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**Service Director – Legal, Governance and
Commissioning**

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Tuesday 26 February 2019

Notice of Meeting

Dear Member

Standards Committee

The **Standards Committee** will meet in the **Meeting Room 1 - Town Hall, Huddersfield** at **10.00 am** on **Wednesday 6 March 2019**.

The items which will be discussed are described in the agenda and there are reports attached which give more details.

A handwritten signature in black ink, appearing to read "Julie Muscroft", on a light-colored background.

Julie Muscroft

Service Director – Legal, Governance and Commissioning

Kirklees Council advocates openness and transparency as part of its democratic processes. Anyone wishing to record (film or audio) the public parts of the meeting should inform the Chair/Clerk of their intentions prior to the meeting.

The Standards Committee members are:-

Member

Councillor Eric Firth (Chair)

Councillor Bill Armer

Councillor Martyn Bolt

Councillor James Homewood

Councillor Alison Munro

Councillor Shabir Pandor

Councillor Mohan Sokhal

Agenda

Reports or Explanatory Notes Attached

Pages

1: Membership of the Committee

This is where Councillors who are attending as substitutes will say for whom they are attending.

2: Minutes of Previous Meeting

1 - 2

To receive and the Minutes of the previous meeting held on 5 September 2018.

3: Interests

3 - 4

The Councillors will be asked to say if there are any items on the Agenda in which they have disclosable pecuniary interests, which would prevent them from participating in any discussion of the items or participating in any vote upon the items, or any other interests.

4: Admission of the Public

Most debates take place in public. This only changes when there is a need to consider certain issues, for instance, commercially sensitive information or details concerning an individual. You will be told at this point whether there are any items on the Agenda which are to be discussed in private.

5: Deputation/Petitions

The Committee will receive any petitions and hear any deputations from members of the public. A deputation is where up to five people can attend the meeting and make a presentation on some particular issue of concern. A member of the public can also hand in a petition at the meeting but that petition should relate to something on which the body has powers and responsibilities.

In accordance with Council Procedure Rule 10 (2), Members of the Public should provide at least 24 hours' notice of presenting a deputation.

6: Public Question Time

The Committee will hear any questions from the general public.

7: Code of Conduct - Complaints Update

5 - 10

To receive an update on Councillor complaints under the Code of Conduct.

Contact: David Stickley, Legal Services

8: Report by the Committee on Standards in Public Life

11 - 26

To consider the report.

Contact: David Stickley, Legal Services

Contact Officer: Andrea Woodside

KIRKLEES COUNCIL

STANDARDS COMMITTEE

Wednesday 5th September 2018

Present: Councillor Eric Firth (Chair)
Councillor Bill Armer
Councillor James Homewood
Councillor Alison Munro
Councillor Mohan Sokhal
Mr M Stow (Independent Person)

Apologies: Councillor Martyn Bolt
Councillor Shabir Pandor

1 Membership of the Committee

Apologies for absence were received on behalf of Councillors Bolt and Pandor.

2 Minutes of Previous Meeting

RESOLVED – That the Minutes of the previous Meeting held on 7 March and 23 May 2018 be approved as correct records.

3 Interests

No interests were declared.

4 Admission of the Public

All agenda items were considered in public session.

5 Deputation/Petitions

No deputations or petitions were considered.

6 Public Question Time

No questions were asked.

7 Review of Complaints

The Committee received a report which provided an update on complaints received since the previous meeting of the Committee held on 7 March 2018.

The Committee noted that during this period 12 complaints had been received relating to alleged breaches of the Code of Conduct, 9 relating to Kirklees Councillors and 3 relating to Parish Councillors. It was noted that the complaints would not be investigated until formal complaint forms has been submitted and that the forms had been received in relation to 8 of the complaints.

The report provided a breakdown of progress of the 8 complaints, advising that the Committee's Assessment Panel would be considering 6 of the complaints later in the month.

Standards Committee - 5 September 2018

The Committee noted the update report and agreed that, in terms of the process for the complaint form, consideration should be given to imposing a deadline for submission. It was also suggested that it would be beneficial for the Committee to receive examples of complaints which have been subject to assessment and have been both dismissed and upheld.

RESOLVED - That the report be received and noted

8 Update on Training

The Committee received a report which set out options for Elected Member training on the Code of Conduct and standards process. The report advised that online training had been produced and was currently being tested and, once approved, would be an online training resource available to both staff and Elected Members.

The Committee were asked to consider any areas where they felt that Members may benefit from additional training and discussion took place regarding the need for supporting the development of advanced chairing skills. It was noted that arrangements were already being put in place for a chairing skills session to be held during the autumn and it was agreed that Group Business Managers be asked to identify members who may benefit from attending. The Committee considered that the advanced skills were particularly important for members who may Chair quasi-judicial decision making meetings.

In terms of testing the online training, the Committee agreed that it may be beneficial to provide the option of undertaking the session as a group activity so that discussion could take place on the effectiveness of the training module during its trialling period.

RESOLVED –

(1) That the report be received and noted.

(2) That the proposal for an Advanced Chairing Skills Session be supported and that further discussion be scheduled to take place at the next meeting of Group Business Managers, to provide the opportunity for the identification of any specific training needs.

9 Update on Standards

The Committee received a report which provided an update on standards and ethical matters, including relevant statute and case law. The report provided, for information, updates on (i) the Ledbury Case (ii) the Committee on Standards in Public Life consultation key points, and the Council's response to the consultation (iii) the NALC survey on Parish and Town Council Code of Conduct and (iv) the Intimidation of Parliamentary Candidates consultation.

The Committee noted the report that the Monitoring Officer would continue to review all legal developments and news items of relevance to the Committee, and provide reports, as appropriate to future meetings.

RESOLVED – That the report be received and noted.

KIRKLEES COUNCIL			
COUNCIL/CABINET/COMMITTEE MEETINGS ETC			
DECLARATION OF INTERESTS			
Standards Committee			
Name of Councillor			
Item in which you have an interest	Type of interest (eg a disclosable pecuniary interest or an "Other Interest")	Does the nature of the interest require you to withdraw from the meeting while the item in which you have an interest is under consideration? [Y/N]	Brief description of your interest

Signed: Dated:

NOTES

Disclosable Pecuniary Interests

If you have any of the following pecuniary interests, they are your disclosable pecuniary interests under the new national rules. Any reference to spouse or civil partner includes any person with whom you are living as husband or wife, or as if they were your civil partner.

Any employment, office, trade, profession or vocation carried on for profit or gain, which you, or your spouse or civil partner, undertakes.

Any payment or provision of any other financial benefit (other than from your council or authority) made or provided within the relevant period in respect of any expenses incurred by you in carrying out duties as a member, or towards your election expenses.

Any contract which is made between you, or your spouse or your civil partner (or a body in which you, or your spouse or your civil partner, has a beneficial interest) and your council or authority -

- under which goods or services are to be provided or works are to be executed; and
- which has not been fully discharged.

Any beneficial interest in land which you, or your spouse or your civil partner, have and which is within the area of your council or authority.

Any licence (alone or jointly with others) which you, or your spouse or your civil partner, holds to occupy land in the area of your council or authority for a month or longer.

Any tenancy where (to your knowledge) - the landlord is your council or authority; and the tenant is a body in which you, or your spouse or your civil partner, has a beneficial interest.

Any beneficial interest which you, or your spouse or your civil partner has in securities of a body where -

- (a) that body (to your knowledge) has a place of business or land in the area of your council or authority; and
- (b) either -

the total nominal value of the securities exceeds £25,000 or one hundredth of the total issued share capital of that body; or

if the share capital of that body is of more than one class, the total nominal value of the shares of any one class in which you, or your spouse or your civil partner, has a beneficial interest exceeds one hundredth of the total issued share capital of that class.



Name of meeting: Standards Committee

Date: 6th March 2019

Title of report: Code of Conduct complaints update

Purpose of report

To brief the standards committee on Councillor complaints under the Code of Conduct since the meeting in September 2018.

Key Decision - Is it likely to result in spending or saving £250k or more, or to have a significant effect on two or more electoral wards?	not applicable
Key Decision - Is it in the Council's Forward Plan (key decisions and private reports?)	no
The Decision - Is it eligible for call in by Scrutiny?	no
Date signed off by <u>Strategic Director</u> & name	
Is it also signed off by the Service Director for Finance IT and Transactional Services?	
Is it also signed off by the Service Director for Legal Governance and Commissioning Support?	Yes
Cabinet member portfolio	

Electoral wards affected: All

Ward councillors consulted: None

Public or private: Public

Have you considered GDPR? Yes

1. Summary

- 1.1 This report follows on from the report that was before the Standards Committee on the 5th of September 2018.
- 1.2 This report will look at the number of complaints received since the 6th of September 2018, along with their type and nature.
- 1.3 It will also look at which of those new complaints have been resolved and which are still subject to investigation or further action. It will also provide an update on those complaints that were received in the previous reporting period and were not resolved at the time of the previous report.
- 1.4 It will also compare this period's complaints with the previous period, to see if there are any significant differences or trends.

2. Information required to take a decision

2.1 Complaints Summary

- 2.1.1 Since the 6th of September 2018 the Monitoring Officer has received 14 complaints relating to alleged breaches of the Code of Conduct. This includes multiple complaints relating to two councillors.
- 2.1.2 7 relate to Kirklees Councillors (a total of 4 Councillors) and 7 relate to parish councillors. One of the complaints, that has not progressed, was made against all members of the Town Council who voted for a particular proposal, without specifying the number or names of the councillors. As the complaint was dismissed at the earliest stage as being without merit, no enquiries were made into the original vote complained of. The number of identified Town or Parish councillors complained about is 2.
- 2.1.3 In 2 of those complaints, the complainants have yet to complete a formal complaint form, but have indicated that they may do so. No formal investigation work will be undertaken on any of these 2 potential complaints until such time as a complaint form is submitted.
- 2.1.4 Of the remaining 12, 1 progressed through to a formal consideration by the assessment panel and subsequent decision, 3 were not progressed after the initial assessment process and 1 further complaint was dismissed, but the complainant has asked for a review. The remaining 7 are relatively recent and are currently being investigated before being considered under the initial assessment process. Of those 7, it is anticipated that the outcome will be known shortly following investigation. One is related to a previous complaint that has already been dismissed and another relates to a parallel service complaint being considered under the Council's complaints procedure.

- 2.1.5 There are currently no complaints waiting to progress to the Assessment Panel for consideration.

Update on previous complaints

- 2.1.6 Of the 8 complaints recorded in the previous report as then ongoing, these have largely now been resolved.
- 2.1.7 Of the 8, 6 went through the Assessment Panel and subsequent decision making process. 5 of these have now been resolved fully, the subject member having complied with the decision makers' recommendations. The other is still ongoing, due to the subject member not having carried out the recommendation.
- 2.1.8 The remaining 2 complaints that were under investigation at the time of the previous report, were dismissed at the initial assessment stage.

2.2 Previous Report and comparison with the present report

- 2.2.1 The previous report contained a total of 12 complaints about 6 members, covering the period from 7th March 2018 to the 5th of September 2018. This compares with the current period under review, the 6th of September 2018 to the 6th of March 2019, where there was a total of 14 complaints that related to 6 named Councillors, plus an unidentified number of Town Council members.
- 2.2.2 The nature of the complaints in the present report concern the use of social media (2 complaints relating to one Councillor and a number of tweets), whilst 12 concern the behaviour of Councillors, being split into behaviour at official meetings (8 complaints) and behaviour outside of official meetings (4 complaints). The sources of the complaints are that 2 were received from 2 Kirklees Councillors, 5 from 5 Parish Councillors and the remainder were from members of the public.
- 2.2.3 Comparing this to the previous report, 6 of the complaints in that report related to the use of social media and the remaining 6 related to behaviour, 4 relating to behaviour at official meetings and 2 to behaviour outside of official meetings. 2 of the 12 complaints were made by Councillors and the remaining 10 came from members of the public.
- 2.2.4 It is of note that only 1 complaint in this period has resulted in formal consideration by the Assessment Panel, with a decision then being made by the Monitoring Officer, Independent Person and the Chair of the Standards Committee, compared to 2 in the previous period. It is also of note that, for that 1 complaint, there was found to be no breach. In this period no sanctions have been applied to any members.

- 2.2.5 Comparison between the two reports, shows that the overall number of complaints has risen from 12 to 14, whilst the number of Councillors complained about has remained the same, if we disregard the complaint concerning unidentified members of a Town Council. It should be noted that in this period there have been two instances of what is effectively the same complaint being made by multiple complainants.
- 2.2.6 In this period, we have seen more 'multiple' complaints, with the same complaint being made and supported by more than one member (all of the 'multiple' complaints were members making complaints about other members). This raises a number of concerns about the use of the Standards process in this way. This requires further consideration/discussion.
- 2.2.7 Another visible trend is the rise in complaints relating to Town or Parish Councils, which are increasingly taking up the resources of the Monitoring Officer. To date, none of the complaints relating to Town or Parish councils has progressed past the initial stage. There is a need for more work looking at this with the Town and Parish Councils.

3. Implications for the Council

3.1 Early Intervention and Prevention (EIP)

N/A

3.2 Economic Resilience (ER)

N/A

3.3 Improving Outcomes for Children

N/A

3.4 Reducing demand of services

N/A

3.5 Other (eg Legal/Financial or Human Resources)

The promotion and maintenance of high standards of conduct by councillors is an important part of maintaining public confidence in both the council and its members. Failure to do so could have reputational implications.

4. **Consultees and their opinions**

N/A

5. **Next steps**

- 5.1 The Monitoring Officer will continue to assess any complaints about members' conduct as and when they are received and will report the outcomes to this committee as appropriate.

6. **Officer recommendations and reasons**

- 6.1 It is recommended that the report is noted.

7. **Cabinet portfolio holder's recommendations**

N/A

8. **Contact officer**

David Stickley
Senior Legal Officer
01484 221000
david.stickley@kirklees.gov.uk

9. **Background Papers and History of Decisions**

- 9.1 N/A

10. **Service Director responsible**

Julie Muscroft
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Name of meeting: Standards Committee

Date: 6th March 2019

Title of report: Committee on Standards in Public Life update

Purpose of report

To brief the Standards Committee on the report of the Committee on Standards in Public Life on Local Government Ethical Standards and seek its views about future steps that it recommends that the Council consider taking arising from the recommendations in the report.

Key Decision - Is it likely to result in spending or saving £250k or more, or to have a significant effect on two or more electoral wards?	not applicable
Key Decision - Is it in the Council's Forward Plan (key decisions and private reports?)	no
The Decision - Is it eligible for call in by Scrutiny?	no
Date signed off by Strategic Director & name	
Is it also signed off by the Service Director for Finance IT and Transactional Services?	
Is it also signed off by the Service Director for Legal Governance and Commissioning Support?	Yes
Cabinet member portfolio	

Electoral wards affected: All

Ward councillors consulted: None

Public or private: Public

Have you considered GDPR? Yes. There are no implications arising from this report

1. Summary

- 1.1 This report follows the publication by the Committee on Standards in Public Life (CSPL) of its report '*Local Government Ethical Standards*' on the 30th of January 2019.
- 1.2 The report followed a consultation exercise conducted by the CSPL over the course of a number months, in which various stakeholders were invited to express their views. You will recall that the consultation questionnaire was considered by this committee in March 2018 and the Monitoring Officer submitted a response on behalf of the Council. Appendix 1.
- 1.3 At the September 2018 Standards Committee meeting, reference was made to a speech by Dr Jane Martin, in which she outlined the main areas in which consultees had offered opinions.
- 1.4 The report has made a number of recommendations and has suggested best practice in a number of areas. Many of the recommendations will require legislation should the government choose to accept them. In contrast, the best practice suggestions are things that Councils can consider implementing straight away, as no legislation would be required.
- 1.5 In the summary, the report states that their best practice recommendations '*should be considered a benchmark of good ethical practice, which we expect that all local authorities can and should implement*'. The report suggests that the CSPL will review the implementation of their best practice recommendations in 2020.
- 1.6 The Appendix to this report describe each of the recommendations and best practice with an initial commentary from officers about them and where relevant some potential steps that Kirklees might consider taking to implement some of them.

2. Information required to take a decision

2.1 CSPL Report

- 2.1.1 The report contains 26 recommendations to the Government and 15 best practice suggestions. These are listed in full at appendix 1. All numbers below refer to the numbering in Appendix 1.
- 2.1.2 Many of the recommendations will require some legislation, although a number of the recommendations are for legislation to be introduced to compel local authorities to do something that they can already do on a voluntary basis, whereas the best practice suggestions can be implemented without the need for legislation.

2.1.3

Some of the key themes in the recommendations / best practice are as follows;

- Councillors should be presumed to be acting in an official capacity in their public conduct, including statements on publicly-accessible social media. The body of the report refers to there being created a rebuttable presumption that a member's public behaviour is in an official capacity.
- A Local Authority's Code of Conduct should apply to a member when they claim to act, or give the impression they are acting, in their capacity as a member or representative of the Local Authority.
- Local authorities should be given the power to suspend Councillors, without allowances, for up to six months. One of the issues that was clear from the consultation process was that there was a general view that there were insufficient sanctions available to local authorities. Recommendations 13 and 14 are for members who have been suspended to have the right of appeal to the Local Government Ombudsman. It is recommended that the Ombudsman has the power to consider both the findings and the sanction imposed, and not just whether or not the sanction applied was appropriate.
- Further consideration to the role of and support to Independent persons with a requirement to have at least two. Suggestions about length of term.
- That statutory officer protections be extended further.
- A number of changes are suggested to the role of standards in Parish and Town Councils with the Parish and/ town Clerks having specific qualifications.
- More consistency across Codes of Conduct with some minimum standards and also the need to be more specific about some behaviours including bullying and use of social media.
- The outcome of complaints be published on the web page.
- Better visibility of the Code of Conduct and how to complain.
- The need to ensure safety and security of members better.

- Better clarity about the role/ status of the Standards Committee and who may be a voting member of it.

2.1.4

Some of the recommendations which it might be possible to do straight away or which we already do are as follows and members are invited to discuss/ comment:

Recommendation	Comment / Suggestion
2. That the Government should ensure that candidates are not required to publicly disclose their home addresses. It recommends that the Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012 should be amended	Kirklees made some changes around 15 months ago in respect of candidate addresses and it is recommended that those changes continue.
6. A requirement for local authorities to establish a register of gifts and hospitality and record single gifts of £50 or over or gifts totalling £100 or over from a single source in one year. This recommendation is for legislation to be introduced to compel local authorities to keep a register, but it is not currently prohibited for an authority to keep a register.	Kirklees does currently keep a register and does require declarations of gifts or hospitality of the value of £25 or over. It is recommended that the current register be kept. Consideration should be given as to whether the current level that triggers a declaration should remain unchanged, be brought into line with the recommendation or changed to a different sum. The register is not currently published, but consideration should be given to whether it should be made available on line.
11. Local Authorities should provide legal indemnity to their Independent Persons if their views or advice are disclosed. Again, this is not currently prohibited and the recommendation is for legislation to compel the provision of legal indemnity.	It should be noted that Kirklees does already provide its Independent Person with legal indemnity.
15. The Local Government Transparency Code should be updated to require authorities to publish on an annual basis the number of Code of Conduct complaints received, what they	Currently, this information is reported to the Standards Committee on a 6 monthly basis and is contained in a publicly available document. Consideration should be given as

<p>relate to, the outcomes and details of any sanctions applied.</p>	<p>to whether this information could be provided in a different or more obvious way.</p>
<p>20. Town and Parish Councils should be required to adopt the Code of Conduct of their principal authority or the new model code. This is not currently prohibited and some Town and Parish Councils do adopt the Kirklees Code of Conduct. Given that Kirklees is responsible for breach investigations for Town and Parish Councils, it is likely to be of benefit to have a single Code of Conduct. It is also likely to be of benefit to those members who both sit as Kirklees Councillors and also on a Town or Parish Council.</p>	<p>It is recommended that the matter be raised with Town and Parish Councils with a view to seeking voluntary adoption of the Kirklees Code of Conduct.</p>
<p>23. The Local Government Transparency Code should be updated to require local authorities to ensure their whistleblowing policy specifies a named contact for the external auditor and to make that available on its website. The current whistleblowing policy does contain details of the external auditor, along with contact details.</p>	<p>Enquiries are being undertaken with the auditor to identify a named contact who can be included in the policy. It is recommended that a named contact be included in the published policy.</p>
<p>24. Councillors should be listed as 'prescribed persons' for the purposes of the Public Interest Disclosure Act 1998.</p>	<p>The current whistleblowing policy does treat Councillors as 'prescribed persons' and does list them as alternative contacts to line management. A prescribed person is one that can be approached by a whistleblower to make a disclosure. Making a disclosure to a designated prescribed person will make the disclosure protected. This means that the whistleblower has the right not to be unfairly dismissed or suffer a detriment as a result of their disclosure.</p>

<p>25. Councillors should be required to attend formal induction training by their political groups and the recommendation is for parties to add such a requirement nationally to their rules. Training and induction is important and it is of benefit to have the support of groups in ensuring members are properly skilled.</p>	<p>This appears to relate to groups/ national parties providing support and not just encouraging members to take part in Council training. It is unclear how this will work in respect of independent councillors It is recommended that the Standards Committee involve GBMs in any discussions on the role of political groups in member training.</p>
<p>26. Local Government Association peer reviews should include consideration of how an authority maintains ethical standards.</p>	<p>This may be worth bearing in mind in the event that Kirklees participates in another Peer Review. The Monitoring Officer has alerted the Chief Executive to this recommendation.</p>

Members are asked to consider the above suggestions and decide if further action is needed what if any further steps they would like to recommend that the Council take. Members are also asked to consider if there are other recommendations they feel could be introduced in advance of changes to legislation.

2.1.3 The best practice suggestions are set out below with a commentary with some suggested actions / recommendations:

Best Practice Suggestion	Comments
<p>1. Local Authorities should include prohibitions on bullying and harassment in their Codes of Conduct. It suggests that a list of example behaviours be included in the code</p>	<p>The current code does contain a prohibition on bullying and intimidation. The CSPL report contains a number of examples, which may find their way into the model code. It is recommended that the Kirklees code be amended to include such examples. Some consideration should also be given to social media guidance, as this has led to a number of complaints.</p>
<p>2. Local Authorities should have a provision in their codes that require members to comply with any standards investigation and</p>	<p>The Kirklees code does already contain a requirement for members to comply with the standards process, but the</p>

to prohibit trivial or malicious complaints.	sanctions for failing to comply are weak.
3. Authorities should review their codes of conduct each year and seek the views of the public, community organisations and other local authorities	It is believed that an annual review is impractical, given the suggestions on consultation and the process that needs to be followed to implement any changes. It is recommended that this suggestion is not adopted but that the Code of Conduct is reviewed at least bi-annually and a further discussion is held about the approach to consultation.
4. The Code of Conduct should be readily accessible, in a prominent position on the website and available in Council buildings.	Kirklees does publish its Code of Conduct on its website, and it can be easily found from the homepage. It is recommended that printed copies are made available at reception desks in council buildings.
5. Gifts and hospitality registers should be updated at least once per quarter and published.	It is recommended that the register should be published on the Council's website.
6. Councils should publish a clear and straightforward public interest test that would be used to filter allegations.	The report contains one currently used in Northern Ireland. It is recommended that this be used as a basis to formulate a public interest test to be incorporated in the Code of Conduct.
7. Local Authorities should have access to at least two Independent Persons. Kirklees formerly had two and this has been under review.	It is noted that the number of complaints that involve the Independent Person has been increasing and it is recommended that the recruitment process be started for a second Independent Person and it is agreed that the contract of the current Independent Person be extended.
8. An Independent Person should be consulted as to whether or not a complaint should progress and given an opportunity to comment on allegations made	Kirklees do this as part of the current agreed standards process, so no action is required in respect of this best practice suggestion.
9. Where a decision is made on an allegation of misconduct following a formal investigation, the decision notice should be published on the council's website, to include a brief	It is recommended that decision notices should be published provided there would not be any GDPR issues in making the findings public. In the current decision notices, the views of the

statement of facts, which provisions of the code were engaged, the view of the Independent Person, the reasoning of the decision maker and any sanctions applied.	Independent Person are referenced.
10. A Local Authority should have straightforward and accessible guidance to the complaints process on its website.	Kirklees does have this, but it is recommended that printed copies should be available in council buildings.
13. A Local Authority should have procedures in place to deal with any conflicts of interest that arise during a standards investigation.	The report suggests using a Monitoring Officer from a neighbouring authority. This has been raised at the WYLAW group meetings and it has been agreed that WYLAW members will do this.
14. Councils should report on separate bodies that they have set up or own as part of their annual governance statement	To some extent this is already done, but it is recommended that the Head of Risk be asked to look at this.
15. Senior officers should meet with group leaders or whips regularly to discuss standards issues.	Currently the GBMs meet regularly with the Monitoring Officer and the Group Leaders meet regularly with the Chief Executive and the Monitoring Officer. GBMs attend Standards Committee by invitation when there are relevant items on the agenda.

3. Implications for the Council

3.1 Early Intervention and Prevention (EIP)

N/A

3.2 Economic Resilience (ER)

N/A

3.3 Improving Outcomes for Children

N/A

3.4 Reducing demand of services

N/A

3.5 **Other (eg Legal/Financial or Human Resources)**

The promotion and maintenance of high standards of conduct by councillors is an important part of maintaining public confidence in both the council and its members. Failure to do so could have reputational implications.

4. **Consultees and their opinions**

N/A

5. **Next steps**

- 5.1 Any recommendations by this committee which require changes to policy, and/or further approval and/or changes to the Constitution will be presented to Corporate Governance and Audit Committee and/ or Council as applicable.
- 5.2 Any approved amendments to the Code of Conduct and / or policy and / or the Constitution will be made.

6. **Officer recommendations and reasons**

- 6.1 It is recommended that the contents of the CSPL report are noted and welcomed.
- 6.2 It is recommended that the actions set out in Section 2 of the report are agreed and appropriate steps taken to refer them on for implementation and approval.

7. **Cabinet portfolio holder's recommendations**

N/A

8. **Contact officer**

David Stickley
Senior Legal Officer
01484 221000
david.stickley@kirklees.gov.uk

9. **Background Papers and History of Decisions**

- 9.1 Report to Standards Committee 7 March 2018 -
<https://democracy.kirklees.gov.uk/documents/g5415/Public%20reports%20pack%2007th-Mar-2018%2011.00%20Standards%20Committee.pdf?T=10>

- 9.2 Report of the Committee on Standards in Public Life -
<https://www.gov.uk/government/publications/local-government-ethical-standards-report>
- 9.3 Committee on Standards in Public Life Consultation document -
<https://www.gov.uk/government/consultations/local-government-ethical-standards-stakeholder-consultation>
- 9.4 Kirklees Council's response to the consultation.
10. **Service Director responsible**

Julie Muscroft
Service Director – Legal, Governance and Commissioning
01484 221000
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Number	Recommendation	Responsible Body	Comments	Our Views
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	This is a recommendation for the LGA to comment upon. The LGA have responded, on the 30th of January, stating that in their view ' <i>A locally-led approach to standards – underpinned by a national framework – remains the right approach and the LGA is happy to play a leading role in updating a code of conduct to help guide our members.</i> '	Is this a move towards a standardised Code of Conduct? There is clearly no recommendation in the report to go back to the pre-Localism Act system and abolish the ability of authorities to determine their own codes, but is it the case that this could be the possible end result of the LGA producing a model code? Will there be pressure to adopt it? The stated purpose of the recommendation is to create some consistency and reflect common expectations across Local Authorities (and Town and Parish Councils). The Codes do vary considerably at the moment. A number of Model Codes were circulated when the Localism Act introduced the new approach to Standards in 2011/12. One Model Code which is then adapted therefore makes some sense and may avoid confusion. The report does appear to support Councils having final ownership - so using a "Model" Code as a starting point and then adding to it as appropriate. The report goes on to suggest that Codes are regularly reviewed and updated which would seem to support the view that it would be a starting point for Councils to adopt and amend as appropriate. This recommendation would be relatively easy to implement. We should watch what the LGA do.
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	Will require primary or secondary legislation	Members may already ask to have their home addresses withheld, but they have to request this and satisfy the Monitoring Officer that there are grounds for doing so - "sensitive Personal interests" . This proposal should lessen the potential risk to concerned members. We already relaxed the approach to this in Kirklees but the new approach is welcome. It is noted that recent changes to Electoral rules mean that candidates for local election (as is already is the case for parliamentary candidates) do not have to include their home address on nomination papers. We will continue to use the more relaxed approach that we introduced about 15 months ago.
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	Will require primary or secondary legislation	This is probably a welcome step that recognises the blurring that can occur in respect of a member's social media presence. Certainty on this can assist members in understanding how social media posts will be regarded. The proposal appears to come out of a look at what Wales and Northern Ireland do. The wording will require some clarity however to make it work in practice and could lead to some issues around interpretation (as it currently does in any event!) . The report itself refers to there being a "rebuttable presumption that a councillor's behaviour in public is in an official capacity. An individual's behaviour in private, in a personal capacity, should remain outside the scope of the Code". The distinction between public and private may be blurred however. What about a councillor who commits a criminal offence but whilst acting in private. what about a councillor in private uses threats like "...dont you know who i am". Lets see what the legislation says but its something that we wrestle with from time time and will continue to until we can acheive better clarity.
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	Will require primary or secondary legislation	As above, some certainty must be welcomed.
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	Will require primary or secondary legislation	Clarity on disclosable interests is likely to be welcomed by members.
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	Will require primary or secondary legislation	This is something that isn't currently prohibited and some authorities do keep public registers. Kirklees Code of Conduct requires members to declare gifts and hospitality of £25 or more in any event. We could take a decision to change this to the recommended higher figure and be more explicit about making the register public. We dont need legislation to do this voluntarily.

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	Will require primary or secondary legislation	Clarity on disclosing interests is likely to be welcomed by members. Not sure however that this achieves it as it still requires a judgement call and different members of the public may have different views on what "so significant that it is likely to prejudice your consideration or decision-making in relation to that matter " means.
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	Will require primary or secondary legislation	Concerns were raised that a two year period was far too short, and four years was better. Concerns had also been raised about the difficulty in recruiting suitable IPs. Helpful to have some clarity and 2/4 years provides some consistency. Would probably favour slightly longer or at least have that flexibility - so three years and three years. We currently have one IP after we had only one applicant last time. We said we would review that and see if we should appoint another. We did that last year at Standards and decided for the time being to continue with one. Perhaps we could consider another recruitment exercise so that there is overlap between current IP and any new IP? We don't need to wait for legislation to do this.
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	Will require primary or secondary legislation	Decision notices that are currently produced do refer to the participation of the IP in the decision making process. The decisions are not published however - they are shared with a limited group of individuals who could choose to share the decisions. (see later recommendations)
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	Will require primary or secondary legislation	It is not unreasonable, where the harshest of sanctions is applied, that the decision should be unanimous. (See recommendation 16 below which proposes a new sanction be introduced)
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	Will require primary or secondary legislation	This is not an unreasonable suggestion. It is also noted that the creation of a network for Independent Persons is suggested in the surrounding text to the recommendation. That would be a sensible idea. Also whilst there are networks for Monitoring Officers for best practice these could be strengthened and better formalised.
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	Will require primary or secondary legislation	This recommendation is made to change some of the gaps in the current legislation under the Localism Act. It is discretionary under the localism Act whether Councils have a Standards Committee. Standards Committees may be decision makers or they can play a role in monitoring behaviours / reporting back to Council. In Kirklees we have the second - advisory model. In current legislation Independent Persons can be non-voting members of the Standards Committee. Some respondents to the consultation also felt that it might be beneficial to have members from Town and Parish Councils on them too who were able to vote. This is the background to this recommendation. It isn't intended to be compulsory but corrects the previous approach and would allow those who wanted to adopt such an approach. Its a welcome update.
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	Will require primary or secondary legislation	It is noted that the Ombudsman is proposed to only have a role where the most serious form of sanction has been applied. This is a sensible approach
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	Will require primary or secondary legislation	It is noted that there would be a power to impose an alternate sanction, as well as a power to determine if the allegation of breach was founded. This a sensible approach and would be welcome - although the extent to which the LGO could impose (and which) alternative sanctions will be interesting. Suspension should be a last option. It may be required after a series of other sanctions have been imposed but not carried out.

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 (eg bullying; conflict of interest); the outcome of those complaints, including if they are rejected as trivial or vexatious; and any sanctions applied.	Government	Will require primary or secondary legislation	This proposal is to compel authorities to publish. There is currently no prohibition on this and some authorities make their findings public. Kirklees could choose to follow this recommendation if they chose. We currently do six monthly reports with this information in them (which is therefore public) but we could be more proactive in publishing the statistics on line.
16.	Local authorities should be given the power to suspend Councillors, without allowances, for up to six months.	Government	Will require primary or secondary legislation The LGA are not wholly supportive of this, stating that, in their view, 'a number of adequate sanctions already exist to deal with the most serious issues and care needs to be taken to avoid adding to the current regime and causing unintended consequences. For example, suspending councillors for up to six months could see them lose their seat. This would pose a risk to the democratic process leaving residents without locally-elected representative.'	This is a welcome suggestion and appears to be in response to the strong views that were expressed during the consultation that there were not adequate sanctions available to local authorities. The report itself says that the 'current lack of robust sanctions damages public confidence in the standards system'. This appears to be in response to the views expressed. See comments earlier as well.
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	May require primary or secondary legislation	Clarity is likely to be welcomed.
18.	The criminal offences in the Localism Act 2011 relating to Disclosable Pecuniary Interests should be abolished.	Government	Will require primary or secondary legislation	This is welcome as its hasn't been wholly effective. Presumably, this proposal is made on the basis that Councils will have adequate sanctions in exchange for the abolition but it is unclear at present.
19.	Parish Council Clerks should hold an appropriate qualification, such as those provided by the Society of Local Council Clerks.	Parish Councils	Unclear if this is really "good practice" recommendation rather than something requiring legislation	This should be beneficial to Town and Parish Councils for the reasons set out in the report. It may give more tools/ confidence to deal with tricky matters but won't stop poor behaviour by Parish/ Town councillors
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	Will require primary or secondary legislation	There is likely to be a positive benefit to this, especially where members sit on both Kirklees and a Town or Parish Council. It will also be beneficial to the Monitoring Officer when dealing with any conduct complaints.
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	Will require primary or secondary legislation	There is currently a lack of clarity about the extent to which Town and Parish Councils must impose a sanction recommended by the principal authority. This proposal is intended to clarify that.
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	Will require primary or secondary legislation	This is a welcome step to protect the independence of statutory officers.

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	Will require primary or secondary legislation	This is already part of Kirklees' whistleblowing policy.
24.	Councillors should be listed as "prescribed persons" for the purposes of the Public Interest Disclosure Act 1998.	Government	Will require primary or secondary legislation to make it compulsory.	Kirklees' whistleblowing policy does treat members as prescribed persons, listing them as alternative contacts for employees wishing to make disclosures.
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 National political parties	Unclear what's needed to make this a requirement across groups / parties	We already have induction training for new Councillors and so far have had full attendance or we have managed to meet with Councillors unable to make induction in the first week. This appears to be over and above that with an obligation on group and national parties. This is a welcome recommendation but unclear how this will work in practice. The training and induction of members is important and it is welcomed that there is a proposal to make this a requirement. Not clear what will happen with independents.
26.	Local Government Association corporate peer reviews should also include consideration of a Local Authority's processes for maintaining Ethical Standards.	Local Government Association	Legislation not required	The LGA haven't commented directly on this proposal. Do local authorities want their codes and processes subject to such review? What powers would be given to the LGA if they decided they weren't suitable? In theory a good idea.

Number	Best practice	Responsible Body	Comments	Our Views
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.	Local authority	No legislation would be required - an authority can choose the contents of its own code of conduct.	Kirklees already says (3A.2) "You must not bully or intimidate any person or attempt to bully or intimidate them" . The report provides some good examples of the type of thing that should be included in Codes however as examples of what that might mean in practice. It is proposed that we consider this in more detail and look at amending the Code in Kirklees to give more specific references to what might amount to bullying. There is also reference to social media in the report and the need to provide appropriate guidance - it doesn't form part of the best practice/ recommendations but it is suggested. This should be picked up by the standards committee and more help and guidance given to members as it overlaps with issues around behaviours and has led to a significant number of complaints.
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.	Local authority	No legislation would be required - an authority can choose the contents of its own code of conduct.	the Kirklees code already contains this but the sanctions for not complying are weak.
3.	Principle Authorities should review their Code of Conduct each year and regularly seek, where possible, the views of the public, community organisations and neighbouring Authorities.	Local authority	No legislation would be required - an authority can choose how often it reviews its own code of conduct.	seeking the views of the public etc would be a sensible idea but an annual review may be too often ? Perhaps bi annually would be more sensible - otherwise no sooner is something reviewed then we would be reviewing again.
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.	Local authority		Kirklees' Code of Conduct is published on its website. Perhaps there could be a link from the home page. We can look at other ways to make it prominent.
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.	Local authority		See earlier comments in the recommendations. Suggest that this is something we can do quickly.
6.	Councils should publish a clear and straightforward public interest test against which allegations are filtered.	Local authority		Yes agreed we should consider what that might look like as part of a discussion with members of the Standards committee and recommend that to Council. The report makes reference to one which is used in Northern Ireland which we could explore as a starting point.

7.	Local Authorities should have access to at least two Independent Persons.	Local authority	There are no restrictions on the numbers of Independent persons that an authority can appoint.	This may be an ideal, but may not reflect the difficulty in recruiting suitable IPs. As referred to earlier - suggest that we consider another recruitment to overlap with the current IP.
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.	Local authority		Kirklees already involve their IP at the first 'sift' stage in the complaints process as well as later on in the process.
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 fact, 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.	Local authority		Some thought needs to be given as to whether Kirklees wants to publish its decision notices. Currently, these are only made available to the member's group leader and GBM and the member complained of, plus the complainant. Currently, the other GBMs don't see the decision notice. This may be something which is worth considering as an additional way of getting compliance with recommendations. One for further discussion.
10.	A local authority should have straightforward 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.	Local authority		Kirklees does have this, but perhaps there could be a direct link to this from the homepage.
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.	Town or parish council	This is a matter for the individual Town or Parish Councils to adopt.	This looks like a sensible suggestion - it may be worth a conversation with Parish and Town Councils about this
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.	Local authority		Currently, the Monitoring Officer does deal with complaints made about Town or Parish council members. This does impact on resources - significantly at times.
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.	Local authority		This is a sensible suggestion. To raise at the WYLAW group.
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.	Local authority		Yes a sensible idea. Discuss with head of Audit and Risk and include in the AGS
15.	Senior officers should meet regularly with political group leaders or group whips to discuss standards issues.	Local authority		The Monitoring Officer regularly meets with the GBMs and the Chief Exec meets regularly with the Group Leaders.

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