



## **Standards Committee Agenda**

**Wyre Borough Council**  
**Date of Publication: 6 March 2019**  
**Please ask for : Roy Saunders**  
**Democratic Services and Scrutiny**  
**Manager**  
**Tel: 01253 887481**

**Standards Committee meeting on Thursday, 14 March 2019 at 6.00 pm  
in the CivicCentre, Poulton-le-Fylde**

**1. Apologies for Absence**

**2. Declarations of Interest**

Members will declare any pecuniary or significant other interests they have in relation to the items on this agenda.

**3. Minutes** (Pages 1 - 4)

Confirmation of the Minutes of the meeting of the Committee held on 15 November 2018.

**4. Wyre Code of Conduct Review** (Pages 5 - 20)

Report of the Monitoring Officer.

**5. Committee on Standards in Public Life Report on Ethical Standards in Local Government** (Pages 21 - 32)

Executive Summary, List of Recommendations and List of Best Practice.

The Monitoring Officer will provide a verbal update at the meeting.

(The full report can be viewed on the Committee for Standards in Public Life website via the following link:

[https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/777315/6.4896\\_CO\\_CSPL\\_Command\\_Paper\\_on\\_Local\\_Government\\_Standards\\_v4\\_WEB.PDF](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/777315/6.4896_CO_CSPL_Command_Paper_on_Local_Government_Standards_v4_WEB.PDF)

**6. Current Complaints: Summary** (Pages 33 - 34)

Schedule prepared by the Monitoring Officer.

The Monitoring Officer will report verbally on the latest position with

regard to the complaints listed and any issues arising from them.

**7. Date of next Meeting**

The next scheduled meeting of the Committee is due to be held at 6pm on 20 June 2019.



## Standards Committee Minutes

The minutes of the Standards Committee meeting of Wyre Borough Council held on Thursday, 15 November 2018 at the CivicCentre, Poulton-le-Fylde.

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### **Standards Committee members present:**

Councillors I Amos, B Birch, Catterall, Lees and Orme

### **Apologies for absence:**

Councillor(s) Matthew Vincent

### **Officers present:**

Mary Grimshaw, Senior Solicitor and Deputy Monitoring Officer  
Liesl Hadgraft, Head of Business Support and Monitoring Officer  
Roy Saunders, Democratic services and Scrutiny manager.

No members of the public or press attended the meeting.

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### **10 Apologies for Absence**

### **11 Declarations of Interest**

Councillor Orme declared a significant interest (non-pecuniary) in agenda item 5 (Summary of Current Complaints) because he had been informed that he was the subject member in complaint Ref: 2018/03. He said that he would withdraw from the meeting if that complaint was discussed.

### **12 Minutes**

**Agreed** that the minutes of the meeting of the Committee held on 21 June 2018 be confirmed as a correct record.

### **13 Review of Councillors Code of Conduct and Complaints Process**

The Monitoring Officer submitted a report or proposed arrangements for a review of the Councillors Code of Conduct and of the Council's procedures for dealing with alleged breaches of eth Code.

She reminded Members that reference to the intention to undertake a review had been made at the last Standards Committee meeting. Since then the Deputy Monitoring Officer, the Democratic Services and Scrutiny Manager

and herself had met to discuss what could be done to make the Code stronger within the scope of the provisions in the Localism Act and how the review could best be progressed. The matters for consideration would mainly around behavioural issues, particularly those listed in paragraph 4.3 of the report.

She confirmed that the proposed time table for the working group would allow sufficient time for a revised code of conduct to be approved at the full Council meeting in April 2019 so that guidance on it could be included in the induction/training programme for all Members following the May elections.

Agreed:

1. That a working group of 7 Councillors (5 to be nominated by the Leader of the Conservative Group and 2 by the Leader of the Labour group) be set up to review Wyre's Councillor Code of Conduct and the process for dealing with alleged breaches of eth Code.
2. That the working group's recommendations be reported to the Standards Committee for consideration and endorsement on 14 March 2019, prior to submission the full Council for approval on 4 April 2019.

#### **14 Current Complaints: Summary**

The Monitoring Officer submitted a schedule summarising complaints of alleged breaches of the Council's Code of Conduct which were currently being processed or which had been completed since the last report to the Committee.

She provided further information on each of the complaints, as follows:

##### **Ref: 2018/02**

This complaint has been considered but no further action was to be taken.

##### **2018/03**

(Cllr Orme, having declared an interest at the start of the meeting, left the room whilst this complaint was considered)

This had been quite a high profile complaint and was an example of the pitfalls of social media and how a relatively trivial issue could easily escalate. The comment made by the subject member had been flippant and inappropriate. However, the subject member had subsequently apologised on the Facebook page where the initial comment had been made. Following a discussion with one of the Council's Independent persons and, in light of the apology that had been made, a decision had been made that no further action would be taken.

##### **2018/04**

This was quite a recent complaint. Further clarification was being sought from the complainant to determine whether the complaint needed to be progressed further. Unfortunately, attempts to contact the complainant had so far has been unsuccessful. The case was therefore ongoing.

**Agreed** that the summary of complaints submitted by the Monitoring Officer and her verbal report on each of the complaints referred to, be noted.

**15      Date of next Meeting**

**Agreed** that the next meeting of the Committee be held at 6pm on 14 March 2019.

The meeting started at 6pm and finished at 6.20pm.

**Date of Publication:** 22 November 2018.

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Report of:	Meeting	Date
The Monitoring Officer, Liesl Hadgraft	Standards Committee	14 March 2019

Wyre Code of Conduct Review
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**1. Purpose of report**

1.1 To enable proposed changes to the Councillors Code of Conduct to be considered.

**2. Outcomes**

2.1 More robust ethical standards.

**3. Recommendations**

3.1 That the amendments to the Code of Conduct proposed by the Working Group, set out in Appendix 1, be endorsed.

3.2 That the Council be recommended to approve the proposed amendments at its meeting on 14 March 2019 and agree that the revised Code of Conduct be adopted with effect from 2 May 2019 and included in 5.01 of the Constitution, in place of the current version.

**4. Background**

4.1 At its last meeting on 15 November the Standards Committee agreed to set up a Working Group to review Wyre's Code of Conduct (minute 13). The issues considered by the Working Group and the conclusions it has reached are set out below.

**5. Key issues and proposals**

5.1 The Working Group, comprising Councillors Ingham (Chairman), Ellison (Vice-Chairman), Lady Atkins, Ellison, Moon, Raynor, Shewan and Matthew Vincent has met on two occasions. It was advised by Liesl Hadgraft (Head of Business Support and Monitoring Officer) Mary Grimshaw (Senior Solicitor and Deputy Monitoring Officer) and Roy

Saunders (Democratic Services and Scrutiny Manager). The Group was provided with a comprehensive set of background information, including:

- all the Council's current codes, protocols and procedures;
- relevant legislation and government guidance;
- information about codes of conduct from other councils.

- 5.2** At the first meeting Liesl Hadgraft explained the rationale for setting up the Group. She said that the Localism Act 2011 had made significant changes to the standards regime for local authorities. The Standards Board for England and the previous national code of conduct had been abolished, with control given back to local authorities but, the sanctions which could be imposed for breaches of the code had been significantly diluted. When the provisions in the Localism Act were implemented in 2012, Wyre Council had chosen to adopt a shortened version of the code, requiring councillors to meet the minimum requirements specified in the Act, i.e. to have regard to the general principles set out - selflessness, integrity, objectivity, accountability, openness, honesty and leadership - and to comply with the statutory requirements for registering and declaring interests.
- 5.3** As it had been six years since Wyre's current code had been introduced and, given some of the recent cases that had come to her attention as Monitoring Officer, it was timely for a review to be undertaken. Doing so now would enable a revised code to be agreed by the Council on 4 April 2019, prior to the elections in May 2019 and for guidance to be included in the induction programme for councillors.
- 5.3** Mrs Hadgraft pointed out that a number of additional behaviours which had been included in the old pre-Localism Act national code and which had subsequently been replicated by many other councils in their own codes, but which had not, up to now, been included in Wyre's Code, had been listed in a report submitted to the Standards Committee on 15 November 2018. The Group therefore started by considering which of those behaviours it might want to recommend be incorporated in a revised Wyre Code and to also identify any other aspects of the code it wanted to review.
- 5.4** Following a discussion, the Working Party agreed:
1. That, despite the Group's concern that the main problem with the current Code was the lack of effective sanctions to deter or punish breaches, to note that it was not possible for the Group to recommend or the Council to introduce additional sanctions, until further legislation was passed.
  2. That the Group's review should focus on possible revisions to Wyre's Code of Conduct, including:
    - (a) The re-introduction of the following commitments included in the pre- Localism Act Code:



- *to uphold the law;*
- *to have respect for the law;*
- *to have regard, when reaching decisions to the advice of the Monitoring Officer or Chief Financial Officer;*
- *to not to bully any person;*
- *to not intimidate or attempt to intimidate any person who is likely to be a complainant, or witness etc.;*
- *to not disclose confidential information except in certain specified situations (e.g. with consent or if required by law to do so);*
- *to not bring their office in to disrepute.*

(b) Notwithstanding the obvious need for the specific circumstances of each case to be considered on its merits, the provision of additional guidance to Councillors, either by including a glossary defining key terms used in the Code (such as “bullying” or “intimidation”) and/or by giving examples of the type of behaviours, which were likely to be judged to be a breach of the Code.

(c) Reference in the Code of Conduct and related documents to pecuniary (or financial) and non-pecuniary (or non-financial) interests, rather than “pecuniary” and “significant other” interests, as currently referred to.

(d) The provision of clearer guidance to councillors on the declaration of interests at meetings and also on the requirement to register their interests within 28 days of their election and following any changes.

3. That the officers be requested to submit draft amendments to Wyre’s Code of Conduct, covering all the points listed in paragraphs (1) and (2) above, for consideration at the next meeting of the Group.

4. Not, at this stage, to consider any major changes to the process for dealing with alleged breaches of the Code, which it was noted had been updated more recently than the Code.

**5.5** At its second meeting on 7 February 2019 the Working Group considered possible amendments to Wyre’s Code of Conduct, submitted by the Monitoring Officer, which reflected the issues which had been identified and the points which had been raised by the Working Group at its previous meeting.

**5.6** Mrs Hadgraft explained that, as directed by the Working Group, the amendments included a number of additional behavioural criteria which were not used in Wyre’s current Code, as well as clarifying and simplifying a number of points. In carrying out this task, a number of

codes of conduct from other Councils and best practice guidance published Bevan Britten Solicitors had been looked at.

**5.7** The rationale for each of the proposed changes was as follows:

Part 1: General Provisions and Obligations

Para 1.2

When a complaint about a councillor was received, one of the first tests that had to be applied was whether the member concerned was acting in his/her capacity as a member. This was often a grey area, with a difference in what the member believed and what the member of the public perceived. This paragraph had therefore been expanded to provide more clarity.

Para's 1.2 (a) to (e)

These were new behavioural elements that had not been included when the current Code had been agreed.

Paragraphs (a) and (b) dealt with "respect" in general and also, more specifically, with regards to the law.

Paragraph (c) dealt with advice given to members by officers of the Council. This was important as it would act as a reminder that the advice given by officers, particularly when they were acting in accordance with their statutory duties, should be seriously considered and that, if their advice was not followed, the reasons for not doing so needed to be clear. At the last meeting of the Group there had been some concern as to how "due regard" could be demonstrated. If due regard had been given by a member they would be able to provide a clear rationale as to why the officer advice had not been taken, and they would be able to provide an understanding of the consequences of coming to their decision.

Paragraph (d) dealt with bullying. Rather than doing so in a separate section, it was proposed that intimidation also be included here, as it was felt that these two issues were closely linked. There had been some detailed discussion at the last meeting about what amounted to bullying and it had been suggested that a definition should be included in the Code. An explanation of bullying/intimidation had therefore been included at the end of Part 1 of the amended Code. This has been compiled having considered a dictionary definition and examples used in other council's codes. For clarity, also included in the last 3 lines, was a statement of what bullying was not - relating specifically to the political arena. She said it was important that this was highlighted to avoid numerous spurious complaints.

Paragraph (o) had been amended to provide further clarity on public speaking and the need to make sure that it was made clear that views shared were those of the individual member and not the council (unless

of course that was the case) and also covered a situation where conduct could bring the council into disrepute.

## Part 2 – Registering and Declaring Interests

Mrs Hadgraft explained that there wasn't anything that needed to be added to Part 2 of the Code and no changes to the actual content were proposed. However, on reflection, it was felt that the wording in this section could be presented in a much clearer and simpler way to assist members to understand what must be included on the register and the requirements for declaring interests. The first section dealt with the need to register interests and what type of things should be included. These were listed in Appendix A (pecuniary, which are statutory) and Appendix B (non-pecuniary) and had not changed. The next section addressed how a registered Disclosable Pecuniary Interest should be declared at a meeting (where appropriate) and what should happen at the meeting in relation to discussion of the topic and voting. The final section explained the process for declaring Non Pecuniary Interests (either those listed in Appendix B or any other significant nonpecuniary interests).

- 5.8** The Working Group discussed each of the amendments proposed and agreed that the proposed amendments be approved in their entirety, subject only to two minor amendments, which have been included in the recommended changes to the Code of Conduct set out in Appendix 1 of this report.
- 5.9** The Working Group was also informed by the Monitoring Officer at its second meeting, that the long awaited Parliamentary Committee on Standards in Public Life Report on Ethical Standards in Local Government had been published on 30 January 2019. Mrs Hadgraft reminded the Working Group that the Standards Committee had responded on behalf of the Council in March 2018 to a consultation exercise conducted by the Parliamentary Committee as part of its review. She said that an initial look at the report indicated that a lot of the concerns raised by Wyre and many other councils, particularly the problem of the current standards process having no teeth, had been heard and the recommendations made would hopefully go some way to rectifying the issues raised. However, the reality was that in order for the recommendations to be brought into fruition, they would have to be approved by parliament and some would require new regulations or new primary legislation to be passed. It was, therefore, likely to be some time before the Council would be given the opportunity to implement any of the recommendations. The good news was that the work carried out by this Working Group would make Wyre's Code of Conduct more robust and align it more closely to the best practice identified in the report. It would also make it easier to introduce further changes in line with the findings and recommendations in the Report when the necessary legislation had been passed. The Working Party noted the position and agreed to recommend that the Standards Committee proceed with the amendments to the current Wyre Code now being proposed. (The

Executive Summary of the Committee on Standards in Public Life Report is being submitted to this meeting of the Standards Committee under agenda item 5).

<b>Financial and legal implications</b>	
Finance	None arising directly from this report.
Legal	<p>The Council is required by Section 27 of the Localism Act 2011 to promote and maintain high standards of conduct by members of the authority and to publish a code of conduct. There is no longer an 'official' model code, so the Council is responsible for agreeing its own code. The Council must also have procedures in place to deal with any breaches of the Code.</p> <p>Parish and town councils in the Borough are required either to agree their own code or to adopt Wyre's. However, Wyre is responsible for dealing with any alleged breaches of the code by parish and town councillors.</p>

#### **Other risks/implications: checklist**

If there are significant implications arising from this report on any issues marked with a ✓ below, the report author will have consulted with the appropriate specialist officers on those implications and addressed them in the body of the report. There are no significant implications arising directly from this report, for those issues marked with a x.

<b>risks/implications</b>	<b>✓ / x</b>
community safety	
equality and diversity	
sustainability	
health and safety	

<b>risks/implications</b>	<b>✓ / x</b>
asset management	
climate change	
ICT	
data protection	

#### **Processing Personal Data**

In addition to considering data protection along with the other risks/ implications, the report author will need to decide if a 'privacy impact assessment (PIA)' is also required. If the decision(s) recommended in this report will result in the collection and processing of personal data for the first time (i.e. purchase of a new system, a new working arrangement with a third party) a PIA will need to have been completed and signed off by Data Protection Officer before the decision is taken in compliance with the Data Protection Act 2018.

report author	telephone no.	email	date
Roy Saunders	01253 887481	Roy.saunders@wyre.gov.uk	5/3/19

<b>List of background papers:</b>		
name of document	date	where available for inspection
None	-	-

### **List of appendices**

Appendix 1: Proposed amendments to Wyre Council's Code of Conduct

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Appendix1

Proposed Amendments

For consideration at Standards Committee 14 March 2019

**COUNCILLORS CODE  
OF CONDUCT**

~~(Wyre Code of Conduct  
adopted by the Council on 6 September 2012  
in compliance with the Localism Act 2011).~~

## COUNCILLORS CODE OF CONDUCT FOR WYRE FROM 1 JULY 2012

### Part 1:

#### General Provisions and Obligations

1.1 ~~You are~~ As a member or co-opted member of ~~the~~ Wyre Borough Council ~~and hence you shall~~ you must have regard to the following principles – selflessness, integrity, objectivity, accountability, openness, honesty and leadership.

~~Accordingly, when acting in your capacity as a member or co-opted member:~~

1.2 ~~Accordingly, when acting in your capacity as a member (or when you claim to act, or give the impression you are acting in your capacity as a member or when you are acting as a representative of the Council on another body):~~

(a) ~~—~~ — You must uphold and have respect for the law.

(b) ~~—~~ — You must treat others with respect.

(c) ~~—~~ — You must have due regard, to advice provided by the Council's officers, particularly any advice given by the Chief Finance Officer, the Monitoring Officer or their Deputy's and the Head of the Paid Service.

(d) ~~—~~ — You must respect others and not bully or intimidate any person or attempt to bully or intimidate them (\*see advisory note). This includes not intimidating or attempting to intimidate any person who is, or is likely to be, a complainant, a witness or to be involved in the administration of proceedings, meetings or hearings, relating to an allegation that a councillor (including yourself) has failed to comply with the code of conduct.

(e) ~~—~~ — You must not disclose confidential information unless: you have the consent of a person authorised to give it; you are required by law to do so; the disclosure is made to a third party for the purpose of obtaining professional advice, provided that the third part agrees not to disclose the information to any other person; or, there is a clear and overriding public interest in doing so and the disclosure is made in good faith and in compliance with the reasonable requirements of the council and that you have consulted the Monitoring Officer or the Deputy Monitoring Officer prior to its release.

(f) ~~—~~ — You must act solely in the public interest and should never improperly confer an advantage or disadvantage on any person or act to gain financial or other material benefits for yourself, your family, a friend or close associate.

(g) ~~—~~ — You must not place yourself under a financial or other obligation to outside individuals or organisations that might seek to influence you in the performance of your official duties.

(h) ~~—~~ — When carrying out your public duties you must make all choices, such as making public appointments, awarding contracts or recommending individuals for rewards or benefits, on merit.

(i) ~~—~~ — You are accountable for your decisions to the public and you must co-operate fully with whatever scrutiny is appropriate to your office.



- (i) – You must be as open as possible about your decisions and actions and the decisions and actions of your authority and ~~should~~ be prepared to give reasons for those decisions and actions, in accordance with statutory requirements or any additional requirements made by the council.
- (k) – You must declare any private interests, both pecuniary and non-pecuniary, that relate to your public duties and must take steps to resolve any conflicts arising in a way that protects the public interest, including registering and declaring interests in a manner conforming with the procedures set out in Part 2 below.
- (l) – You must, when using or authorising the use by others of the resources of your authority, ensure that such resources are not used improperly for political purposes (including party political purposes).
- (m) – ~~and y~~ You must have regard to any applicable Local Authority Code of Publicity made under the Local Government Act 1986.
- (n) – You must promote and support high standards of conduct when serving in your public post, in particular as characterised by the above requirements, by leadership and example.
- (o) – You must be clear when communicating with the media or speaking in public that you do not give the impression you are acting in an official capacity when you are not. Nor should you express your own views in a way which misleads anyone reading or listening that it is official or agreed policy or position of the Council when it is your own personal view or those of a political party or group of people which you are a member
- You must not conduct yourself in a manner which could reasonably be regarded as bringing your office or the Council in to disrepute.

\*Advisory note on bullying

Bullying can include behaviour, which is inappropriate, unwelcome or offensive and which makes an individual or group feel, undermined, hurt, humiliated or insulted. It can have a damaging effect on a victim's confidence, capability and health. Inappropriate behaviour, even if not intentionally malicious, may amount to bullying if the impact is, or could be perceived to be, significant. Bullying conduct can involve behaving in an abusive or threatening way, or making allegations about people in public, in the company of their colleagues, through the press or social media. It may happen once or be part of a pattern of behaviour, although minor isolated incidents are unlikely to be considered bullying, particularly if there is not an imbalance of power or status between the perpetrator and the victim. Bullying does not include criticisms, comments or other actions that are delivered in an appropriate manner and in an appropriate arena which can reasonably be considered to be part and parcel of the hurly burly of political life.

**PART 2:****REGISTERING AND DECLARING INTERESTS****2. Registering Interests**

**2.1** You must, within 28 days of taking office as an elected member or co-opted member, notify the Council's Monitoring Officer of any ~~d~~**Disclosable Pecuniary Interest (DPI)** as defined by Regulations made by the Secretary of State, where the interest is yours, your spouse's or civil partner's, or somebody with whom you are living with as a husband or wife, or as if you were civil partners. **(Listed in Appendix A)**

**2.2** In addition, you must, within 28 days of taking office as a member or co-opted member, notify the Monitoring Officer of any disclosable interests which the Council has decided should be included in the register. **(Listed in Appendix B)**

~~**2.3** If an interest has not been entered onto the Council's register, then you must disclose the interest to any meeting of the authority at which you are present, where you have a disclosable interest (as listed in Appendix A or B) in any matter being considered and where the matter is not a 'sensitive interest'<sup>1</sup>. Subsequently you must notify the Monitoring Officer of the interest within 28 days of the date of the meeting.~~

**2.34** You must also notify the Monitoring Officer within 28 days of any new interests listed in Appendix A or B or any changes to those interests already notified/registered.

**2.5** Any interests notified to the Monitoring Officer will be included in a register of interests, which will be available for public inspection and will be published on the Council's website, unless it is a 'sensitive interest', as defined in the Localism Act 2011, (i.e. the nature of the interest is such that the member or co-opted member, and the authority's monitoring officer, consider that disclosure of the details of the interest could lead to the member or co-opted member, or a person connected with the member or co-opted member, being subject to violence or intimidation).

**Declaration of Disclosable Pecuniary Interests at Meetings (Appendix A),**

~~**2.65** You must make a verbal declaration (at the beginning or as soon as you become aware of the interest) of the existence and nature of any Disclosable Pecuniary Interest at any meeting at which you are present where an item of business which affects or relates to the subject matter of the interest is under consideration. Having declared the interest you must comply with the statutory requirement to withdraw from participating in any discussion or consideration of the matter in which you have a DPI. Unless a dispensation<sup>2</sup> has been granted, you must declare the interest and not participate in any~~

<sup>2</sup> A list of dispensations is published on the Council's website.

~~discussion of, vote on, or discharge any function related to any matter in which you have a disclosable pecuniary interest as defined by Regulations made by the Secretary of State, as listed in Appendix A.~~ In addition, the Council Procedure Rules require you to leave the room where the meeting is held while any discussion or voting takes place.

**2.7** The Council's Standards Committee may, in limited circumstances, grant you a dispensation to enable you to participate and vote on a matter in which you have a disclosable pecuniary interest.

**2.8** Following any disclosure of a disclosable pecuniary interest not on the Council's register or the subject of a pending notification, you must notify the Council's Monitoring Officer of that interest as soon as possible and, in any case, within 28 days beginning with the date of the disclosure at the meeting.

**Declaration of ~~Non- Pecuniary Other~~ Interests at Meetings (Appendix B) or Other ~~Significant Non- Pecuniary~~ Significant Interests)**

**2.96** You must also make a verbal declaration at any meeting of the authority at which ~~Where~~ you are present ~~at a meeting of the authority, (including any committee, sub-committee, joint committee or joint sub-committee of the authority or~~ or if you are an executive member discharging a function alone) and you either have an interest ~~either~~ described in Appendix B or any other significant significant non- pecuniary interest interest<sup>3</sup> which you feel should be declared in the public interest, ~~such interests must be declared to the meeting.~~ A significant non-pecuniary interest might, for example, include one where you anticipate that a decision might reasonably be deemed to benefit or disadvantage yourself, a member of your family or a person with whom you have a close association to a greater extent than the other Council constituents and that interest is not a Disclosable Pecuniary Interest.

**2.107** In such circumstances you must then consider whether your participation in the matter relating to your interest would be reasonable in the circumstances particularly if the interest may give rise to a perception of a conflict of interest and/or is likely to prejudice your judgement.

**2.118** In such circumstances you will be allowed to make representations on the matter being discussed at the meeting, where there is an entitlement for a member of the public to speak, but you must not vote. If there is no entitlement for a member of the public to speak then you must not participate

<sup>3</sup>- ~~A significant significant non- pecuniary interest might include one where you anticipate that a decision might reasonably be deemed to benefit or disadvantage yourself, a member of your family or a person with whom you have a close association to a greater extent than other Council constituents and that interest is not a disclosable pecuniary interest.~~

or vote on the matter being discussed at the meeting. In either case the Council Procedure Rules require you to leave the room where the meeting is held while any discussion or voting takes place.

**2.12** Any declarations of interest made at a meeting will be recorded in the minutes.

## **APPENDIX A**

### **DISCLOSABLE PECUNIARY INTERESTS AS DEFINED BY REGULATIONS**

- 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. This includes any payment or financial benefit from a trade union within the meaning of the Trade Union and Labour Relations (Consolidation) Act 1992. The relevant period is the 12 months ending on the day when you tell the monitoring officer about your disclosable pecuniary interests following your election or re-election, or when you became aware you had a disclosable pecuniary interest relating to a matter on which you were acting alone.
- 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.

**Failure to take appropriate action in respect of a Disclosable Pecuniary Interest may result in a criminal conviction and a fine of up to £5,000 and/or disqualification from office for a period of up to 5 years.**

**APPENDIX B****NON-PECUNIARY~~OTHER~~ DISCLOSABLE INTERESTS WHICH THE COUNCIL HAS DECIDED SHOULD BE INCLUDED IN THE REGISTER**

- Details of any body of which you are a member or in a position of general control or management and to which you are appointed or nominated by your authority;
- Details of anybody exercising functions of a public nature, any body directed to charitable purposes or any body one of whose principal purposes includes the influence of public opinion or policy (including any political party or trade union), of which you are a member or in a position of general control or management.
- Details of any gift or hospitality with an estimated value of at least £50 that you have received in connection with your role as a member of the Council, and details of the donor (which will be kept on a separate register and will also be published on the Council's website).



## Local Government Ethical Standards

Committee on Standards in Public Life

*Chair: Lord Evans of Weardale KCB DL*

January 2019



# Executive summary

Local government impacts the lives of citizens every day. Local authorities are responsible for a wide range of important services: social care, education, housing, planning and waste collection, as well as services such as licensing, registering births, marriages and deaths, and pest control. Their proximity to local people means that their decisions can directly affect citizens' quality of life.

High standards of conduct in local government are therefore needed to protect the integrity of decision-making, maintain public confidence, and safeguard local democracy.

Our evidence supports the view that the vast majority of councillors and officers maintain high standards of conduct. There is, however, clear evidence of misconduct by some councillors. The majority of these cases relate to bullying or harassment, or other disruptive behaviour. There is also evidence of persistent or repeated misconduct by a minority of councillors.

We are also concerned about a risk to standards under the current arrangements, as a result of the current rules around declaring interests, gifts and hospitality, and the increased complexity of local government decision-making.

Giving local authorities responsibility for ethical standards has a number of benefits. It allows for flexibility and the discretion to resolve standards issues informally. We have considered whether there is a need for a centralised body to govern and adjudicate on standards. We have concluded that whilst the consistency and independence of the system could be enhanced, there is no reason to reintroduce a centralised body, and that local

authorities should retain ultimate responsibility for implementing and applying the Seven Principles of Public Life in local government.

We have made a number of recommendations and identified best practice to improve ethical standards in local government. Our recommendations are made to government and to specific groups of public office-holders. We recommend a number of changes to primary legislation, which would be subject to Parliamentary timetabling; but also to secondary legislation and the Local Government Transparency Code, which we expect could be implemented more swiftly. Our best practice recommendations for local authorities should be considered a benchmark of good ethical practice, which we expect that all local authorities can and should implement. We will review the implementation of our best practice in 2020.

## Codes of conduct

Local authorities are currently required to have in place a code of conduct of their choosing which outlines the behaviour required of councillors. There is considerable variation in the length, quality and clarity of codes of conduct. This creates confusion among members of the public, and among councillors who represent more than one tier of local government. Many codes of conduct fail to address adequately important areas of behaviour such as social media use and bullying and harassment. An updated model code of conduct should therefore be available to local authorities in order to enhance the consistency and quality of local authority codes.





There are, however, benefits to local authorities being able to amend and have ownership of their own codes of conduct. The updated model code should therefore be voluntary and able to be adapted by local authorities. The scope of the code of conduct should also be widened, with a rebuttable presumption that a councillor's public behaviour, including comments made on publicly accessible social media, is in their official capacity.

### **Declaring and managing interests**

The current arrangements for declaring and managing interests are unclear, too narrow and do not meet the expectations of councillors or the public. The current requirements for registering interests should be updated to include categories of non-pecuniary interests. The current rules on declaring and managing interests should be repealed and replaced with an objective test, in line with the devolved standards bodies in Scotland, Wales and Northern Ireland.

### **Investigations and safeguards**

Monitoring Officers have responsibility for filtering complaints and undertaking investigations into alleged breaches of the code of conduct. A local authority should maintain a standards committee. This committee may advise on standards issues, decide on alleged breaches and sanctions, or a combination of these. Independent members of decision-making standards committees should be able to vote.

Any standards process needs to have safeguards in place to ensure that decisions are made fairly and impartially, and that councillors are protected against politically-motivated, malicious, or unfounded allegations of misconduct. The Independent Person is an important safeguard in the current system. This safeguard should be strengthened and clarified: a local authority should only be able to suspend a councillor where the Independent

Person agrees both that there has been a breach and that suspension is a proportionate sanction. Independent Persons should have fixed terms and legal protections. The view of the Independent Person in relation to a decision on which they are consulted should be published in any formal decision notice.

### **Sanctions**

The current sanctions available to local authorities are insufficient. Party discipline, whilst it has an important role to play in maintaining high standards, lacks the necessary independence and transparency to play the central role in a standards system. The current lack of robust sanctions damages public confidence in the standards system and leaves local authorities with no means of enforcing lower level sanctions, nor of addressing serious or repeated misconduct.

Local authorities should therefore be given the power to suspend councillors without allowances for up to six months. Councillors, including parish councillors, who are suspended should be given the right to appeal to the Local Government Ombudsman, who should be given the power to investigate allegations of code breaches on appeal. The decision of the Ombudsman should be binding.

The current criminal offences relating to Disclosable Pecuniary Interests are disproportionate in principle and ineffective in practice, and should be abolished.



## **Town and parish councils**

Principal authorities have responsibility for undertaking formal investigations of code breaches by parish councillors. This should remain the case. This responsibility, however, can be a disproportionate burden for principal authorities. Parish councils should be required to adopt the code of their principal authority (or the new model code), and a principal authority's decision on sanctions for a parish councillor should be binding. Monitoring Officers should be provided with adequate training, corporate support and resources to undertake their role in providing support on standards issues to parish councils, including in undertaking investigations and recommending sanctions. Clerks should also hold an appropriate qualification to support them to uphold governance within their parish council.

## **Supporting officers**

The Monitoring Officer is the lynchpin of the current standards arrangements. The role is challenging and broad, with a number of practical tensions and the potential for conflicts of interest. Local authorities should put in place arrangements to manage any potential conflicts. We have concluded, however, that the role is not unique in its tensions and can be made coherent and manageable with the support of other statutory officers. Employment protections for statutory officers should be extended, and statutory officers should be supported through training on local authority governance.

## **Councils' corporate arrangements**

At a time of rapid change in local government, decision-making in local councils is getting more complex, with increased commercial activity and partnership working. This complexity risks putting governance under strain. Local authorities setting up separate bodies risk a governance 'illusion', and should

take steps to prevent and manage potential conflicts of interest, particularly if councillors sit on these bodies. They should also ensure that these bodies are transparent and accountable to the council and to the public.

Our analysis of a number of high-profile cases of corporate failure in local government shows that standards risks, where they are not addressed, can become risks of corporate failure. This underlines the importance of establishing and maintaining an ethical culture.

## **Leadership and culture**

An ethical culture requires leadership. Given the multi-faceted nature of local government, leadership is needed from a range of individuals and groups: an authority's standards committee, the Chief Executive, political group leaders, and the chair of the council.

Political groups have an important role to play in maintaining an ethical culture. They should be seen as a semi-formal institution sitting between direct advice from officers and formal processes by the council, rather than a parallel system to the local authority's standards processes. Political groups should set clear expectations of behaviour by their members, and senior officers should maintain effective relationships with political groups, working with them informally to resolve standards issues where appropriate.

The aim of a standards system is ultimately to maintain an ethical culture and ethical practice. An ethical culture starts with tone. Whilst there will always be robust disagreement in a political arena, the tone of engagement should be civil and constructive. Expected standards of behaviour should be embedded through effective induction and ongoing training. Political groups should require their members to attend code of conduct training provided by a local authority, and this should also be



written into national party model group rules. Maintaining an ethical culture day-to-day relies on an impartial, objective Monitoring Officer who has the confidence of all councillors and who is professionally supported by the Chief Executive.

An ethical culture will be an open culture. Local authorities should welcome and foster opportunities for scrutiny, and see it as a way to improve decision making. They should not rely unduly on commercial confidentiality provisions, or circumvent open decision-making processes. Whilst local press can play an important role in scrutinising local government, openness must be facilitated by authorities' own processes and practices.



# List of recommendations

Number	Recommendation	Responsible body
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
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
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
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
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
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



Number	Recommendation	Responsible body
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
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
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
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
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
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
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



List of recommendations

Number	Recommendation	Responsible body
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
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 (e.g. bullying; conflict of interest); the outcome of those complaints, including if they are rejected as trivial or vexatious; and any sanctions applied.	Government
16	Local authorities should be given the power to suspend councillors, without allowances, for up to six months.	Government
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
18	The criminal offences in the Localism Act 2011 relating to Disclosable Pecuniary Interests should be abolished.	Government
19	Parish council clerks should hold an appropriate qualification, such as those provided by the Society of Local Council Clerks.	Parish councils
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
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
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



<b>Number</b>	<b>Recommendation</b>	<b>Responsible body</b>
<b>23</b>	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
<b>24</b>	Councillors should be listed as 'prescribed persons' for the purposes of the Public Interest Disclosure Act 1998.	Government
<b>25</b>	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
<b>26</b>	Local Government Association corporate peer reviews should also include consideration of a local authority's processes for maintaining ethical standards.	Local Government Association



# List of best practice

Our best practice recommendations are directed to local authorities, and we expect that any local authority can and should implement them. We intend to review the implementation of our best practice in 2020.

**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.

**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.

**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.

**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.

**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.

**Best practice 6:** Councils should publish a clear and straightforward public interest test against which allegations are filtered.

**Best practice 7:** Local authorities should have access to at least two Independent Persons.

**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.





**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.

**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.

**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.

**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.

**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 investigation.

**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.

**Best practice 15:** Senior officers should meet regularly with political group leaders or group whips to discuss standards issues.

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**Summary of current complaints: 14 March 2019**

The following alleged breaches of the Code of Conduct are either currently being dealt with under the Council's complaints process or have been concluded since the meeting of the Standards Committee held on 15 November 2018

Ref No	Complainant	Subject Member	Category of Complaint	Progress/Outcome
2018/05	A member of the public	A Wyre Councillor	Abusive to a member of the public when delivering leaflets.	Monitoring Officer unable to fully clarify the circumstances of the complaint. Information provided insufficient to take complaint further.  No further action to be taken.
2018/04	A member of the public	A Parish/Town Councillor	Inappropriate personal comments made in public at a Parish/Town Council meeting	Monitoring Officer gathered information relating to the complaint and then, together with the Independent Person, met with the subject member.  The subject member subsequently made an explanatory statement and an apology at the following Parish/Town Council meeting.  No further action to be taken.
2018/06	A Wyre Councillor	A Wyre Councillor	Breach of principles of openness and honesty, relating to home address.	Complaint investigated by the Monitoring Officer.  Monitoring Officer and Independent Person met separately with both the complainant and the subject member.  No breach of either election rules or the code of conduct found. No further action to be taken.

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