Council failure, but rather to review the effectiveness of the current arrangements for standards in local government, particularly in light of the changes made by the Localism Act 2011. The terms of reference for this review were to:

(i) Examine the structures, processes and practices in local government in England for:

- Maintaining codes of conduct for local councillors
- Investigating alleged breaches fairly and with due process
- Enforcing codes and imposing sanctions for misconduct
- Declaring interests and managing conflicts of interest
- Whistleblowing

(ii) Assess whether the existing structures, processes and practices are conducive to high standards of conduct in local government;

(iii) Make any recommendations for how they can be improved;

(iv) Note any evidence of intimidation of councillors, and make recommendations for any measures that could be put in place to prevent and address such intimidation.

3.4 The review considered all local authorities in England, including town and parish councils and principal authorities. The CSPL did not take evidence relating to Combined Authorities (including metro mayors) and the Greater London Authority (including the Mayor of London).

3.5 On 30<sup>th</sup> January 2019, the CSPL published its report entitled “Review of Local Government Ethical Standards” following a year-long review and wide consultation.

A copy of the Executive Summary, List of Recommendations and List of Best Practice is attached at **Appendix 2**.

A copy of the full CSPL report is available at <https://www.gov.uk/government/publications/local-governmentethical-standards-report>.

Key recommendations of the Review include:

- a new power for local authorities to suspend councillors without allowances for up to six months with a right of appeal for suspended councillors to the Local Government Ombudsman;
- revised rules on declaring interests and gifts and hospitality;



- an updated voluntary Model Code of Conduct to be introduced with local authorities to retain ownership of their own Codes of Conduct;
- a strengthened role for the Independent Person;
- Monitoring Officers provided with adequate training, corporate support and resources and statutory protections to be expanded;
- greater transparency about the number and nature of Code complaints;
- Political groups set clear expectations of behaviour by their members and code of conduct training to be mandatory.

3.6 The majority of the CSPL recommendations will require primary legislation, although some changes can be made through secondary legislation. A further report will be submitted to the Committee when legislation emerges.

3.7 In addition to the recommendations referred to in 3.5, the Review also made Best Practice recommendations for local authorities to consider to improve ethical standards. The CSPL has indicated that during 2020 they will review the extent to which Local Authorities have implemented this Best Practice.

3.8 Most of the Best Practice recommendations are already in place at Southend:

- The Code is readily accessible, including on the Council's website (Best Practice 4).
- The Register of Gifts and Hospitality (which forms part of the Register of Interests) is updated as soon as a councillor gives notice of a new entry– and the Register is publicly available on the Council's website (Best Practice 5).
- The Complaints against Members Rules (Part 4i of the Constitution) set out Standards Complaint Assessment Criteria as to when complaints will normally be referred or not referred for investigation (Best Practice 6).
- The Council has appointed two Independent Persons in connection with the ethical standards regime (Best Practice 7)
- One of the Independent persons is always consulted as to whether to undertake a formal investigation or not (Best Practice 8).
- After a formal hearing it is a requirement of the Complaints against Member Rules (Part 4i of the Constitution) that the decision notice is published and made available for public inspection (Best Practice 9).
- The Council has clear guidance on its website about how to make a complaint, the process involved, the key documents and the relevant form (Best Practice 10).
- Part of the support given to Leigh Town Council by the Monitoring Officer includes advice, support and management of investigations on alleged breaches of their Code. Training has been provided in the past, but the Town Clerk provides day to day guidance referring to the Monitoring Officer if necessary. (Best Practice 12).
- The Monitoring Officer is always vigilant to ensure he does not have a conflict of interest and if he does the Deputy Monitoring Officer will deal with the matter. If the Deputy was conflicted, then assistance would be sought from another Essex Authority (Best Practice 13).

- The Council has a Shareholder Board which oversees the governance and performance arrangements for Council companies and joint ventures. These arrangements are referred to the Annual Governance Statement 2018/19 which was agreed by the Audit Committee on 24 July 2019. The Shareholder Board meets in public and it reports to Cabinet. (Best Practice 14)
- The Chief Executive meets regularly with political group leaders and standards issues will be covered, with the Monitoring Officer attending if necessary. (Best Practice 15).

However Best Practice recommendations 1-3 and 11 will necessitate change. Set out in 3.9 below is a suggested response to these Best Practice recommendations of the CSPL and consequential minor amendments to the Members' Code of Conduct (Part 5(a) of the Constitution) are set out in **Appendix 3**.

### **3.9 Suggested response to Best Practice recommendations 1-3 and 11**

**Best Practice 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.**

The Council's existing Code refers to bullying, but not harassment. It is recommended that paragraph 3.3(b) of the Code is amended to say that: "*You must not bully or harass any person*" and that the two terms are defined in the interpretation section as shown in **Appendix 3**. The definitions and examples used are taken from the Grievance and Dignity at Work Policy which applies to Council employees.

**Best Practice 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.**

The Council's existing Code does not include either of these provisions although the Complaints against Members Rules in Part 4i of the Constitution incorporate Assessment Criteria which provide that trivial or malicious complaints will not normally be investigated. It is recommended that the Code is amended to incorporate the two recommendations as shown in **Appendix 3**.

**Best Practice 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.**

In order to address this, it is recommended that the Standards Committee should review the Code each year, although it is kept under regular review by the Monitoring Officer.

**Best Practice 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.**

It is proposed to inform Leigh-on-Sea Town Council of this recommendation so they can adjust their Code and procedures accordingly.

#### **4. Other Options**

To leave the Members' Code of Conduct unaltered.

#### **5. Reasons for Recommendations**

To take steps to implement the Best Practice recommendations in the CSPL's Local Government Ethical Standards Review

#### **6. Corporate Implications**

##### **6.1 Contribution to the Southend 2050 Road Map**

The promotion and maintenance of high standards of conduct for Councillors and Co-opted Members contributes to all aspects of the Southend 2050 Road Map. Also Values and Behaviours are an essential part of the agreed Transforming Together programme.

##### **6.2 Financial Implications** None

##### **6.3 Legal Implications** As set out above.

##### **6.4 People Implications** None.

##### **6.5 Property Implications** None.

- 6.6 Consultation  
None.
- 6.7 Equalities and Diversity Implications  
None.
- 6.8 Risk Assessment  
None.
- 6.9 Value for Money  
None.
- 6.10 Community Safety Implications  
None.
- 6.11 Environmental Impact  
None.

## **7. Background Papers**

CSPL Local Government Ethical Standards Review – Full Report

## **8. Appendices**

**Appendix 1** – CSPL Annual Report 2018/19

**Appendix 2** – CSPL “Local Government Ethical Standards Review” Executive Summary and Best Practice recommendations.

**Appendix 3** – Minor Amendments proposed to the Members’ Code of Conduct.

**Committee on  
Standards  
in Public Life**

# **Annual Report**

**July 2018 – June 2019**

## THE SEVEN PRINCIPLES OF PUBLIC LIFE

The Seven Principles of Public Life apply to anyone who works as a public office holder. This includes all those who are elected or appointed to public office, nationally or locally, and all people appointed to work in the civil service, local government, the police, courts and probation services, Non- Departmental Public Bodies, and in the health, education, social and care services. The Principles also apply to all those in the private sector delivering public services.

### 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 declare 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.

## Foreword

I am pleased to present the Committee on Standards in Public Life's Annual Report 18/19, my first as Chair of the Committee, having taken over in November 2018.

I would firstly like to pay tribute to my predecessor Lord Bew who led the Committee from 2013. Under his Chairmanship the Committee considered new areas such as policing, ethics for regulators and, most recently, the worrying issue of intimidation of people in public life. His wisdom and humility combined with an incisive understanding of public life in the UK have furthered the Committee's standing and reputation.

I have been struck by the complex ethical standards landscape in which this Committee sits. A range of bodies are responsible for considering standards issues, some with regulatory powers, some without, some have clear remits, whilst for others, there is a lack of clarity for the public about what they can and can't do. Indeed, this Committee has no statutory remit or powers, but relies on building influence through evidence for which it has a long-established status and a well-developed reputation.

I am acutely aware that ethics cannot be systematically imposed from outside; ethical standards must be part of an organisation's DNA. Our report on local government ethical standards emphasised this point and made a package of recommendations to support high standards of behaviour in local councils across England. The Committee was impressed by the very high level of engagement and commitment from the sector for this review and has been encouraged by the way our package of recommendations and best practice is being widely disseminated and adopted. Although the geography and dynamics of each council differ, the Nolan principles continue to provide a common baseline against which they can strive to meet the public's expectations of those who serve them.

The past 12 months have certainly not seen any easing up in the Committee's workload. We completed our local government report; have actively followed up our 2017 report on intimidation in public life, working in particular with political parties and The Jo Cox Foundation; and we have taken a close and serious watching brief on the worrying culture of bullying and harassment in Westminster, reviewing the actions taken by the Parliamentary authorities. We have also launched a new review into artificial intelligence and its impact on standards in public life, looking ahead at the need to ensure the opportunities offered by developments in AI are matched by appropriate ethical checks and balances in the public sector. Our report will be published early in 2020.

Later this year we will mark the 25<sup>th</sup> anniversary of the Committee and the Nolan principles, an important moment to reflect on the relevance of the standards the public expect of public office holders and those delivering public service. We will continue to test those Principles with the public and against new technology as evidenced by our AI review.

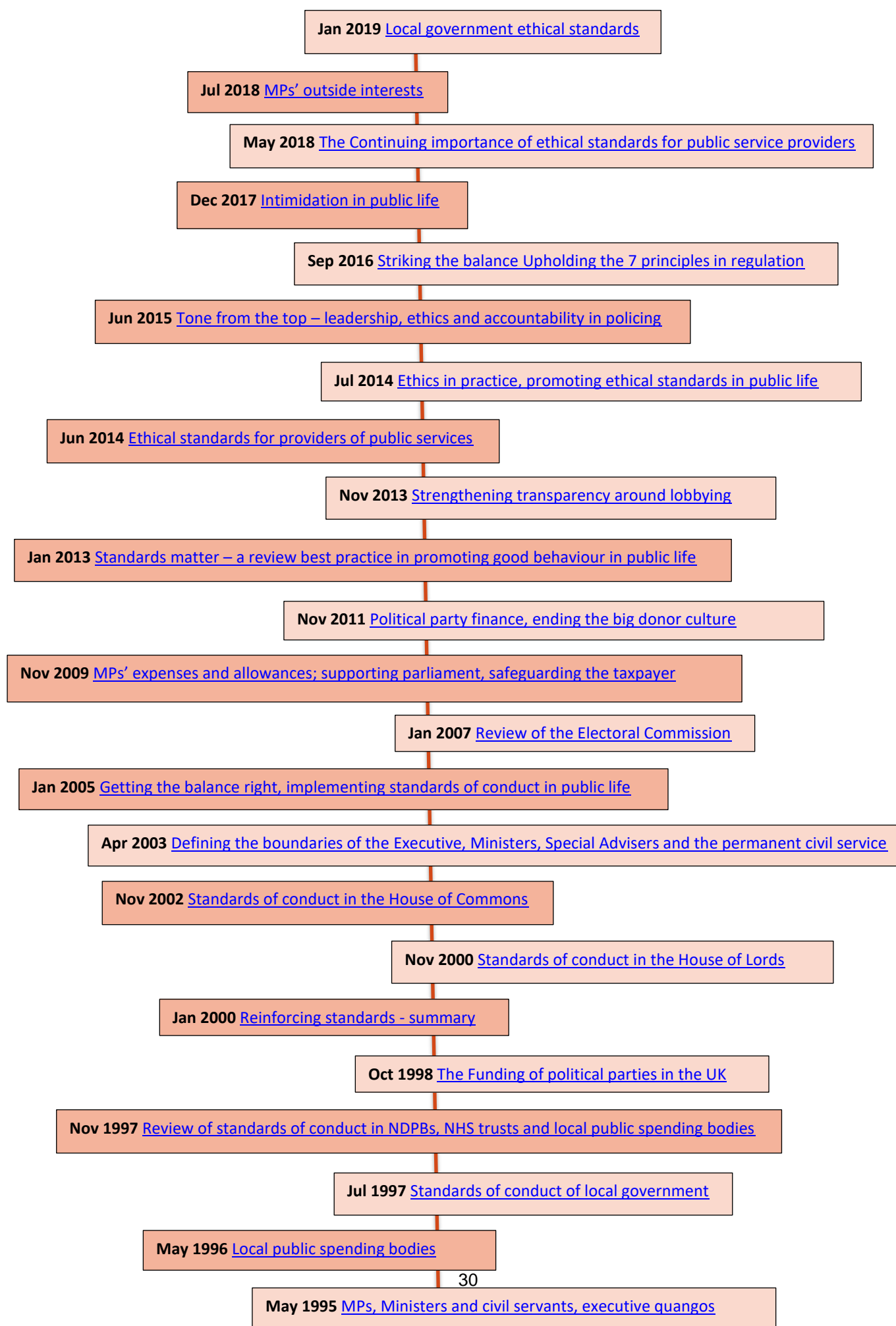
Our vision remains to reinforce clear expectations across public life of high standards of conduct.

I hope you find the report a useful account of our activities and a positive reinforcement of Nolan's vision, still relevant 25 years on.

**Lord (Jonathan) Evans of Weardale KCB DL**  
**Chair**



# Our reports





# July 2018/June 2019

## Key areas of focus for the Committee

### Local Government Ethical Standards

Report published January 2019 after a year of evidence gathering:

- Public consultation
- Desk research
- Roundtables
- Interviews
- Visits to councils
- Speeches at conferences pre and post launch



### AI and public standards

Launch of AI review March 2019

- Interviews
- Meetings
- Roundtables
- Focus groups
- Written submissions
- Desk research
- Speeches



### Intimidation in Public Life

Follow up work with political parties and The Jo Cox Foundation  
Attending external meetings; interviews, blogs, articles



### MPs' outside interests

Published report July 2018: interviews, meetings, roundtable, focus groups, research



### Bullying and harassment in Westminster

Close watching brief, reviewing Parliamentary authorities' responses  
Meetings with parliamentary authorities  
Blogs and articles



***Contributing to external consultations, speeches, participation in external meetings, articles, blogs, presentations to international delegations.***

## Committee membership: July 2019

### Terms of appointment



**Dr Jane Martin CBE**  
(1 Jan 2017 – 31 Dec 2021)



**Dame Shirley Pearce DBE**  
(31 Mar 2018 – 21 Mar 2023)



**Jane Ramsey**  
(1 Sep 2016 – 31 Aug 2021)



**Monisha Shah**  
(1 Dec 2015 – 30 Nov 2020)



**Rt Hon Dame Margaret Beckett DBE MP  
(Labour)** (1 Nov 2016 – 31 Oct 2019)



**Simon Hart MP (Conservative)**  
(24 Jul 2017 – 23 Jul 2020)



**Rt Hon Lord Stunell OBE  
(Liberal Democrat)**  
(1 Dec 2016 – 30 Nov 2019)



**Chair, Lord Evans of Weardale KCB DL**  
(1 Nov 2018 – 31 Oct 2023)

*Independent Chair and 4 independent members, appointed for 5 years, non-renewable appointments.*

*3 political representatives, appointed for 3 years, renewable appointments.*

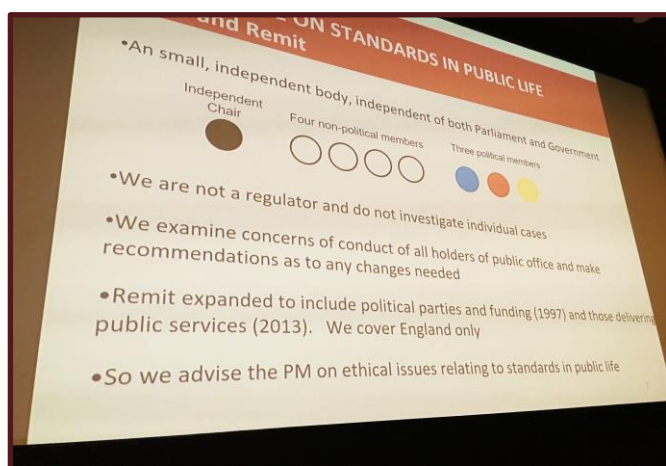
*All appointments made by the Prime Minister.*

# Introduction

**The Committee was established in 1994 with a clear purpose: to examine areas of concern about the standards of conduct of public office holders, advise the Prime Minister accordingly, and to promote the highest standards of conduct across public life.**

The maintenance of high standards in public life is important for the good functioning of society as a whole, it helps maintain public trust in institutions, and is important for democracy. High standards of conduct underpin public confidence in every aspect of public life, from the delivery of health and social care services to education, policing and legislation.

This Committee plays a key role in examining areas of concern and maintaining a watching brief on standards in public life. We are not a regulator so we have no statutory powers and no remit to investigate individual cases. Instead we use a variety of means to do our work, to extend our influence, to persuade and make sure our voice is heard. Our independence of Government and Parliament alike is key.



The Committee seeks to identify areas of concern in conduct and behaviours before they develop into breaches of trust or worse; undertakes balanced, comprehensive reviews with recommendations based on robust evidence; makes informed contributions to public debates about ethical standards, including submissions to public consultations; proactively identifies and responds to emerging ethical risks, and engages with a wide-range of partners on the ethical standards agenda.

It is a broad field so we are committed to working with others to ensure this vision of high ethical standards is met and that the Principles of Public Life are understood and embedded across public life. We have been pleased to hear directly from some of those also playing important roles in this landscape.

Our effectiveness depends on our ability to build powerful arguments using research and evidence which convinces others to take forward our recommendations for change.

In this report, we describe how we have carried out these activities in areas that have been our priorities in the period July 2018 – June 2019; and we look forward to marking our 25<sup>th</sup> anniversary.

Factual information about the Committee's remit, membership, data protection, financial information, reports published, speeches and meetings, and our Research Advisory Board can be found in Annexes A-G.

**We are fully committed to openness in our activities. We will ensure that we communicate our work effectively, to make it visible to everyone with an interest in ethical standards.**

# Review of activities: July 2018 – June 2019

## Local Government Ethical Standards

The main focus of our work this year was our review into local government ethical standards. The Committee has had a long-standing interest in local government - the Committee's third report, in 1997, was on local government - and many of the institutional changes that have taken place in local government standards in the last two decades have been in response to the Committee's recommendations.

*"The recent publication from the Committee on Standards in Public Life has refocused attention on a vital aspect of good governance: setting and enforcing standards of behaviour for local authority members."*  
(LGC 18 March 2019)

We launched the review on 29 January 2018. The report was not prompted by any specific allegations of misconduct, but more to check that the current framework was helpful in promoting and maintaining the standards expected by the public. The review, published on 30 January 2019, considered the structures, processes, and practices for local government standards in England, including codes of conduct, sanctions, investigatory processes, the roles of Monitoring Officers, Clerks, and Independent Persons, and an ethical culture in local government.



Importantly, we did not propose a return to a centralised, standardised system. Rather the report produced recommendations intended to be implemented as a package to address the risks we identified and to maintain the balance of a system that supports the best instincts of councillors whilst addressing unacceptable behaviour by a minority and guarding against potential corporate standards risks.

### Launch of Report

Panel (L-R) Jonathan Goolden, Dame Stella Manzie DBE, Dr Jane Martin CBE, Lord Evans

The report has been well received in the sector. Since publication, we have followed up by liaising with leadership organisations in the sector, the Local Government Ombudsman (LGO) and the Ministry of Housing, Communities and Local Government (MHCLG); and independent members have spoken at 5 conferences:

- National Association of Local Councils, 11 February, London;
- Society of Local Council Clerks, 15 February, Kenilworth;
- Lawyers in Local Government (LLG) weekend conference, 29 March, London;
- LLG Annual Monitoring Officers' conference, 14 June, London;
- Monitoring Officers conference, London, 10 July.

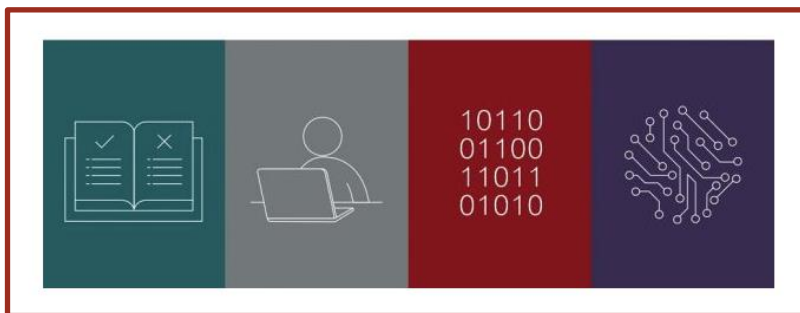


Jane Ramsey speaking at LLG annual weekend conference, 29 March 2019

As stated in the report, we will review in 2020 councils' take up of our best practice recommendations.



## Artificial Intelligence (AI) and Public Standards



In March 2019, we launched a new review into whether the existing frameworks and regulations in relation to AI are sufficient to ensure that high standards of conduct are upheld as the use of these technologies becomes more widespread.

This is a new area of research for this Committee, but highly relevant as technologically assisted decision-making is adopted more widely across the public sector.

The launch of this review followed two months' desk research into the impact of artificial intelligence on public services in the UK and international approaches to AI ethics.

*"You need a culture of design in which transparency, interpretability and explicability are built in at the beginning."*  
Roundtable, 23 May 2019



Six months into the review, the Committee has invited written submissions and undertaken a wide-ranging series of meetings with academics, AI professionals, and government officials, including 3 [roundtables](#), to gain expert advice and obtain a clear picture of how AI will change public services and how it will affect public standards. Focus groups were held in June to gain insight into the general public's views on how standards should apply in a future where public services are delivered by artificial intelligence. This research and evidence gathering will help us evaluate if government and public bodies are ready to meet the 6 key challenges we have identified that AI poses for public standards.

We want to thank Imperial College, London, for hosting our second roundtable on 29 May 2019.

We will draft the report in the autumn following further meetings and research, aiming to publish in early 2020.

Roundtable held on 23 May 2019, 1 Horse Guards Road

*"How can responsibility for AI systems can be clarified at the point of use... It is clear that we cannot abdicate responsibility here and it is a question of how we maintain that responsibility and accountability."*  
Roundtable, 29 May 2019

## Intimidation in Public Life

We have been working actively to follow up our December 2017 report, *Intimidation in public life* - a review the Committee undertook at the request of the Prime Minister in July 2017.



The report, published in December 2017, examined the shocking intimidation experienced by candidates at the 2017 General Election, and significantly highlighted the wider effect on public life. The problem has not gone away and intimidation remains a real danger to our democracy.

In that report, we made 33 recommendations to:

- government
- social media companies
- political parties, press organisations
- MPs
- candidates and
- other public office-holders.

*"There is no easy, single solution to address this problem, and the Opposition welcome the package of recommendations outlined by the Committee on Standards in Public Life for the Government, social media companies, political parties, the police, broadcast and print media, MPs and parliamentary candidates."*

(Cat Smith MP, Shadow Minister, Cabinet Office, Westminster Hall debate, 21 May 2019)

The Government [responded](#) formally to the report in March 2018 committing to action on most of the recommendations made to government. The Government published a further [response](#) on 7 March 2019 updating action taken in response to the report. We welcomed the Government's '[Protecting the Debate](#)' – the Government's response to their consultation on proposals aimed at protecting the electoral system against intimidation and undue influence of candidates, campaigners and voters.

Since the publication of the report, we have been actively following up responses to our recommendations and have received further [responses](#) from social media companies, political parties, the press regulators and the National Police Chiefs' Council. The Committee has attended external meetings and seminars and the Chair has written a number of [blogs](#) and [articles](#) on this issue.

In particular, we have been working with political parties on a joint approach to tackling intimidation. We were delighted to announce on 21 May 2019 that [The Jo Cox Foundation](#) had agreed to act as an independent third party to support this work and we will be working with The Foundation and political parties holding seats in Westminster to draw up a joint standard on intimidatory behaviour to encourage cross-party consensus to recognise and address this worrying issue.

*"I was [therefore] pleased to read the letter and joint statement that have gone out today from the Committee on Standards in public Life and The Jo Cox Foundation about the work that they will be looking to do together to continue her legacy."*

Kevin Foster MP, Parliamentary Secretary, Cabinet Office, Westminster Hall debate, 21 May 2019

## MPs' Outside Interests



In July 2018, we published our report [MPs' Outside Interests](#).

The Committee had previously considered the issue of MPs' outside interests in its 2009 report on MPs' Expenses and Allowances.<sup>1</sup>

The 2018 report recommended a package of important reforms to ensure that MPs' outside interests remain within reasonable limits.<sup>2</sup> These included:

- Revising the Code of Conduct for MPs, so that any outside roles, whether or not they are paid, do not prevent MPs from undertaking the range of duties expected of them in their primary role as an MP.
- To facilitate greater transparency of the registration and declaration of interests, the Register of Members' Financial Interests must be more accessible, searchable and usable.
- The Cabinet Office should issue guidance to Parliamentary candidates on the registration of outside interests, so voters know whether candidates intend to carry on any of their existing jobs if they are elected.

*"MPs will be reminded that their principal job is to serve their constituents" The Telegraph, 2018*

The majority of the recommendations require changes to the Code of Conduct and Guide to the Rules relating to the Conduct of Members. The Commons Committee on Standards has stated that it proposes to undertake a comprehensive review of the Code of Conduct and Guide to the Rules, involving public consultation. The Commons Committee on Standards has published its response to the report [here](#).

The Committee expects this review to implement the Committee's recommendations and to address the specific issues raised in *MPs Outside Interests*. The Committee met with the Commons Committee on Standards on 4 June 2019 to discuss these recommendations and other issues of common interest to the two Committees.

*"There needs to be even greater transparency and openness to the public on outside interests — in a fully searchable digital register of interests — and at elections. Transparency may not automatically deliver greater trust, but it is essential in reducing the likelihood of poor behaviour and increasing the chances of detection if it does occur." (Lord Bew, Times Red Box article, 3 July 2018)*

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<sup>1</sup> In its 2009 report, the Committee recommended that MPs should be able to continue with outside employment, as long as any outside interests were within reasonable limits and there was transparency, and that information about it should be drawn to voters' attention at election time

<sup>2</sup> The review was paused when the 2017 general election was called, and again when the Committee reviewed, as a priority, intimidation in public life. The Committee came back to the review in January 2018 and the report was published in July 2018.

## Bullying and harassment in Westminster

*The Committee believes that all those who work in and around Parliament – or support Parliamentarians in their constituency offices – deserve to be treated with courtesy and respect both by their colleagues and MPs and Peers.*

During this reporting year, the Committee has continued to take a close and serious interest in the issue of bullying, harassment and sexual harassment first reported in autumn 2017, monitoring the response of the Parliamentary authorities.

The Committee welcomed the steps announced by the Leader of the House in July 2018 to put in place independent processes for dealing with allegations of bullying and harassment, but the [report](#) of the independent inquiry headed by Dame Laura Cox QC into the bullying and harassment of House of Commons staff indicated that more needed to be done.

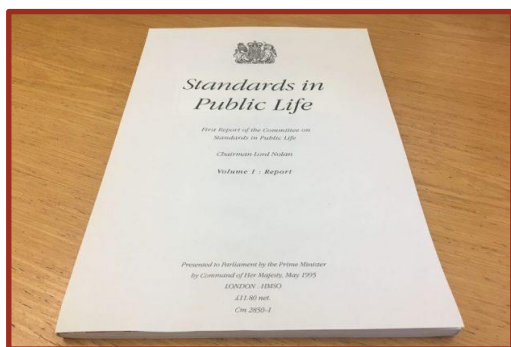
The Committee has been struck by the complex picture of inquiries, reviews and working groups commissioned this year. There has been a multi-faceted response which appears to have resulted from the emerging nature and scale of the problem. In March, we published a [blog post](#) which set out in one place the initiatives underway in Parliament, to increase public understanding and to encourage rapid progress. It has continued to hold meetings with senior people in Parliament responsible for delivering change.

It is important that Parliament responds appropriately to the outcome of each of these work areas and that change is swift so that people in Parliament feel confident they are working in an environment where high standards of behaviour are upheld but where there is a formal complaint, the investigation process is fair.

The [published minutes](#) of the Committee meetings have recorded the active watching brief the Committee is maintaining in this area. The Committee has made public statements and published [correspondence](#) on its website where it felt it was important to express its concerns, for example, at the seemingly longstanding and unaddressed culture of bullying and harassment revealed by the Cox Report and in the aftermath, at the lack of clarity around accountability for the process to implement the Cox recommendations.



## 25 years on



On 25 October 1994, the Rt Hon Sir John Major [announced](#) the setting up of the Committee in Standards in Public Life; Lord Nolan's first [report](#) was published in May 1995.

People then may not have expected the report to have much influence or that the Committee would survive beyond that Parliament, but that report and the Committee's subsequent reviews have led to fundamental changes across standards in public life over the past 25 years.

The Committee is not complacent. Building and maintaining an ethical culture requires constant attention. Whilst there is much to suggest the Principles are still relevant and offer a clear articulation of expected standards in public life, we intend to re-test the principles in particular with students, the next generation. We want to see what they make of the principles, whether they think they are the standards to which we should be holding those who serve in public office to account. The Committee is looking forward to hearing what they have to say at this workshop which we intend to hold later this year.



We also want to do some work to outline the standards landscape. Few would disagree that the standards landscape is crowded and confusing which is likely to make it less effective than it might be. We will be working with an academic to review the landscape, to set out clearly the role, functions, status, powers and history of each individual body responsible for the upholding of standards across public life in England.

The Committee will continue its work in this complex area of standards - identifying areas for review, promoting good practice and evaluating progress against our recommendations. We look forward to the next 25 years.

## Annexes

[Annex A – About the Committee](#)

[Annex B – Membership of the Committee](#)

[Annex C – Data Protection](#)

[Annex D – Reports Published](#)

[Annex E – The Research Advisory Board](#)

**Annex F – Speeches, presentations, visitors, consultations**

In the period July 2018 - June 2019, the Chair, independent members and members of the Secretariat have spoken at a number of events on standards issues, promoting the work of the Committee and the importance of the Seven Principles of Public Life, including:

- 4 July 2018: Lord Bew (then Chair) addressed a University of Warwick (London-based) conference on the Construction of Public Office and the Pursuit of Integrity
- 3 October 2018: Jane Ramsey and Secretariat received an international delegation arranged by the Public Service Commission
- 16 October 2018: Jane Ramsey and Secretariat participated in the General Pharmaceutical Council event on professional standards
- 29 October 2018: Dame Shirley Pearce and Secretariat participated in the CfPS, Public Private Partnerships seminar – The Value of Scrutiny
- 30 October 2018: Jane Ramsey and Secretariat received an international delegation arranged by the Public Service Commission
- 21 January 2019: Royal United Services Institute (RUSI): The National Security AI Policy Framework, Lord Evans
- 11 February 2019: National Association of Local Councils (NALC) conference
- 15 February 2019: Society of Local Council Clerks (SLCC) practitioners' conference, Kenilworth
- 29 March 2019: Lawyers in Local Government (LLG) weekend annual conference
- 14 June 2019: LLG annual monitoring officers' conference
- 10 July 2019: Standards conference for monitoring officers
- Since his appointment in November 2018, Lord Evans has met with the Committee's key stakeholders who share our interest and role in standards matters, including: Minister for the Cabinet Office; Chair, Electoral Commission; Commissioner for Public Appointments; Chair, IPSA; Commons Parliamentary Commissioner for Standards; Lords Commissioner for Standards; Chair, Commons Committee for Standards; Chair, Lords Privileges and Conduct Committee; Director Regulation, UK Statistics Authority; First Civil Service Commissioner; Chair, Advisory Committee on Business Appointments; Clerk, House of Commons; Director, Institute of

Business Ethics; Government Chief People Officer; CEO, National Centre for Public Sector Leadership.

The Committee has also promoted the Seven Principles of Public Life through responses to a number of consultations, including:

- September 2018: NCVO [consultation](#) on charity code of ethics
- March 2019: Joint Committee on Human Rights [inquiry](#) into democracy, free speech and freedom of association
- May 2019: Commons Committee on Standards [inquiry](#) into possible reforms to the system of sanctions for breaches of the rules set out in the Code of Conduct for Members of Parliament
- June 2019: Public Administration and Constitutional Affairs Committee (PACAC) [inquiry](#) into electoral reform
- June 2019: House of Commons Commission [consultation](#) on non-recent complaints of bullying, harassment and sexual misconduct
- June 2019: [Government's Online Harms White Paper](#).

In addition, Dr Jane Martin, worked with and supported the Ethical Leadership Commission of the Association of School and College Leaders (ASCL) on their framework for ethical leadership in education and wrote the foreword to their [report](#).

Kevin Dunion OBE, Convener, the Standards Commission for Scotland and Lorna Johnston, Executive Director of the Standards Commission for Scotland, joined the October 2018 Committee meeting for a general discussion comparing standards issues in local government in Scotland.

Professor Allyson Macvean (Professor of Policing and Criminology, Bath Spa University); Professor Vassilios Papalois (Surgeon at Imperial College); Chief Constable Julian Williams (NPCC portfolio for ethics); and Rev Prof Scott Shackleton (Deputy Chaplain of the Fleet in Naval Command HQ Portsmouth) joined the November 2018 Committee to present their work in relation to ethics and integrity through the Police Ethics Network.

Julie Harding, Independent Director of Cultural Transformation, House of Commons spoke to the Committee in April 2019 to update them on Parliament's response to Dame Laura Cox's recommendations to deliver cultural change in Parliament.

Professor Richard Susskind OBE spoke on Artificial Intelligence to the Committee at their June 2019 meeting.

Professor Cees Van der Eijk and Dr Jonathan Rose presented their research on perceived fairness of the EU Referendum to the July 2019 Committee meeting. Their paper can be found [here](#).

## **Annex G – Financial Information**

Independent members of the Committee on Standards in Public Life may claim £240 for each day they work on Committee business. The Chair is paid a remuneration of £36k per annum with the expectation that they commit an average of 5-6 days a month although this can increase significantly during periods of Committee reviews.

Independent members are reimbursed for expenses necessarily incurred.

The 3 political members of the Committee do not receive any fees or expenses.

As an advisory non-departmental public body, the Committee on Standards in Public Life receives a delegated budget from the Cabinet Office. Day-to-day responsibility for financial controls and budgetary mechanisms are delegated to the Secretary of the Committee. Creation of new posts are subject to the Cabinet Office Approvals process.

Members of the Secretariat are permanent civil servants employed by the Cabinet Office. There are 5 full-time members of the Secretariat.

For the financial year 2018/19, the Committee's budget was £339k with a final outturn of £361k.

**Annual Report 2018/19**

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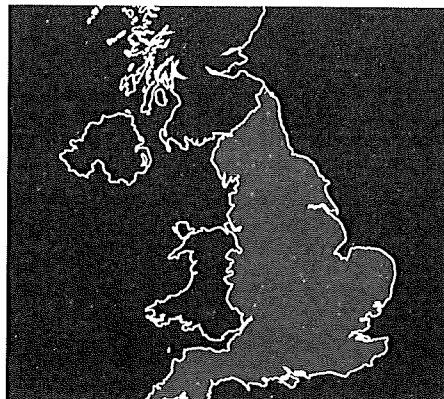
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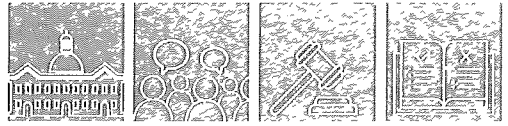
# **Local Government Ethical Standards**

**A Review by the  
Committee on  
Standards in Public Life**

**Committee on  
Standards in  
Public Life**

January 2019





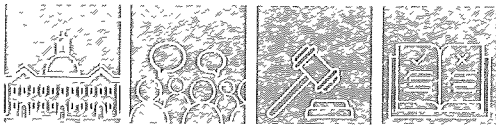
# **Local Government Ethical Standards**

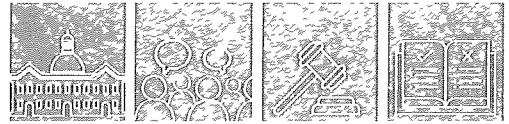
Committee on Standards in Public Life

*Chair: Lord Evans of Weardale KCB DL*

January 2019







# The Seven Principles of Public Life

The Principles of Public Life apply to anyone who works as a public office-holder. This includes all those who are elected or appointed to public office, nationally and locally, and all people appointed to work in the Civil Service, local government, the police, courts and probation services, non-departmental public bodies (NDPBs), and in the health, education, social and care services. All public office-holders are both servants of the public and stewards of public resources. The principles also have application to all those in other sectors delivering public services.

## **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 declare 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**

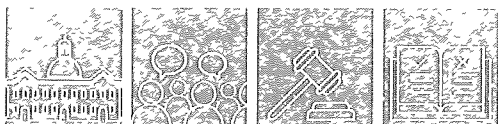
Holders of public office should act and take decisions in an open and transparent manner. Information should not be withheld from the public unless there are clear and lawful reasons for so doing.

## **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.



Dear Prime Minister,

I am pleased to present the 20th report of the Committee on Standards in Public Life, on the subject of ethical standards in local government.

The Committee has had a long-standing interest in local government, which was the subject of its third report, and which it has considered a number of times since then. This review was not prompted by any specific allegations of misconduct, but rather to assure ourselves that the current framework, particularly since the Localism Act 2011, is conducive to promoting and maintaining the standards expected by the public.

Local government impacts the lives of citizens every day, providing essential services to those it serves. Its decisions directly affect the quality of life of local people. High standards of conduct in local government are needed to demonstrate that those decisions are taken in the public interest and to maintain public confidence.

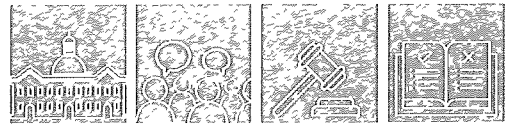
It is clear that the vast majority of councillors and officers want to maintain the highest standards of conduct in their own authority. We have, however, identified some specific areas of concern. A minority of councillors engage in bullying or harassment, or other highly disruptive behaviour, and a small number of parish councils give rise to a disproportionate number of complaints about poor behaviour.

We have also identified a number of risks in the sector: the current rules around conflicts of interest, gifts, and hospitality are inadequate; and the increased complexity of local government decision-making is putting governance under strain.

The challenge is to maintain a system which serves the best instincts of councillors, whilst addressing unacceptable behaviour by a minority, and guarding against potential corporate standards risks.

It is clear from the evidence we have received that the benefits of devolved arrangements should be retained, but that more robust safeguards are needed to strengthen a locally determined system. We are also clear that all local authorities need to develop and maintain an organisational culture which is supportive of high ethical standards. A system which is solely punitive is not desirable or effective; but in an environment with limited external regulation, councils need the appropriate mechanisms in place to address problems when they arise.

Our recommendations would enable councillors to be held to account effectively and would enhance the fairness and transparency of the standards process. Introducing a power of suspension and a model code of conduct will enable councillors to be held to account for the most serious or repeated breaches and support officers to address such behaviour, including in parish councils. Strengthening the role of the Independent Person and introducing a right of



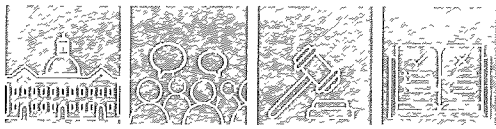
appeal for suspended councillors will enhance the impartiality and fairness of the process, which is vital to ensure that councillors are protected from malicious or unfounded complaints. Greater transparency on how complaints are assessed and decided in a system which is currently too reliant on internal party discipline will also provide a safeguard against opaque decision-making and provide reassurance to the public.

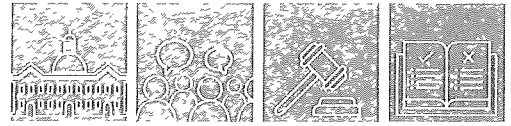
A number of these recommendations involve legislative change which we believe the government should implement. We have also identified 'best practice' for local authorities, which represents a benchmark for ethical practice which we expect that any authority can and should implement.

It is clear to us that local government in England has the willingness and capacity to uphold the highest standards of conduct; our recommendations and best practice will enable them to do so.

I commend the report to you.

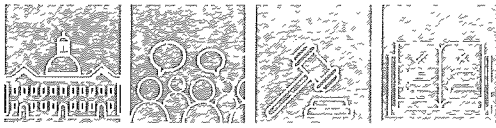
**Lord Evans of Weardale**  
**Chair, Committee on Standards in Public Life**





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# Executive summary

Local government impacts the lives of citizens every day. Local authorities are responsible for a wide range of important services – social care, education, housing, planning and waste collection, as well as services such as licensing, registering births, marriages and deaths, and pest control. Their proximity to local people means that their decisions can directly affect citizens' quality of life.

High standards of conduct in local government are therefore needed to protect the integrity of decision-making, maintain public confidence, and safeguard local democracy.

Our evidence supports the view that the vast majority of councillors and officers maintain high standards of conduct. There is, however, clear evidence of misconduct by some councillors. The majority of these cases relate to bullying or harassment, or other disruptive behaviour. There is also evidence of persistent or repeated misconduct by a minority of councillors.

We are also concerned about a risk to standards under the current arrangements, as a result of the current rules around declaring interests, gifts and hospitality, and the increased complexity of local government decision-making.

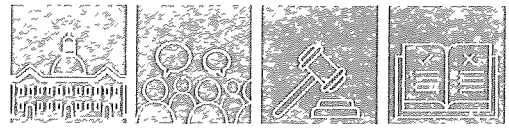
Giving local authorities responsibility for ethical standards has a number of benefits. It allows for flexibility and the discretion to resolve standards issues informally. We have considered whether there is a need for a centralised body to govern and adjudicate on standards. We have concluded that whilst the consistency and independence of the system could be enhanced, there is no reason to reintroduce a centralised body, and that local

authorities should retain ultimate responsibility for implementing and applying the Seven Principles of Public Life in local government.

We have made a number of recommendations and identified best practice to improve ethical standards in local government. Our recommendations are made to government and to specific groups of public office-holders. We recommend a number of changes to primary legislation, which would be subject to Parliamentary timetabling, but also to secondary legislation and the Local Government Transparency Code, which we expect could be implemented more swiftly. Our best practice recommendations for local authorities should be considered a benchmark of good ethical practice, which we expect that all local authorities can and should implement. We will review the implementation of our best practice in 2020.

## Codes of conduct

Local authorities are currently required to have in place a code of conduct of their choosing which outlines the behaviour required of councillors. There is considerable variation in the length, quality and clarity of codes of conduct. This creates confusion among members of the public, and among councillors who represent more than one tier of local government. Many codes of conduct fail to address adequately important areas of behaviour such as social media use and bullying and harassment. An updated model code of conduct should therefore be available to local authorities in order to enhance the consistency and quality of local authority codes.



There are, however, benefits to local authorities being able to amend and have ownership of their own codes of conduct. The updated model code should therefore be voluntary and able to be adapted by local authorities. The scope of the code of conduct should also be widened, with a rebuttable presumption that a councillor's public behaviour, including comments made on publicly accessible social media, is in their official capacity.

### **Declaring and managing interests**

The current arrangements for declaring and managing interests are unclear, too narrow and do not meet the expectations of councillors or the public. The current requirements for registering interests should be updated to include categories of non-pecuniary interests. The current rules on declaring and managing interests should be repealed and replaced with an objective test, in line with the devolved standards bodies in Scotland, Wales and Northern Ireland.

### **Investigations and safeguards**

Monitoring Officers have responsibility for filtering complaints and undertaking investigations into alleged breaches of the code of conduct. A local authority should maintain a standards committee. This committee may advise on standards issues, decide on alleged breaches and sanctions, or a combination of these. Independent members of decision-making standards committees should be able to vote.

Any standards process needs to have safeguards in place to ensure that decisions are made fairly and impartially, and that councillors are protected against politically-motivated, malicious, or unfounded allegations of misconduct. The Independent Person is an important safeguard in the current system. This safeguard should be strengthened and clarified: a local authority should only be able to suspend a councillor where the Independent

Person agrees both that there has been a breach and that suspension is a proportionate sanction. Independent Persons should have fixed terms and legal protections. The view of the Independent Person in relation to a decision on which they are consulted should be published in any formal decision notice.

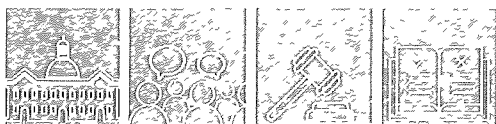
### **Sanctions**

The current sanctions available to local authorities are insufficient. Party discipline, whilst it has an important role to play in maintaining high standards, lacks the necessary independence and transparency to play the central role in a standards system. The current lack of robust sanctions damages public confidence in the standards system and leaves local authorities with no means of enforcing lower level sanctions, nor of addressing serious or repeated misconduct.

Local authorities should therefore be given the power to suspend councillors without allowances for up to six months. Councillors, including parish councillors, who are suspended should be given the right to appeal to the Local Government Ombudsman, who should be given the power to investigate allegations of code breaches on appeal. The decision of the Ombudsman should be binding.

The current criminal offences relating to Disclosable Pecuniary Interests are disproportionate in principle and ineffective in practice, and should be abolished.





## **Town and parish councils**

Principal authorities have responsibility for undertaking formal investigations of code breaches by parish councillors. This should remain the case. This responsibility, however, can be a disproportionate burden for principal authorities. Parish councils should be required to adopt the code of their principal authority (or the new model code), and a principal authority's decision on sanctions for a parish councillor should be binding. Monitoring Officers should be provided with adequate training, corporate support and resources to undertake their role in providing support on standards issues to parish councils, including in undertaking investigations and recommending sanctions. Clerks should also hold an appropriate qualification to support them to uphold governance within their parish council.

## **Supporting officers**

The Monitoring Officer is the lynchpin of the current standards arrangements. The role is challenging and broad, with a number of practical tensions and the potential for conflicts of interest. Local authorities should put in place arrangements to manage any potential conflicts. We have concluded, however, that the role is not unique in its tensions and can be made coherent and manageable with the support of other statutory officers. Employment protections for statutory officers should be extended, and statutory officers should be supported through training on local authority governance.

## **Councils' corporate arrangements**

At a time of rapid change in local government, decision-making in local councils is getting more complex, with increased commercial activity and partnership working. This complexity risks putting governance under strain. Local authorities setting up separate bodies risk a governance 'illusion', and should

take steps to prevent and manage potential conflicts of interest, particularly if councillors sit on these bodies. They should also ensure that these bodies are transparent and accountable to the council and to the public.

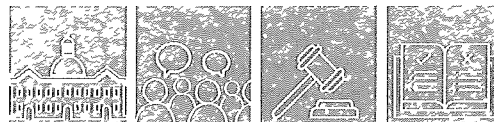
Our analysis of a number of high-profile cases of corporate failure in local government shows that standards risks, where they are not addressed, can become risks of corporate failure. This underlines the importance of establishing and maintaining an ethical culture.

## **Leadership and culture**

An ethical culture requires leadership. Given the multi-faceted nature of local government, leadership is needed from a range of individuals and groups – an authority's standards committee, the Chief Executive, political group leaders, and the chair of the council.

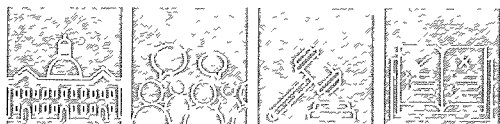
Political groups have an important role to play in maintaining an ethical culture. They should be seen as a semi-formal institution sitting between direct advice from officers and formal processes by the council, rather than a parallel system to the local authority's standards processes. Political groups should set clear expectations of behaviour by their members, and senior officers should maintain effective relationships with political groups, working with them informally to resolve standards issues where appropriate.

The aim of a standards system is ultimately to maintain an ethical culture and ethical practice. An ethical culture starts with tone. Whilst there will always be robust disagreement in a political arena, the tone of engagement should be civil and constructive. Expected standards of behaviour should be embedded through effective induction and ongoing training. Political groups should require their members to attend code of conduct training provided by a local authority, and this should also be



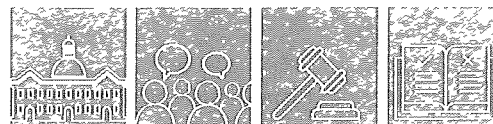
written into national party model group rules. Maintaining an ethical culture day-to-day relies on an impartial, objective Monitoring Officer who has the confidence of all councillors and who is professionally supported by the Chief Executive.

An ethical culture will be an open culture. Local authorities should welcome and foster opportunities for scrutiny, and see it as a way to improve decision making. They should not rely unduly on commercial confidentiality provisions, or circumvent open decision-making processes. Whilst local press can play an important role in scrutinising local government, openness must be facilitated by authorities' own processes and practices.

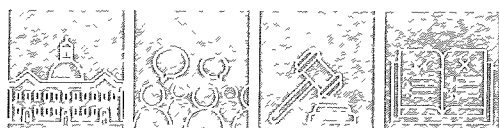


# List of recommendations

| Number | Recommendation                                                                                                                                                                                                                                                                                                                                                   | Responsible body             |
|--------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------|
| 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.                                                                                                                                                                        | Local Government Association |
| 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. | Government                   |
| 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.                                                           | Government                   |
| 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.                                                                                      | Government                   |
| 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.                                                                   | Government                   |
| 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 requirement should be included in an updated model code of conduct.                                                  | Government                   |

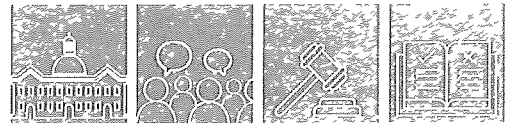


| Number | Recommendation                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   | Responsible body                   |
|--------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------|
| 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 that matter". | Government                         |
| 8      | The Localism Act 2011 should be amended to require that Independent Persons are appointed for a fixed term of two years, renewable once.                                                                                                                                                                                                                                                                                                                                                                                         | Government                         |
| 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.                                                                                                                                                                                                                                                                                                 | Government                         |
| 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.                                                                                                                                                                                                                                                                                                            | Government                         |
| 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.                                                                                                                                                                                                                                                                                                                                      | Government / all local authorities |
| 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.                                                                                                                                                                                                                                                                                          | Government                         |
| 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.                                                                                                                                                                                                                                                                                                                                                     | Government                         |

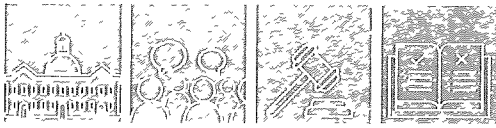


# List of recommendations

| Number | Recommendation                                                                                                                                                                                                                                                                                                                                            | Responsible body |
|--------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------|
| 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                                            | Government       |
| 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. | Government       |
| 16     | Local authorities should be given the power to suspend councillors, without allowances, for up to six months.                                                                                                                                                                                                                                             | Government       |
| 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                                                                                                                                                     | Government       |
| 18     | The criminal offences in the Localism Act 2011 relating to Disclosable Pecuniary Interests should be abolished.                                                                                                                                                                                                                                           | Government       |
| 19     | Parish council clerks should hold an appropriate qualification, such as those provided by the Society of Local Council Clerks.                                                                                                                                                                                                                            | Parish councils  |
| 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.                                                                                                                                                 | Government       |
| 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.                                                                                                                                            | Government       |
| 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.                                                                                                                                   | Government       |



| Number | Recommendation                                                                                                                                                                                                                                                                    | Responsible body                               |
|--------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------|
| 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. | Government                                     |
| 24     | Councillors should be listed as 'prescribed persons' for the purposes of the Public Interest Disclosure Act 1998.                                                                                                                                                                 | Government                                     |
| 25     | Councillors should be required to attend formal induction training by their political groups. National parties should add such a requirement to their model group rules.                                                                                                          | Political groups<br>National political parties |
| 26     | Local Government Association corporate peer reviews should also include consideration of a local authority's processes for maintaining ethical standards.                                                                                                                         | Local Government Association                   |



# List of best practice

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

**Best practice 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.

**Best practice 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.

**Best practice 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.

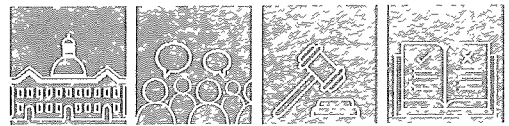
**Best practice 4:** An authority's code should be readily accessible to both councillors and the public, in a prominent position on a council's website and available in council premises.

**Best practice 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.

**Best practice 6:** Councils should publish a clear and straightforward public interest test against which allegations are filtered.

**Best practice 7:** Local authorities should have access to at least two Independent Persons.

**Best practice 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.



**Best 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.

**Best practice 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.

**Best practice 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.

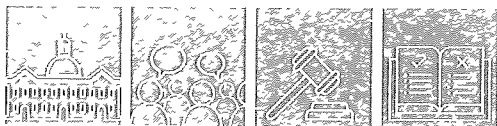
**Best practice 12:** Monitoring Officers' roles should include providing advice, support and management of investigations and adjudications on alleged breaches to parish councils within the remit of the principal authority. They should be provided with adequate training, corporate support and resources to undertake this work.

**Best practice 13:** 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.

**Best practice 14:** 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.

**Best practice 15:** Senior officers should meet regularly with political group leaders or group whips to discuss standards issues.





# Introduction

The Committee on Standards in Public Life (the Committee) was established in 1994 by the then Prime Minister, and is responsible for promoting the Seven Principles of Public Life<sup>1</sup> – selflessness, integrity, objectivity, accountability, openness, honesty, and leadership – commonly known as the Nolan Principles.<sup>1</sup>

The Committee has had a long-standing interest in local government, which was the subject of its third report in 1997, and which it has considered on a number of occasions since then. Since we last reviewed standards arrangements in local government, the Committee has maintained a watching brief, and has received regular correspondence relating to local government. Our other recent reviews have also received evidence relevant to the maintenance of standards in local government. This review was not prompted, however, by any specific allegations of misconduct or council failure, but rather to review the effectiveness of the current arrangements for standards in local government, particularly in light of the changes made by the Localism Act 2011.

The terms of reference for our review were to:

**1. Examine the structures, processes and practices in local government in England for:**

- a. Maintaining codes of conduct for local councillors
- b. Investigating alleged breaches fairly and with due process
- c. Enforcing codes and imposing sanctions for misconduct
- d. Declaring interests and managing conflicts of interest
- e. Whistleblowing

**2. Assess whether the existing structures, processes and practices are conducive to high standards of conduct in local government**

**3. Make any recommendations for how they can be improved**

**4. Note any evidence of intimidation of councillors, and make recommendations for any measures that could be put in place to prevent and address such intimidation**

<sup>1</sup> <https://www.gov.uk/government/publications/the-7-principles-of-public-life>

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# Part 5(a) – Members’ Code of Conduct

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# Part 5(a) – Members’ Code of Conduct

## General Provisions

### Introduction and Interpretation

As a Member you are a representative of Southend-on-Sea Borough Council (“the Authority”) and the public will view you as such. Therefore your actions impact on how the Authority as a whole is viewed and your actions can have both positive and negative impacts on the Authority.

This Code as a whole is consistent with “Nolan Principles” which are set out in **Appendix 1** and the provisions of S29(1) Localism Act 2011.

In this Code:

“**meeting**” means any meeting of:

- (a) The Authority;
- (b) The Executive of the Authority;
- (c) Any of the Authority’s or its Executive’s Committees, Sub-Committees, Joint Committees, Joint Sub-Committees or Areas Committees whether or not the press and public are excluded from the meeting in question by virtue of a resolution of Members;
- (d) Any briefings by officers and site visits organised by the Authority.

“**relevant period**” means the period of 12 months ending with the day on which you give notification to the Authority’s monitoring officer of any disclosable pecuniary interests you had at the time of the notification.

“**profit or gain**” includes any payments or benefits in kind which are subject to Income Tax.

“**beneficial interest**” means having an economic benefit as a legal owner or holding it on trust for the beneficial owner, having a right to the income from the land or securities or a share in it or the right to the proceeds of sale or share of part of the proceeds of sale.

“**Member**” includes a co-opted member.

“**Bully(ing)**” means offensive, intimidating, malicious or insulting behaviour, an abuse or misuse of power through means that undermine, humiliate, or injure the person on the receiving end. This is not an exhaustive list.

“**Harassment**” means unwanted conduct related to a relevant protected characteristic, which has the purpose or effect of violating an individual’s dignity or creating an intimidating, hostile, degrading, humiliating or offensive environment for that individual. It may be physical, verbal or non-verbal and is not always face to face. It may occur through written communications, visual images (for example pictures of sexual nature), email, and phone calls. This is not an exhaustive list.

## 1. Who does the Code apply to?

- 1.1 This Code applies to all Members of the Authority including co-opted members.
- 1.2 It is your responsibility to comply with the provisions of this Code.

## 2. What does the Code apply to?

- 2.1 You must comply with this Code whenever you:
  - (a) Conduct the business of the Authority, or
  - (b) You are acting as a representative of the Authority.
- 2.2 This Code has effect in relation to your conduct in your official capacity.



**2.3** Where you act as a representative of the Authority:

- (a)** On another relevant authority, you must, when acting for that other authority, comply with that other authority's code of conduct; or
- (b)** On any other body, you must, when acting for that other body, comply with the Authority's code of conduct, except insofar as it conflicts with any other lawful obligations to which that other body may be subject.

**3. General Obligations**

**3.1** You must treat others with respect.

**3.2** You must uphold the law

**3.3** You must co-operate with any formal investigations by the Monitoring Officer or his/her nominated representative into complaints alleging a breach of the Code.

**3.4** You must not:

- (a)** Do anything which may cause the Authority to breach any of the equality enactments.
- (b)** Bully or harass any person.
- (c)** Intimidate or attempt to intimidate any person who is or is likely to be:
  - (i)** a complainant;
  - (ii)** a witness; or
  - (iii)** involved in the administration of any investigation or proceedings.in relation to an allegation that a Member (including yourself) has failed to comply with the Authority's code of conduct; or
- (d)** Do anything which compromises or is likely to compromise the impartiality of those who work for, or on behalf of, the Authority.
- (e)** Make trivial or malicious allegations against another Councillor.

**4. Confidential Information**

You must not:

- (a)** Disclose information given to you in confidence by anyone, or information acquired by you which you believe, or ought reasonably to be aware, is of a confidential nature, except where:
  - (i)** you have the consent of a person authorised to give it;
  - (ii)** you are required by law to do so;
  - (iii)** the disclosure is made to a third party for the purpose of obtaining professional advice provided that the third party agrees not to disclose the information to any other person; or
  - (iv)** the disclosure is:
    - (aa)** reasonable and in the public interest; and
    - (bb)** made in good faith and in compliance with the reasonable requirements of the Authority;

- (b) Prevent another person from gaining access to information to which that person is entitled by law.

## 5. Conferring an Advantage or Disadvantage

You must:

- (a) Not use or attempt to use your position as a Member improperly to confer on or secure for yourself or any other person, an advantage or disadvantage;
- (b) When using or authorising the use by others of the resources of the Authority:
  - (i) act in accordance with the Authority's reasonable requirements;
  - (ii) ensure that such resources are not used improperly for political purposes (including party political purposes);
- (c) Have regard to any applicable Local Authority Code of Publicity made under the Local Government Act 1986.

## Members' Interests

### 6. Disclosable Pecuniary Interests<sup>1</sup>

**6.1** You have a Disclosable Pecuniary Interest in any business of the Authority if it is of a description set out in 6.2 below and is either:

- (a) An interest of yours; or
- (b) An interest (of which you are aware) of a spouse, civil partner or a person you are living with as a spouse or civil partner (known as "Relevant Persons").

**6.2** A Disclosable Pecuniary Interest is an interest which relates to or is likely to affect:

- (i) Any employment, office, trade, profession or vocation carried on by you or a Relevant Person for profit or gain;
- (ii) Any payment or provision of any other financial benefit (other than from the Authority) made or provided within the relevant period in respect of any expenses incurred in carrying out your duties as a Member, or towards your 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;
- (iii) Any contract for goods, services or works which has not been fully discharged made between you or a Relevant Person (or a body in which you or they have a beneficial interest) and the Authority;
- (iv) A beneficial interest in any land in the Authority's area;
- (v) A licence of any land in the Authority's area (alone or jointly with others) that you or a Relevant Person occupy for a month or longer;
- (vi) Any tenancy where to your knowledge:
  - (a) the landlord is the Authority; and

(b) the tenant is a body in which you or a Relevant Person has a beneficial interest;  
 (vii) Any beneficial interest in securities of a body where:

<sup>1</sup> The Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012 set out the pecuniary interests specified for the purposes of Chapter 7 of Part 1 Section 30(3) of the Localism Act 2011.



1. that body (to your knowledge) has a place of business or land in the area of the Authority and
2. either:
  - a. the total nominal value of the securities exceeds £25,000 or one hundredth of the total issued share capital of that body; or
  - b. the beneficial interest exceeds one hundredth of the total issued share capital of the share capital of that body, if of more than one class, the total nominal value of the shares of any one class

## 7. Other Pecuniary Interests

You have an Other Pecuniary Interest in any business of the Authority where it relates to or is likely to affect:

- (i) any person or body who employs or has appointed you;
- (ii) any contract for goods, services or works made between the Authority and you or a firm in which you are a partner, a company of which you are a remunerated director, or a person or body of the description specific in paragraph **6.2 (vii)** which has been fully discharged within the last 12 months.

## 8. Non-Pecuniary Interests

You have a non-pecuniary interest in any business of the Authority where:

- (i) It relates to or is likely to affect any body of which you are a member or in a position of general control or management and to which you are appointed or nominated by the Authority;
- (ii) It relates to or is likely to affect any body:
  1. exercising functions of a public nature;
  2. directed to charitable purposes; or
  3. 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;
- (iii) It relates to or is likely to affect the interests of any person from whom you have received a gift or hospitality with an estimated value of at least £50 within the last 3 years;
- (iv) a decision in relation to that business might reasonably be regarded as affecting your wellbeing or the wellbeing or financial position of a friend, relative or close associate to a greater extent than the majority of:
  - (a) (in the case of authorities with electoral divisions or wards) other council tax payers, ratepayers or inhabitants of the electoral division or ward, as the case may be, affected by the decision; or
  - (b) (in all other cases) other council tax payers, ratepayers or inhabitants of the Authority's area

**Note:** Only items (i) – (iii) are registerable non-pecuniary interests.

## **9. Disclosure of Interests (Disclosable Pecuniary Interests, Other Pecuniary Interests and Non-Pecuniary Interests)**

- 9.1** Subject to sub-paragraphs 9.2 to 9.3, where you have a Disclosable Pecuniary Interest, Other Pecuniary Interest or Non-Pecuniary Interest in any business of the Authority and you are present at a meeting of the Authority at which the business is considered, you must disclose to that meeting the existence and nature of that interest whether or not such interest is registered on your Register of Interests or for which you have made a pending notification.
- 9.2** Sub-paragraph 9.1 only applies where you are aware or ought reasonably to be aware of the existence of the Interest.
- 9.3** Where you have an interest in any business of the Authority which would be disclosable by virtue of paragraph 9.1 but by virtue of paragraph 12 (Sensitive Information) details of the interest are not registered in the Authority's published Register of Members' Interests and the interest is a Disclosable Pecuniary Interest or Other Pecuniary Interest you need not disclose the nature of the interest to the meeting.
- 9.4** Where you have a Pecuniary Interest in any business of the Authority which would be Disclosable by virtue of paragraph 9.1 and a function of the Authority may be discharged by you acting alone in relation to that business, you must ensure you notify the Authority's monitoring officer of the existence and nature of that interest within 28 days of becoming aware that you will be dealing with the matter even if more than 28 days before you will actually deal with the business.
- 9.5** Where you have an interest in any business of the Authority which would be disclosable by virtue of paragraph 9.1 and you have made an executive decision in relation to that business you must ensure that any written statement of that decision records the existence and nature of that interest. In this paragraph "executive decision" is to be construed in accordance with any regulations made by the Secretary of State under section 22 of the Local Government Act 2000.

## **10. Effect of Interests on Participation**

### **10.1 Disclosable Pecuniary Interests**

- (a)** If you are present at a meeting of the Authority or of any committee, sub-committee, joint committee or joint sub-committee of the Authority and you or a Relevant Person has a Disclosable Pecuniary Interest in any matter to be considered, or being considered, at the meeting and you are aware of that Interest:
- (i)** You must not participate, or participate further, in any discussion of the matter at the meeting, or participate in any vote, or further vote, taken on the matter at the meeting;
  - (ii)** You must withdraw from the room or chamber where the meeting considering the business is being held unless you have received a dispensation from the Standards Committee or the Authority's proper officer <sup>2</sup>.
- (b)** If you have a Disclosable Pecuniary Interest in any business of the Authority you must not:
- (i)** exercise executive functions in relation to that business; or
  - (ii)** seek improperly to influence a decision about that business
- (c)** If a function of the Authority may be discharged by a Member acting alone and you have a Disclosable Pecuniary Interest in any matter to be dealt with or being dealt with in the course of discharging that function you may not take any steps or any further steps in relation to the matter (except for the purpose of enabling the matter to be dealt with otherwise than by yourself).

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<sup>2</sup> On 11 July 2012 the Standards Committee granted the following general dispensations and these were endorsed by Council on 19th July 2012: -

- i) where the matter relates to the housing functions of the Council and the Member is a tenant of the Council (provided that the matter does not relate particularly to the Member's tenancy or lease)
- ii) school meals or school transport and travelling expenses, where the Member is a parent or guardian of a child in full time education, or are a parent governor of a school, unless it relates particularly to the school which the child attends.
- iii) an allowance, payment or indemnity given to Members
- iv) any ceremonial honour given to Members
- v) setting Council Tax or a precept under the Local Government Finance Act 1992
- vi) where an Executive Councillor attends a meeting of a Scrutiny Committee in respect of executive matters, including call-in and pre-Cabinet Scrutiny items.

## **10.2. Other Pecuniary Interests**

If you have an Other Pecuniary Interest in any business of the Authority and you are present at a meeting of the Authority at which such business is to be considered or is being considered you must:

- (i) Disclose the existence and nature of the interest in accordance with paragraph 9.1 (but subject to paragraph 9.3); and
- (ii) Withdraw from the room or chamber where the meeting considering the business is being held.

## **10.3 Non-Pecuniary Interests**

After having declared an interest in accordance with paragraph 9.1 you may then participate and vote unless a member of the public with knowledge of the relevant facts would reasonably regard your interest as so significant that it is likely to prejudice your judgment of the public interest or your interest may give rise to a perception of conflict of interest or bias in which case you must withdraw.

## **11. Registration of Members' Interests**

(a) Subject to paragraph 12, you must, within 28 days of:

- (i) This Code being adopted by or applied to the Authority; or
- (ii) Your election, re-election or appointment or re-appointment to office (where that is later), or co-opted onto the Authority.

register in the Authority's Register of Members' Interests (maintained by the Monitoring Officer under Section 29(1) of the Localism Act 2011) details of:

- i. Disclosable Pecuniary Interests as referred to in paragraph 6 that you or a Relevant Person has in so far as you are aware of their interests at that time;
  - ii. Other Pecuniary Interests referred to in paragraph 7 that you have; and
  - iii. Non-pecuniary interests referred to in paragraph 8 (sub paragraphs (i) – (iii)) that you have.
- (b) You must keep your register of interests up to date by notifying the Monitoring Officer of any changes to your interests referred to in (a) above within 28 days of the change occurring or becoming aware of the change.

## **12. Sensitive Information**

**12.1** Where you have a Disclosable Pecuniary Interest referred to in paragraph 6 or Other Pecuniary Interest referred to in paragraph 7 and the nature of the interest is such that you and the Authority's monitoring officer consider that disclosure of details of the interest could lead to you or a person connected with you being subject to violence or intimidation if the interest is entered in the Authority's Register then copies of the register available for inspection and any published version of the Register should not include details of the interest but may state that you have an interest details of which are withheld under s32(2) of the Localism Act 2011 and/or this paragraph.

**12.2** You must, within 28 days of becoming aware of any change of circumstances which means that information excluded under paragraph 12.1 is no longer sensitive information, notify the Authority's Monitoring Officer.

**12.3** In this Code "sensitive information" means information whose availability for inspection by the public creates, or is likely to create, a serious risk that you or a person who lives with you may be subject to violence or intimidation.

### **13. Register of Gifts and Hospitality**

- 13.1** You must within 28 days of receipt, notify the Authority's monitoring officer in writing of any gift, benefit or hospitality with a value in excess of £50 which you have accepted as a Member from any person or body other than the Authority.
- 13.2** The Monitoring Officer will place your notification on a public register of gifts and hospitality.
- 13.3** This duty to notify the monitoring officer does not apply where the gift, benefit or hospitality comes within any description approved by the Authority for this purpose.

**The Nolan Principles (as revised by the Committee on Standards in Public Life in January 2013) and Section 28(1) of the Localism Act 2011**

**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 declare 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.

**Endnotes**

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