

# 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.