

Report to: Standards Committee

Date: 15th October 2020

Report Author: Executive Director (Legal & Democratic Services)

Title of Report: Standards Update

1. Purpose of Report

- 1.1 This report informs Committee about recent developments relating to local authority governance and the councillor code of conduct

2. Recommendations

- 2.1 That Committee notes this report.
- 2.2 That Committee considers whether to delay updates to the Council's councillor code of conduct until April 2021 to allow time for the LGA's new model code of conduct to be finalised
- 2.3 That Committee agrees that it will conduct an annual review of the Council's code of conduct for councillors.

3. Background and Reasons for Recommendations

- 3.1 In 2019 the Committee of Standards In Public Life published a report entitled "Local Government Ethical Standards", which made a range of recommendations in respect of councillor codes of conduct and the investigation of complaints about councillors. These recommendations are summarised in Appendix 1 to this report, alongside a summary of the Council's performance against each one of them.
- 3.2 Work on implementation of the various recommendations was halted at the start of the Covid pandemic, when all efforts focussed on the Council's response to the same.
- 3.3 In June 2020 the LGA began a consultation on a proposed model code of conduct for members and this is attached as Appendix 2 to this report. There is now no national councillor code of conduct and each Council is able to adopt its own, leading to varying standards and expectations across the country. The draft model code is an attempt to set out a minimum set of obligations for councillors to promote public confidence in local governance arrangements. The draft code is in reasonably plain English and much of its contents are to be welcomed (although it does limit councillors power to speak where they have personal, non-pecuniary interests to a greater extent than the Council's current code and the Council's monitoring officer considers that the draft code goes too far in that regard). We are now waiting for the outcome of the consultation process and it is very likely that an updated version of the draft code will be produced. This would be brought to Standards Committee for members to consider.

3.4 The model code and associated guidance are likely to address many of the recommendations made by the Committee of Standards In Public Life. Rather than engage in a piecemeal review, it is suggested that the Council should review its code of conduct and member complaints process once the final version of the LGA’s model code of conduct has been published as part of a single, comprehensive piece of work. No complaints about member conduct have been referred to Standards Committee for several years, and poor member conduct does not appear to be a significant problem for the Council. A short delay in updating the Council’s rules and procedures does not therefore appear to pose particular risks.

4. Alternative Options considered and Reasons for Rejection

4.1 Members could decide to progress implementation now of the various recommendations in the “Local Government: Ethical Standards” report.

5. Implications

Issue	Comments
Financial (including mainstreaming)	No costs identified.
Legal	Following the Committee of Standards In Public Life’s recommendations is good practice only and not a legal requirement. Similarly, the Council would not be obliged to adopt the LGA model code of conduct, but it would be good practice to have regard to the same when reviewing and updating the Council’s standards arrangements.
Assessment of Risk	No risks identified.
Equality	No equality issues identified.

6. Consultations

6.1 None at this stage. Members and the public would be consulted before Council is asked to agree any changes to the Council’s code of conduct.

**7. Local Government (Access to Information) Act 1985:
List of Background Papers**

LGA Model Member Code of Conduct

Committee of Standards In Public Life report “Local Government Ethical Standards”

8. Freedom of Information

- 8.1 The report does not contain exempt information under the Local Government Act 1972, Schedule 12A and all information can be disclosed under the Freedom of Information Act 2000.

Appendix 1

Committee of Standards In Public Life recommendations

<p>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.</p>	<p>The current code requires councillors to maintain high standards of conduct and to treat others with respect. This would include allegations of bullying and harassment.</p> <p>The code could be updated to refer more specifically to bullying and harassment.</p>
<p>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.</p>	<p>This isn't included in the current code of conduct.</p> <p>However, in practice councillors do cooperate with the investigation of complaints and don't make trivial or malicious complaints against each other.</p>
<p>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.</p>	<p>A review of the Council's code of conduct is overdue, as no review has taken place for several years.</p> <p>An annual review could easily be adopted.</p>
<p>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.</p>	<p>This recommendation is already met</p>
<p>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.</p>	<p>This recommendation is largely met</p> <p>The register is reviewed monthly and is available for inspection by the public in a paper format, but it would be fairly simple to publish this in a CSV format</p>
<p>Best practice 6: Councils should publish a clear and straightforward public interest test against which allegations are filtered.</p>	<p>This recommendation is already met</p> <p>The Council has clear criteria for assessing the seriousness of complaints and determining how they should be dealt</p>

	with
Best practice 7: Local authorities should have access to at least two Independent Persons.	This recommendation is already met – we have three currently
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.	This doesn't happen currently. However, an Independent Member sits on the Standards Assessment Panel which decides how complaints are dealt with either at the request of the Monitoring Officer or the complainant.
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.	This recommendation is already met
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.	This recommendation is already met
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.	This would be a matter for Altham Parish Council However, in practice, the limited number of complaints we have received about parish councillors have come either from the public or from other parish councillors
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.	This recommendation is already met
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	We do not have documented procedures for this However, if a conflict of interest existed, conduct of the complaint would be passed

investigation.	to the Deputy Monitoring Officer of the Head of Internal Audit
<p>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.</p>	<p>This recommendation is already met in terms of reporting</p> <p>In any event, the Council has recently divested itself of its ownership interest in external companies / partnerships</p>
<p>Best practice 15: Senior officers should meet regularly with political group leaders or group whips to discuss standards issues.</p>	<p>There are no formal arrangements for this, but the Monitoring Officer consults group leaders when standards issues arise in their respective groups, so this recommendation is met in practice.</p>