

Name of meeting: Council (Annual)

Date: 22 May 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 and standards process as described in paragraph 2 and as set out in more detail in the attached Appendices, which show the proposed amendments.

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?	N/A
Key Decision - Is it in the Council's Forward Plan (key decisions and private reports)?	N/A
The Decision - Is it eligible for "call in" by Scrutiny?	NO
Date signed off by Director & name	
Is it also signed off by the Head of Finance and Accountancy?	Eamonn Croston
Is it also signed off by the Service Director - Legal Governance and Commissioning?	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? There are no GDPR implications relating to this report

1. Summary

- 1.1 To set out, in section 2, the proposed changes in relation to the Kirklees Code of Conduct and to seek approval by members of those proposed changes. A track change copy of the Code of Conduct showing the proposed amendments is appended to this report at Appendix 1.
- 1.2 The Code of Conduct is part of the Constitution and this report is part of the wider annual review of the Constitution.
- 1.3 The Committee on Standards in Public Life (CSPL) had undertaken a consultation on local authority standards, that Kirklees contributed to, and the report '*Local Government Ethical Standards*' was published in March 2019.
- 1.4 The CSPL report proposed a number of changes to codes of conduct, making both recommendations and best practice suggestions. The

report suggested that legislation would be needed for many of the recommendations to come into force, but that the best practice suggestions could be adopted voluntarily. Whilst it may be true that legislation may be required to make the recommendations compulsory, many of them are not currently prohibited, so could be voluntarily adopted.

- . 1.5 Publication of the report prompted a review of the current Kirklees Code of Practice with the Standards Committee with a view to giving consideration of what recommendations were already part of the Code of Conduct or the current standards process and whether any of the recommendations or best practice suggestions could or should be adopted. A copy of this is at Appendix 2.
- 1.6 Following this, a number of recommendations were made to Corporate, Governance and Audit Committee for amendments to the Code of Conduct and the standards process. These recommended changes are detailed below and in Appendices 1 & 3. Members are asked to note that the references in Appendix 3 relate to those in Appendix 2, with those listed at 2.1.4 relating to the CSPL recommendations and those at 2.1.3 relating to the best practice suggestions.
- 1.7 The Corporate, Governance and Audit Committee considered the proposed changes and resolved to recommend these to Council.

2. Information required to take a decision

CODE OF CONDUCT

The proposed changes to the Code of Conduct are set out in the track change copy at Appendix 1.

PART 1 – APPLICATION

2.01 There are no proposed changes to this part of the code.

PART 2 - INTERPRETATION

2.02 There are no proposed changes to this part of the code.

PARTs 3 and 3A – GENERAL PRINCIPLES

2.03 Part 3A has been expanded to include a working definition of bullying and harassment. This follows the recommendation of the CSPL report and makes use of suggested wording from the report. It is intended to bring clarity to the code by providing a definition of what conduct would be considered to amount to bullying and harassment.

PART 4 – DISCLOSABLE PECUNIARY INTERESTS

2.04 There are no proposed changes to this part of the code.

PART 5 – INTERESTS WHICH ARE NOT DISCLOSABLE PECUNIARY INTERESTS (OTHER INTERESTS)

2.05 There are no proposed changes to this part of the code.

PART 6 – SENSITIVE INFORMATION

2.06 There are no proposed changes to this part of the code.

PART 7 – GIFTS AND HOSPITALITY

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

2.08 The CSPL report had recommended setting £50 as the level at which a declaration would be required to be made, but the Standards Committee opted to recommend that it remain at £25, and this was approved by Corporate, Governance and Audit Committee. It was also recommended that aggregate gifts from the same source be declared, regardless of the size of the individual gifts, once the total in any 12 month period reached £100 or more.

2.09 It was also recommended that the register currently kept by the Monitoring Officer is made available on line at the Council's website.

Review

2.10 The CSPL report recommended that councils should formally review their codes of conduct on an annual basis and seek to consult with the public, community organisations and neighbouring authorities when doing so. The Standards Committee took the view that any such wider review involving consultation should be bi-annual, noting that it could be a lengthy process. It was noted that there already exists the power to review the code should the need arise and that Corporate, Governance and Audit do have a duty to conduct an annual review of the constitution in any event.

Standards Process

2.11 The council's standards process does not form part of the constitution, but it sits alongside the Code of Conduct. Many of the recommendations made by the CSPL concerned the standards process and these were reviewed and discussed by the Standards Committee.

2.12 It was noted that some of these recommendations were already part of the standards process. Those that were not were considered and the following recommendations were made to the Corporate, Governance and Audit Committee:

2.13 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 as soon as possible after the elections in May.

- 2.14 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.
- 2.15 That all councillors undertake formal standards 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 will be available to all members in the near future.
- 2.16 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.
- 2.17 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 adopts. It also recommended that Councils have more than one IP. Kirklees currently has one IP following the last recruitment process in 2016/17.
- 2.18 In August 2017 the Corporate, Governance and Audit 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 now recommended that authority be given for the contract of the current IP to be renewed for a further two years and that Council is recommended to approve the renewal.
- 2.19 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 the Corporate, Governance and Audit Committee.
- 2.20 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.

- 2.21 That the complaints process be made available as printed copies at council buildings in addition to being published on the website. As for 2.16, 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.
- 2.22 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 to cover the need for discretion and to cover, for example, patterns of behaviour, such as various incidents over a time period.

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 proactively 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. There is a clear expectation that these will be implemented.

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 implications (Financial, legal etc...)

N/A

4. Consultees and their opinions

The Chief Executive and various officers in Legal, Governance and Commissioning have been consulted.

Proposed changes to the Code of Conduct and standards process were discussed and agreed by the Standards Committee before being passed to the Corporate, Governance and Audit Committee for discussion and recommendation.

The Corporate, Governance and Audit committee recommended that the proposed changes be made.

5. Next steps

- 5.1 Any amendments agreed by Council will be made to the Code of Conduct.
- 5.2 Changes to the Standards process will be introduced from 1st June 2019.

6. Officer recommendations and reasons

That Council:-

- a. Approve the proposed changes to the Code of Conduct and the standards process set out in paragraphs 2.03, 2.07 to 2.10 and 2.13 to 2.22 above, and referenced in the accompanying relevant Appendices.
- b. Delegate authority to the Service Director – Legal, Governance and Commissioning to make appropriate amendments to the constitution which are agreed by Council as well as any consequential amendments to the constitution to reflect the changes agreed.

7. Cabinet portfolio holder recommendation

N/A

8. Contact officer

Julie Muscroft – Service Director – Legal, Governance and Commissioning
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julie.muscroft@kirklees.gov.uk

9. Background Papers and History of Decisions

Report of the Committee on Standards in Public Life '*Local Government Ethical Standards*'.

Report to the Standards Committee, dated the 6th March 2019.

Report to the Corporate, Governance and Audit Committee, dated the 26th April 2019.

10. Service Director responsible

Julie Muscroft – Service Director – Legal, Governance and Commissioning
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11. Appendices

Appendices

Appendix 1 – Code of Conduct, with tracked changes

Appendix 2 – List of recommendations made by CSPL and best practice suggestions

Appendix 3 – List of Recommendations and Best Practice Suggestions discussed by Standards Committee 6th March 2019