

**Name of meeting: Corporate, Governance and Audit Committee**

**Date: 26<sup>th</sup> April 2019**

**Title of report: Proposed changes to the Council's Code of Conduct**

**Purpose of report**

To set out proposed changes to the Council's Code of Conduct as outlined in paragraph 2 and as set out in more detail in the attached Appendices, which show the proposed amendments.

To note changes to the standards process that follow the Committee of Standards in Public Life's report 'Local Government Ethical Standards'.

To seek approval and/or comments and/or recommendations from Committee in relation to these proposed changes to make to Annual Council on 22 May 2019.

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 <a href="#">Council's Forward Plan (key decisions and private reports)?</a>	Not applicable
The Decision - Is it eligible for "call in" by Scrutiny?	Not applicable
Date signed off by Director & name  Is it also signed off by the Service Director for Finance, Information and Transactional Service?  Is it also signed off by the Service Director – Legal, Governance and Commissioning Support?	No financial implications  Julie Muscroft
Cabinet member portfolio	Graham Turner

**Electoral wards affected: N/A**

**Ward councillors consulted: N/A**

**Public or private: Public**

**Have you considered GDPR? Yes**

**1. Summary**

- 1.1 To set out proposed changes in relation to the Code of Conduct that follow from the publication of the report 'Local Government Ethical Standards' by the Committee on Standards in Public Life (CSPL). A copy of the report is attached at Appendix 1.

- 1.2 The CSPL published its report following a consultation exercise that Kirklees contributed to. The report made a series of recommendations and 'best practice' suggestions.
- 1.3 The report suggests that legislation will be required to implement the recommendations, whilst the best practice suggestions do not and may be adopted by local authorities straight away. Whilst it may be true to say that the recommendations are likely to need legislation to make them compulsory, many of them are not currently prohibited and so can be adopted voluntarily. Any legislation would simply have the effect of making those recommendations compulsory.
- 1.4 Following the publication of the report the Standards Committee met and discussed the report's findings. A copy of the report is attached at Appendix 2.
- 1.5 The Committee discussed the extent to which Kirklees already complied with any of the recommendations and best practice suggestions, as well as whether there were any recommendations or best practice suggestions that could be adopted.
- 1.6 A significant number of the recommendations were already being implemented, either as part of the Code of Conduct or the standards process and these are detailed in Appendix 3.
- 1.7 A number of recommendations were made in respect of amendments to the Code of Conduct and the standards process and these are detailed below and in the Appendices 3 and 4.

## **2. Information required to take a decision**

### **CODE OF CONDUCT**

The proposed changes to the Code of Conduct are set out in track change in Appendix 4.

#### **PART 1 – Application**

2.01 There are no proposed changes.

#### **PART 2 – Interpretation**

2.02 There are no proposed changes.

#### **PART 3 and 3A – General Principles**

2.03 Part 3A has been expanded to include a working definition of bullying and harassment. Again, this follows the recommendation of the CSPL in their report and makes use of the suggested wording. It is intended to add clarity to the Code of Conduct.

## **PART 4 – Disclosable Pecuniary Interests**

2.04 There are no proposed changes.

## **Part 5 – Interests which are not Disclosable Pecuniary Interests (Other Interests)**

2.05 There are no proposed changes.

## **PART 6 – Sensitive Information**

2.06 There are no proposed changes.

## **PART 7 – Gifts and Hospitality**

2.07 The CSPL report made recommendations concerning the declaration of gifts and hospitality. Kirklees does already require members to declare such gifts and hospitality. There are some minor changes in the current process proposed.

2.08 There are a number of changes, following the CSPL report. It was not recommended to increase the level at which declaration has to be made to £50, as suggested by the report. It will remain at £25 and over in the Code. It was recommended that aggregate gifts from a single source that totals £100 or over must be declared.

2.09 It was also recommended that the register that is currently kept by the Monitoring Officer be made available on line.

## **Review**

2.10 There is a recommendation in the CSPL report that Principal Councils should review their Code of Conduct each year and regularly seek the views where possible of the public, community organisations and neighbouring authorities. The committee took the view that any such review which would include seeking wider views of the public, community organisations etc, should be bi-annual, recognising that it might be a lengthy process to undertake. It was noted that there is the power to review the Code sooner should the need arise and that the Corporate Governance and Audit Committee conduct an annual review of the Constitution of which the Code forms part in any event.

## **Standards Process**

2.11 In addition to making recommendations concerning changes to Codes of Conduct, the CSPL also made other recommendations some of which could be adopted without legislation and they also highlighted best practice suggestions, with a strong suggestion that local authorities adopt these, as they would be free to do so without waiting for any legislation to be enacted.

- 2.12 These were considered by the Standards Committee who noted that some of the recommendations as well as best practice suggestions had already been adopted.
- 2.13 Those that had not were considered and the following recommendations were made:
- 2.14 That Town and Parish Councils be recommended to adopt the Kirklees Code of Conduct. There are no restrictions on them being able to do so and there are a number of advantages to them doing so. These would include councillors who sit as Town or Parish Councillors, as well as being Kirklees Councillors, having a single code, the Monitoring Officer would have a uniform code against which to consider all complaints concerning councillor conduct, and training given to Kirklees councillors can be extended to Town and Parish councils at a minimal cost. It was agreed that the Monitoring Officer write to Parish and Town Councils and ask that they consider adopting the Kirklees Council Code of Conduct and recommend that they consider the report of the CSPL and its recommendations at a Parish / Town Council meeting (if they haven't yet done that) as soon as possible after the elections in May.
- 2.15 That Kirklees Council publishes a named contact at the Council's auditor in its whistleblowing policy. Contact details for the auditor are already in the existing policy and enquiries have been made of the auditor for a named contact. It is recommended that authority be given to the Monitoring Officer to update the policy with the details of the named contact.
- 2.16 That all councillors undertake formal induction training and that all members of the Standards Committee undertake annual refresher training. The training provided on the Code of Conduct and standards process has been redrafted and should be available to all members in the near future.
- 2.17 That printed copies of the Kirklees Code of Conduct be made available at council buildings, in addition to being published on the website. This will ensure that any members of the public who do not have access to the internet can still view the Code of Conduct and be provided with a printed copy.
- 2.18 Under the Localism Act, the council is required by law to appoint an Independent Person (IP). The role of the IP in Kirklees is to act as a point of consultation and to be a decision maker for any formal standards complaints. The CSPL made a number of recommendations about using IPs many of which the Council already does. It also recommended that Councils have more than one. Members will recall that we currently have one IP following the last recruitment process in 2016/17. The Standards Committee recommended that a further IP be recruited and that the current IPs term be extended by two years. This would mean that we would have an experienced and new IP in place who would overlap.
- 2.19 On the 4<sup>th</sup> of August 2017 this committee considered a report concerning the role of the IP and resolved to recommend to council the appointment of Michael Stow as IP for a period of two years. It is

recommended that authority be given for the contract of the current IP to be renewed for a further two years and a report be submitted to Council to request the renewal.

- 2.20 It is also recommended that that a recruitment process should be agreed to recruit a second IP on the same terms as the current IP and the Monitoring Officer be delegated with authority to do that in consultation with the Chair of Standards and the Chair of Corporate Governance and Audit Committee.
- 2.21 That the council's Standards Process be updated to allow for the publication of any decision notices on the council's website. This is currently done by some local authorities and was a recommendation in the CSPL report. Subject to any privacy concerns and data protection legislation, it was recommended that Kirklees adopt this recommendation.
- 2.22 That the complaints process be made available as printed copies at council buildings in addition to being published on the website. As for 2.17, this will allow any members of the public who do not have access to the internet to be able to access the complaints process and to be provided with a hard copy of the documentation.
- 2.23 Following a CSPL recommendation, it is proposed that a public interest test be incorporated into the standards process. The wording will be based on that used by the CSPL report with some clarificatory notes and guidance.

### **3. Implications for the Council**

Although the report of the CSPL has not yet resulted in legislation, it is important for the Council to be aware of its recommendations and to actively consider these and to make a decision to implement any that are deemed to be good recommendations.

With regards to the best practice recommendations, the CSPL has indicated that it will be actively checking for compliance with these when performing any audits of local authority Codes of Conduct and standards processes.

It is also essential that the Constitution complies with current legislation. Failure to do so could lead to legal challenges, unnecessary procedural delays and less transparency in the Council's democratic process.

#### **3.1 Working with People**

N/A

#### **3.2 Working with Partners**

N/A

#### **3.3 Place Based Working**

N/A

#### **3.4 Improving Outcomes for Children**

N/A

**3.5 Other (e.g. Legal/Financial or Human Resources)**

N/A

**4. Consultees and their opinions**

4.1 The Standards Committee, Group Business Managers and various officers in Legal, Governance and Commissioning have been consulted. All members were provided with a copy of the CSPL report for information and comment.

**5. Next steps**

5.1 This will be considered by Annual Council on 22 May 2019. Any feedback and comments or recommendations from CGA will be included in that report.

5.2 Any amendments agreed by Council on that date will be made to the Constitution.

5.3 The current Independent Person's contract will be extended and steps to recruit a further Independent Person will be put in place.

5.4 The changes suggested by Standards Committee that do not require changes to the constitution be adopted.

**6. Officer recommendations and reasons**

**That CGA:**

6.1 Consider the proposed changes to the Code of Conduct and the Standards Process set out in 2.03, 2.07 to 2.09, 2.14 to 2.17, 2.19 to 2.23 and Appendices 3 to 4 and make any recommendations / comments / observations about proposed changes to the constitution as well as to the standards process before the changes are considered by Council.

**7. Cabinet portfolio holder recommendation**

N/A

**8. Contact officer**

Julie Muscroft, Service Director – Legal, Governance and Commissioning

David Stickley, Senior Legal Officer

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

Report of the Committee on Standards in Public Life into Local Government standards.

Report to the Standards Committee, 6<sup>th</sup> March 2019.

Report to Council 13<sup>th</sup> September 2017.

**10. Service Director responsible**

Julie Muscroft, Service Director – Legal, Governance and Commissioning Support, 3<sup>rd</sup> floor, Civic Centre 1. Telephone: 01484 221000. Email [Julie.muscroft@kirklees.gov.uk](mailto:Julie.muscroft@kirklees.gov.uk)

**Appendices**

Appendix 1 – Copy of the CSPL report ‘Local Government Ethical Standards’

Appendix 2 – Copy of report to Standards Committee, 6<sup>th</sup> March 2019

Appendix 3 – List of recommendations and best practice suggestions discussed by Standards Committee, headed ‘ITEM 8’

Appendix 4 - Track change copy of the Code of Conduct, showing proposed changes