

Local Government Ethical Standards

Reviewing the Committee on Standards in Public Life's Best Practice Recommendations

To support this review:

- The Members' Code of Conduct is attached as Appendix 4A and the Local Assessment Procedure as Appendix 4B
- Shaded boxes indicate those recommendations where the Council has already adopted similar practices within current procedures

Best Practice Recommendation		Commentary	What the Committee need to consider
1	Local authorities should include prohibitions on bullying and harassment in codes of conduct. These should include a definition of bullying and harassment, supplemented with a list of examples of the sort of behaviour covered by such a definition.	<p>The Code of Conduct does not explicitly refer to bullying or harassment. It is implied that such behaviour would be a breach of the Code under the 'General Conduct' provisions at Section 2, paragraph 2.1 (9) and (10).</p> <p>The CSPL have acknowledged that whilst there is no statutory definition of bullying, the Advisory, Conciliation and Arbitration Service (Acas) have codified a helpful definition of: "Offensive, intimidating, malicious or insulting behaviour, an abuse or misuse of power through means that undermine, humiliate, denigrate or injure the recipient."</p> <p>The CSPL have provided examples of bullying behaviour in their report that could be used to develop an explicit section in the Code and cited Newcastle City Council's Code as an example to follow.</p>	If a specific section should be added to the Code of Conduct to define prohibitions on bullying and harassment.
2	Councils should include provisions in their code of conduct requiring councillors to comply with any formal	The CSPLs recommendation is to avoid councillors seeking to disrupt standards investigations; or misusing the process to make allegations against	If these provisions are satisfactory or should be strengthened within the Code of Conduct at Section 2, paragraph 1.4.

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	standards investigation, and prohibiting trivial or malicious allegations by councillors.	<p>another councillor for the purposes of political gain. Councillors are asked to sign an undertaking at the start of their term of office to confirm that they will comply with the Code of Conduct. This requirement is confirmed within the Code of Conduct at Section 2, paragraph 1.4.</p> <p>The Local Assessment Procedure confirms at paragraph 3.1 that the Code of Conduct applies to councillors whilst they are acting in their official capacity as a councillor. It also confirms at paragraphs 4.3(d) and 4.3(e) how complaints that are politically motivated may be dealt with.</p>	
3	Principal authorities should review their code of conduct each year and regularly seek, where possible, the views of the public, community organisations and neighbouring authorities.	The CSPLs recommendation comes from their finding that a number of authorities had not revisited their Code of Conduct since the legislation changed.	Whether a review every year, involving public consultation can be resourced; or whether a review every two years would be more manageable and effective, timed so this was considered in say year 2 and 4 of an administration.
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.	<p>This is provided as part of their induction process at the start of their term of office. It is then maintained in the Council's Constitution and the library of documents available to them.</p> <p>For the public this is:</p> <ul style="list-style-type: none"> ○ published to the Council's website –found from a search under 'C' which takes them to the "Complaints against Councillors" webpage 	If the Committee are satisfied with current accessibility arrangements, no further action is required.

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		<ul style="list-style-type: none"> ○ accessible from the website's home page under 'Your Council' and then ○ "Complaints against Councillors" ○ open to inspection in council offices ○ available within the Council's Constitution – which is also published to the website 	
5	Local authorities should update their gifts and hospitality register at least once per quarter, and publish it in an accessible format, such as pdf.	<p>The CSPL have acknowledged that there is no legal requirement for Councils to maintain a gifts and hospitality register; and that not all Councils make reference to this within their Code. The figure set for any gift, benefit or hospitality was retained at £50 when the Code was reviewed in 2017 to encourage transparency.</p> <p>A register has not been published by the Council in past administrations as there have been few, if any, declarations. The register has been open for public inspection on request.</p>	If a new webpage on the Council's website should be created for this purpose. It would allow nil quarterly reports to be published if no declarations are made.
6	Councils should publish a clear and straightforward public interest test against which allegations are filtered.	<p>The CSPL have taken account of the practice of the standards bodies in Scotland, Wales and Northern Ireland in making the recommendation to publish a public interest test. They offer the Northern Ireland Local Government Commissioner for Standards public interest test as a best practice example.</p> <p>The Local Assessment Procedure aims to explain how complaints will be filtered.</p>	If a public interest test should be included within the Local Assessment Procedure based on the best practice example.

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7	Local authorities should have access to at least two Independent Persons.	<p>In their recommendations to Government, the CSPL have also recommended that the requirement for Independent Persons to be appointed should be for a fixed term of two years, renewable once. They have included a further recommendation to formalise the Independent Person's role in statute.</p> <p>The basis for their recommendations is ensuring that the Independent Person remains as an impartial advisor and their views are clearly taken into account.</p> <p>MSDC has had two Independent Persons since the Localism Act 2011 was introduced. Terms of over four years have been seen to work well as they have allowed the Independent Persons to develop considerable experience and knowledge to support the Council and Monitoring Officer in standards matters. The Independent Persons have also offered support to councillors who have been the subject of the complaint; and to the complainant themselves.</p>	No further action is suggested. Appointment will be made in 2020 following the expiry of the term of the present independent persons.
8	An Independent Person should be consulted as to whether to undertake a formal investigation on an allegation, and should be given the option to review and comment on allegations which the responsible officer is minded to dismiss as being without merit,	<p>The Local Assessment Procedure in March 2019 to widen the role and involvement of the Independent Person. This practice is confirmed in the Procedure at paragraphs:</p> <ul style="list-style-type: none"> ○ 4.4 ○ 5.9 ○ 6.1 	No further action is suggested

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	vexatious, or trivial.	<ul style="list-style-type: none"> ○ 8.4 (the Independent Person acts as a member of the Standards Committee) 	
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.	This practice is already followed.	No further action is suggested
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.	<p>This best practice is confirmed in the Local Assessment Procedure. Details of how to make a complaint are:</p> <ul style="list-style-type: none"> ○ published to the Council's website under "Complaints against Councillors" – found from a search under 'C' or from the home page under 'Your Council' ○ open to inspection in council offices 	If the Committee are satisfied with current accessibility arrangements, no further action is required.
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.	<p>The CSPLs recommendation is based on Parish Councils taking corporate responsibility when there are allegations about a councillor, particularly involving an employee.</p> <p>It should be noted that the CSPLs recommendations to Government (as set out in Appendix 2) make three other proposals affecting Parish Councils namely:</p>	<p>Whether they wish to seek the views of Parish Councils on this best practice recommendation to inform any review of the Local Assessment Procedure.</p> <p>Parish/Town clerks have been advised of this recommendation.</p>

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		<ul style="list-style-type: none"> • recommendation 19 - that Clerks should hold an appropriate qualification • recommendation 20 - for an amendment to the law to state that parish councils must adopt the Code of Conduct of their 	
12	Monitoring Officers' roles should include providing advice, support 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.	<p>The role of the Monitoring Officer is set by statute and confirmed within MSDC's Constitution.</p> <p>Offers are made to attend Parish and Town Council meetings to talk about Standards.</p>	If the Committee are satisfied with current arrangements, no further action is required.
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.	Current practices are based on informal arrangements with neighbouring councils allowing the Monitoring Officer to seek their support in undertaking an assessment where there is a potential conflict of interest. These have worked adequately when needed.	If the Committee are satisfied with current arrangements, no further action is required.
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	The CSPLs have recognised that partnership arrangements of this nature can create the potential for ethical risks in proposing this recommendation. MSDC has very limited arrangements of this type.	If they are satisfied with the response of the Internal Audit Manager or wish any further action to be taken whilst the Council has no active separate company/body.

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	reports in an accessible place.		
15	Senior officers should meet regularly with political group leaders or group whips to discuss standards issues.	This is covered as part of regular briefings to Group Leaders.	If the Committee are satisfied with current arrangements, no further action is required.