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Co-operative Council

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Borough of Telford and Wrekin

Standards Committee

Wednesday, 28 September 2022

6.00 pm

The Telford Room, Addenbrooke House, Ironmasters Way,
Telford, TF3 4NT

Democratic Services: Rhys Attwell 01952 382195

Media Enquiries: Corporate Communications 01952 382406

Committee Members: Councillors G H Cook (Chair), A D McClements (Vice-Chair),
A J Eade, N A M England, I Preece, P J Scott and J M Seymour

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STANDARDS COMMITTEE

Minutes of a meeting of the Standards Committee held on Tuesday, 1 February 2022 at 6.00 pm in Addenbrooke House, Ironmasters Way, Telford, TF3 4NT

Present: Councillors G H Cook (Chair), A J Eade, A D McClements (Vice-Chair), I Preece, P J Scott and J M Seymour

In Attendance: R Attwell (Democracy Officer (Democracy)), J Clarke (Senior Democracy Officer (Democracy)), A Lowe (Director: Policy & Governance) and R Phillips (Service Delivery Manager, Legal & Democracy)

Apologies: N A M England

ST1 Declarations of Interest

None.

ST2 Minutes of the Previous Meeting

RESOLVED – that the minutes of the meeting held on 28th September 2021 have been confirmed and signed by the Chair.

ST3 Proposed recruitment exercise

The Associate Director for Policy and Governance presented the report in respect of the recruitment of two Independent Persons. This was in furtherance of the recommendations of the Committee for Standards in Public Life (CSPL) who recommend that Councils have more than one independent person in case of a conflict of interest. In addition, it also ensured that the ethical framework and the code of conduct processes would be easier to uphold.

The Associate Director stated it was important to have two Independent Persons for logistical reasons and to support the Monitoring Officer and Deputy Monitoring Officer during investigations concerning code of conduct complaints. The recruitment pack gave details of the role, legislation and desirable skills required. It was preferable that applicants had good communication skills, experience of carrying out investigations and that they supported and understood the principles of public life. If Members were minded to approve the recommendation, delegated authority was sought for the recruitment pack to be released to other local councils, community groups and the Fire Authority.

During the meeting, some Members asked if the current Independent Person would be able to apply for the position and were there any rules on diversity. Other Members, asked if the Independent Person could attend Standards Committee meetings and how the selection process would be undertaken.

The Associate Director stated that the aim was to appoint two independent persons who ideally would better reflect the population of the Borough. Clearly, a higher number of applicants would ensure that the pool of candidates was more diverse.

Other Members questioned whether the Independent Person was required to attend committee meetings and expressed support such an approach. The Associate Director confirmed that the Service Delivery Manager in his role as Independent Person at Sandwell Metropolitan Borough Council did attend committees and that this was a positive things. It was confirmed that the recruitment pack would be amended to include a requirement to attend Standards Committees throughout the year.

The Associate Director confirmed that the Chair's input would be sought throughout the recruitment process.
Upon being put to the vote it was

RESOLVED – that:

- a) The recruitment of two Independent Persons be approved; and**
- b) Delegated authority be granted to the Associate Director: Policy & Governance, in consultation with the Chair of the Standards Committee to undertake the necessary recruitment activity.**

The meeting ended at 6.12 pm

Chairman:

Date: Wednesday, 28 September 2022



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Borough of Telford and Wrekin

Standards Committee

28 September 2022

Terms of Reference 2022/23

Cabinet Member:	Cllr Rae Evans - Cabinet Member: Cabinet Member for Finance, Governance and Customer Services
Lead Director:	Anthea Lowe - Director: Policy & Governance
Service Area:	Democracy
Report Author:	Rhys Attwell (Democracy Officer)
Officer Contact Details:	Tel: 01952 382195 Email: rhys.attwell@telford.gov.uk
Wards Affected:	None
Key Decision:	Not Key Decision
Forward Plan:	Not applicable
Report considered by:	N/A

1.0 Recommendations for decision/noting:

It is recommended that the Standards Committee :-

Review and agree the amended Terms of Reference set out at Appendix 1.

2.0 Purpose of Report

2.1 To set out the Terms of References for the Standards Committee as outlined in Appendix 1.

3.0 Background

3.1 The Constitution requires that Full Council should agree at its Annual Meeting the Terms of Reference for each of its Committees to enable the Council to efficiently conduct its business.

- 3.2 At the Annual Meeting of the Council on 19 May 2022, Full Council delegated authority to each Committee to review its own Terms of Reference.
- 3.3 The Terms of Reference forms part of the Constitution and was approved by Full Council in that context on 3 March 2022.
- 3.4 There is one minor change suggested to the Terms of Reference (shown in red on Appendix 1) to provide clarity around the process for appointment of a Chair for the Committee. It notes that the Chair is appointed by Full Council (in line with the Constitution) but sets out that a Vice-Chair may be appointed by a majority decision of the Committee.

4.0 Summary of main proposals

- 4.1 For the Standards Committee to review its Terms of Reference attached at Appendix 1 to clarify the procedure for election of a Chair and Vice-Chair of the Committee.

5.0 Alternative Options

- 5.1 There are no alternative options arising from this report.

6.0 Key Risks

- 6.1 There are no key risks arising from this report.

7.0 Council Priorities

- 7.1 A community-focussed, innovative council providing efficient, effective and quality services.

8.0 Financial Implications

- 8.1 There are no financial implications arising from this report.

9.0 Legal and HR Implications

- 9.1 The Constitution requires that Full Council should agree at its Annual Meeting the Terms of Reference for each of its Committees. At the Annual Meeting of the Council on 19 May 2022, Full Council delegated authority to each Committee to review its own Terms of Reference.

The Council's Constitution sets out that the Chair of Committees shall be decided at the Annual meeting of Full Council. Accordingly, the terms of reference for the

Committee should mirror these provisions. It is also prescient for the terms of reference to provide clarity on the election of a Vice-Chair for the Committee.

Once the Committee has confirmed its terms of reference, the Monitoring Officer will update the Constitution to ensure consistency of the terms of reference of the Committee. There are no direct legal implications arising from this report.

10.0 Ward Implications

10.1 There are no ward implications arising from this report.

11.0 Health, Social and Economic Implications

11.1 There are no health, social and economic implications arising from this report.

12.0 Equality and Diversity Implications

12.1 There are no equality and diversity implications arising from this report.

13.0 Climate Change and Environmental Implications

13.1 There are no climate change and environmental implications arising from this report.

14.0 Background Papers

14.1 Council Constitution.

15.0 Appendices

1 Terms of Reference Standards Committee

16.0 Report Sign Off

Signed off by Legal	Date sent 08/09/2022	Date signed off 08/09/2022	Initials RP
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Standards Committee Terms of Reference, Functions, Powers and Duties (including the Hearings Sub Committee)

The Committee has the responsibility and delegated powers to act on behalf of the Council in dealing with the oversight of the Council's ethical governance and decide on the following matters.

TERMS OF REFERENCE

STANDARDS COMMITTEE

1. To promote and maintain high standards of conduct by members and co-opted members of the Council.
2. To support Town and Parish Councils within the Borough to promote and maintain high standards of conduct by members and co-opted members of the Council.
3. To recommend to Council the adoption of a code dealing with the conduct that is expected of members and co-opted members of the Authority.
4. To keep the [code of conduct](#) under review and recommend changes/ replacement to Council as appropriate.
5. To publicise the adoption, revision or replacement of the Council's [Code of Conduct](#).
6. To oversee the process for the recruitment of an Independent Person (and up to 2 reserves) and make recommendations to Council for their appointment.
7. To receive reports from the Monitoring Officer about:-
 - 7.1 The progress and outcome of investigations; and
 - 7.2 The establishment and maintenance of the register of interests of members and co-opted members of the Borough and Town and Parish Councils within the Borough boundaries;
 - 7.3 dispensations granted to members and co-opted members of the Council.
8. **The Chair is appointed at the Annual General Meeting of Full Council. A Vice-Chair may be appointed by majority decision of the Committee.**

HEARINGS SUB COMMITTEE

1. To consider investigation reports in respect of [Code of Conduct](#) complaints that are referred to it by the [Monitoring Officer](#).
To report its findings to the Borough Council, Town of Parish Council, as appropriate for information.
2. Where a breach is found to make decisions about sanctions including:-
 - 2.1. To make recommendations to the relevant Group Leader regarding future membership of committees and sub committees;
 - 2.2. To make recommendations to Council regarding the removal of a nonaligned member from membership of committee and sub-committees;

2.3. To make recommendations to the Leader of the Council regarding the removal of a member from Cabinet, or the removal of portfolio responsibilities;

2.4. To instruct the [Monitoring Officer](#) to arrange training for a Borough Council member;

2.5. To remove a member from all outside appointments to which he/ she has been appointed or nominated by the Council; and

2.6. To withdraw facilities provided to the member or exclude the member from defined premises (except as necessary for the member to attend formally constituted council meetings).

3. To consider applications for dispensations where:-

3.1. The dispensation is in the interests of persons living in the Borough of Telford & Wrekin area; or

3.2. It is otherwise appropriate to grant a dispensation.

Note – The Standards Committee have delegated the following powers and functions to the [Monitoring Officer](#)

- 1 The power to receive and make an initial assessment of formal Code of Conduct complaints made to the Standards Committee and decide whether further action or investigation is required.
- 2 The power to make arrangements for local settlement of complaints where the Monitoring Officer considers it appropriate including arranging mediation if required.
- 3 The power to consider and grant dispensations to Members where:
 - i. The number of Members precluded from transacting the business is so great that it would impede the business of the Council, committee or Executive
 - ii. The political balance is affected to the extent that it could affect the outcome of a vote relating to the business

PROCEDURE

The Committee will be conducted in accordance with the Council's [Committee Procedure Rules](#). NOTE - Separate procedures will apply when the committee is undertaking administrative or quasi-judicial functions.



Borough of Telford and Wrekin

Standards Committee Report

Wednesday 28th September 2022

Appointment of Independent Persons

Cabinet Member:	Cllr Rae Evans - Cabinet Member: Finance, Governance and Customer Services
Lead Director:	Anthea Lowe - Director: Policy & Governance
Service Area:	Policy & Governance
Report Author:	Richard Phillips - Service Delivery Manager; Legal & Democracy
Officer Contact Details:	Tel: 01952 383241 Email: richard.phillips@telford.gov.uk
Wards Affected:	All Wards
Key Decision:	Not key decision
Forward Plan:	N/A
Report considered by:	N/A

1.0 Recommendations for decision/noting:

It is recommended that the Standards Committee notes the update on the recruitment process so far for new Independent Persons and recommends to Full Council that the appointments of Thomas Senior and Julia Lynch as Independent Persons for Telford and Wrekin Council be approved such appointment to be for an initial period of four years.

2.0 Purpose of Report

2.1 The purpose of this report is to update the Committee on the activity to date in respect of the recruitment of two Independent Persons and to seek the Committee's agreement to recommend to Full Council the appointment of the preferred candidates.

3.0 Background

- 3.1 At the Committee's meeting of 1 February 2022, the Committee was provided with an update on the proposed recruitment exercise for two Independent Persons. The Committee approved the proposed recruitment exercise and delegated authority to the Monitoring Officer, in consultation with the Chair, to undertake the necessary recruitment activity.
- 3.2 Members discussed the proposed recruitment activity and considered that it would be desirable for the Independent Persons to also attend Committee meetings and play a meaningful role in Standards Committee work going forward. Accordingly, the recruitment packs were amended so as to make clear that attendance at Committee meetings would be considered part of the role.
- 3.3 3 applications were received and, after discussion with the Chair, two candidates were interviewed. Following interview, it is recommended that both candidates be appointed as Independent Persons for the Council for an initial term of four years. Standards Committee is asked to recommend to Full Council, the appointment of Thomas Senior and Julia Lynch to act as Independent Persons.

4.0 Summary of main proposals

- 4.1 Following a recruitment exercise, two candidates have been identified who are suitable for appointment as Independent Persons. Details of each candidate have been set out below. They each have a working knowledge of local government law, meet the eligibility criteria set out in the Localism Act 2011 and are committed to good governance and the ethical framework relating to the member standards regime.
- 4.2 Thomas Senior resides within the Borough. He is a Senior Lawyer and Manager at Dudley Metropolitan Borough Council and has previously also worked at City of Wolverhampton Council. He has direct experience of standards work through his employment.
- 4.3 Julia Lynch is a senior Lawyer working at the Information Commissioner's Office and has previously worked within Legal Services at Sandwell Metropolitan Borough Council. She has direct experience of conducting standards investigations.
- 4.4 Both candidates are, in the opinion of the Monitoring Officer, suitable for appointment to the role of Independent Person. Although the Localism Act 2011 only requires a Council to appoint a single independent person, Members may recall that the Committee for Standards in Public Life considers it to be good practice to have at least two Independent Persons appointed, to account for any potential conflicts of interest.

5.0 Alternative Options

- 5.1 The Council must, in accordance with the Localism Act 2011, appoint an Independent Person to be consulted by the complainant, any elected member subject to a complaint and the Monitoring Officer when determining Code of Conduct complaints.
- 5.2 The Committee for Standards in Public Life has recently recommended that an Independent Person should spend no longer than 8 years in the role, a period which the current Independent Person has exceeded.
- 5.3 If the Council does not appoint new Independent Persons, it will not be acting in accordance with the recommendations of the Committee for Standards in Public Life.

6.0 Financial Implications

- 6.1 The Independent Person roles will be remunerated by payment of a co-optee fee, which is in accordance with the Members' Allowances set by full Council and applies to all co-optees, across all of the Council's committees. The fees will be met from existing departmental budgets.

7.0 Legal and HR Implications

- 7.1 The Council must, in accordance with the Localism Act 2011, appoint at least one Independent Person. The report sets out that it is considered best practice to appoint more than one Independent Person, should a conflict arise. The recommendations contained within this report will ensure the Council is meeting its statutory obligations and ensure that Code of Conduct matters can be progressed efficiently and in accordance with the law.

8.0 Background Papers

- 1 Standards Committee Papers from 1 February 2022.

9.0 Report Sign Off

Signed off by	Date sent	Date signed off	Initials
Legal	01/09/2022	02/09/2022	AL
Finance	01/09/2022	07/09/2022	MB

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Standards Committee

Wednesday 28 September 2022

Approval of Updated Complaints and Investigation Process

Cabinet Member:	Cllr Rae Evans - Cabinet Member: Finance, Governance and Customer Services
Lead Director:	Anthea Lowe - Director: Policy & Governance
Service Area:	Policy & Governance
Report Author:	Richard Phillips - Service Delivery Manager: Legal & Democracy
Officer Contact Details:	Tel: 01952 383241 Email: richard.phillips@telford.gov.uk
Wards Affected:	All Wards
Key Decision:	Not Key Decision
Forward Plan:	Not Applicable
Report considered by:	N/A

1.0 Recommendations for decision/noting:

- 1.1 That Committee considers and approves the updated process for investigating and dealing with Standards Complaints

2.0 Purpose of Report

- 2.1 For committee to consider the updated process for dealing with and investigating Standards Complaints made against Councillors.

3.0 Background

- 3.1 As part of a review of the Council's Policies and Procedures, a review of the process and procedures for dealing with Standards complaints has taken place and an updated procedure has been prepared for consideration.

4.0 Summary of main proposals

- 4.1 Members are asked to fully consider the updated document at Appendix 1. Although more detailed than the existing procedure for dealing with Complaints about alleged breaches of the Councillor's Code of Conduct, it is critical that Councillors, members of the public, officers and anyone else involved in the process is fully aware of what to expect in terms of process, timescales and potential outcomes and therefore the procedure has been updated accordingly.
- 4.2 Consideration has been given to the level of detail used in other Councils' policies and procedures for dealing with alleged Code breaches and in the Monitoring Officer's opinion the new Standards Complaints Procedure, whilst detailed, is easy to follow and has been prepared in a "plain English" style so as to be accessible to all who may need to read it.
- 4.3 That said, there are no fundamental changes to the procedures and processes which are in existence currently, rather the policy seeks to reflect the way in which standards complaints are dealt with in practice already

5.0 Alternative Options

- 5.1 The Council has a duty, in accordance with the Localism Act 2011, to promote and maintain high standards of conduct by its members and co-opted members and must also adopt a code dealing with the conduct that is expected of members and co-opted members. It therefore follows that the Council should also adopt a procedure to deal with allegations of breach of the code. Adopting such a procedure provides members of the public and members of the authority with clear and transparent information regarding what is to be expected when a complaint is received.

6.0 Key Risks

None

7.0 Council Priorities

- 7.1 Good Governance and an effective standards regime for Elected Councillors links to the Council's desire to be a community-focussed, innovative council providing efficient, effective and quality services. The adoption of the model Code of Conduct and consideration of these recommendations supports confidence the Councillors will uphold the seven principles of public life and undertake their roles in an honest and open way.

8.0 Financial Implications

There are no direct financial implications arising from this report.

9.0 Legal and HR Implications

The legal implications are set out within the body of the report. Legal Services have considered the proposed procedures to ensure they comply with legislation relating to standards matters and that they comply fully with the Council's equality duties.

10.0 Ward Implications

There are no specific ward implications arising from this report.

11.0 Health, Social and Economic Implications

There are no health, social and economic implications arising from this report.

12.0 Equality and Diversity Implications

There are no equality and diversity implications arising from this report.

13.0 Climate Change and Environmental Implications

There are no no climate change and environmental implications arising from this report.

14.0 Background Papers

1 None

15.0 Appendices

Appendix 1 Arrangements for the investigation and determination of allegations made in respect of the Council's Member Code of Conduct

16.0 Report Sign Off

Signed off by	Date sent	Date signed off	Initials
Legal	14/09/22	14/09/22	RP
Finance	14/09/22	14/09/22	MB

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Arrangements for dealing with standards allegations under the Localism Act 2011

1. Context

These arrangements set out how to make a complaint that an elected or co-opted member of the Council has failed to comply with the Council's Councillor Code of Conduct. They will also be used in relation to any complaint made to the Monitoring Officer about the conduct of Town and Parish Councillors.

Under the Localism Act 2011, the Council must have in place arrangements under which any allegation of a failure to comply with the Code of Conduct can be investigated and decisions made about such allegations.

The arrangements must provide for the authority to appoint at least one Independent Person, whose views must be sought by the authority before it takes a decision on any allegation of a failure to comply with the Code of Conduct. The view of the independent person can be sought at any other stage and by an elected Councillor against whom a complaint has been made.

2. The Code of Conduct

The Council has adopted a Code of Conduct for Councillors, which is available for inspection on the Council's website. These arrangements refer to the Code of Conduct and this document should be read in conjunction with it.

3. How to make a complaint

To make a complaint, please write to or email to the Monitoring Officer, Anthea Lowe on the details set out below:

Anthea Lowe, Monitoring Officer, Director: Policy & Governance, Telford & Wrekin Council, Addenbrooke House, Telford, TF3 4NT.

anthea.lowe@telford.gov.uk

4. The Role of the Monitoring Officer

The Monitoring Officer is a senior officer of the authority who has statutory responsibility for maintaining the register of Members' interests and who is responsible for administering the system in respect of complaints of Councillor misconduct.

The Monitoring Officer may appoint a Deputy Monitoring Officer who may be tasked with

undertaking investigations and decisions in line with these arrangements.

In the event of there being a conflict of interest in relation to both the Monitoring Officer and Deputy Monitoring Officer, the Monitoring Officer will, in consultation with the Chief Executive, seek to appoint another Deputy Monitoring Officer, or alternatively, refer the matter to a Monitoring Officer from another Authority.

Complaints should be submitted using the Form for reporting a breach(es) of Councillor Code of Conduct.

In order to ensure that all the information needed to be able to process a complaint is included, please complete and send the complaint form, which can be downloaded from the Council's website.

The complainant should provide their name and a contact address or email address, so that the complaint can be acknowledged and they can be kept informed of its progress. If the Complainant wishes to keep their name and address confidential, they should indicate this on the complaint form along with their reasons, in which case their name and address will not be disclosed to the Councillor against whom the complaint is made without their prior consent only in exceptional circumstances. The authority does not normally investigate anonymous complaints, unless there is a clear public interest in doing so.

The Monitoring Officer will acknowledge receipt of your complaint within 5 working days of receiving it and will keep you informed of the progress of your complaint.

5. Will your complaint be investigated?

Preliminary tests

The Monitoring Officer will review every complaint received and take a decision as to whether it merits formal investigation. This decision will normally be taken within 15 working days of receipt of your complaint.

The complaint will be assessed by the Monitoring Officer, or in their absence the Deputy Monitoring Officer, in consultation with the Independent Person against the Stage One Legal Threshold set out in paragraph 5.1 and, if applicable, the Stage Two Initial Assessment test set out in paragraph 5.2 below.

5.1 Stage One - Legal Threshold:

- (a) Was the person complained of a Councillor at the time of the alleged conduct?
- (b) Was the person complained of acting in an official capacity at the time of the alleged conduct?
- (c) If the facts could be established as a matter of evidence, could the alleged conduct be capable of a breach of the Code of Conduct in force at the material time?
- (d) The complaint is about dissatisfaction with the Council's decisions, policies and priorities, etc.

If the complaint fails one or more of the Stage One Legal Threshold tests, no further action will be taken by the Monitoring Officer and the complaint will be rejected. The Complainant will be notified accordingly with reasons. There is no right of appeal against the Monitoring Officer's decision.

5.2 Stage Two – Initial Assessment

If the complaint satisfies the Stage One Legal Threshold test, the Monitoring Officer will then apply the following Initial Assessment criteria test:

- (a) The complaint is a 'repeat complaint', unless supported by new or further evidence substantiating or indicating that the complaint is exceptionally serious or significant;
- (b) The complaint is anonymous;
- (c) Insufficient information/evidence to substantiate the complaint has been submitted by the Complainant;
- (d) The complaint is malicious, trivial, politically motivated or 'tit-for-tat';
- (e) The Complainant is unreasonably persistent, malicious and/or vexatious;
- (f) The alleged misconduct happened more than 6 months ago;
- (g) The complaint is relatively minor and dealing with the complaint would have a disproportionate effect on both public money and officers' and Councillors' time and it is more appropriate for the matter to be discussed within the Councillor's Political Group;
- (h) The circumstances have changed so much that there would be little benefit arising from an investigation or other action;
- (i) The complaint has been the subject of an investigation or other action and there is nothing more to be gained by further action being taken;
- (j) The complaint is such that it is unlikely that an investigation will be able to come to a firm conclusion on the matter, e.g. where there is no firm evidence on the matter;
- (k) The complaint is about a deceased person;
- (l) The complaint is about a person who is no longer a Councillor.

If one or more of the Stage Two Initial Assessment test applies to the complaint, no further action will be taken by the Monitoring Officer and the complaint will be rejected. The Complainant will be notified accordingly with reasons. There is no right of appeal against the Monitoring Officer's decision.

If the complaint identifies criminal conduct or breach of other regulation by any person, the Monitoring Officer has the power to call in the Police and other regulatory agencies.

If none of the criteria in the Stage Two Initial Assessment apply, the Monitoring Officer will go on to apply the Public Interest Test at 5.3.

5.3 Stage 3 – Public Interest Test

Public interest is regarded as "something which is of serious concern and benefit to the public". It has also been held that the public interest does not mean what is of interest to the public, but what is in the interest of the public.

The Council is of the view that it should not use its resources to investigate matters which are trivial or which have little or no impact upon the public. It is important that

the Council focuses on investigations where matters are serious and capable of undermining the relationship between Councillors and the public they serve such as; corruption, bullying, damaging the Council's public image, bringing the Council into disrepute, or the misuse of power in public office.

When applying the public interest test, the Monitoring Officer and Independent Person shall consider each of the following public interest factors set out below. These factors are not exhaustive, and not all may be relevant in every case.

The weight to be attached to each of these factors, and the factors identified, will also vary according to the facts and merits of each case.

- the seriousness of the breach, for example, has the Councillor brought the Council seriously into disrepute? The more serious the breach the more likely investigation and referral for further hearing is required;
- has the Councillor deliberately sought personal gain for himself or another person at the public expense? If there is evidence of this, it is likely that the complaint will be investigated and referred for further hearing;
- are the circumstances of the breach such that a Councillor has misused a position of trust or authority and caused harm to a person? If there is evidence of this it is likely that the complaint will be investigated and referred for further hearing;
- was the breach motivated by any form of discrimination against the victim's ethnic or national origin, gender, disability, age, religion or belief, sexual orientation or gender identity? If a Councillor's conduct is motivated by any form of discrimination it is likely that the complaint will be investigated and referred for further hearing;
- is there evidence of previous similar behaviour on the part of the Councillor? If so and the matter complained about is serious enough it is likely that the complaint will be investigated and referred for further hearing;
- is the breach such that an investigation or referral to the Standards Committee is required to maintain public confidence in elected Councillors? If so it is likely that the complaint will be investigated and referred for further hearing; and is investigation or referral to the Standards Committee a proportionate response? namely, would the cost of an investigation or hearing by the Standards Committee be regarded as excessive when weighed against any likely sanction?

6. What happens once the Monitoring Officer has reached a decision?

Where the Monitoring Officer has taken a decision, they will inform the Complainant of their decision and the reasons for that decision. The Monitoring Officer must consult with the Independent Person before deciding whether or not a formal investigation should be undertaken.

Where the Monitoring Officer requires additional information in order to come to a decision, they may request further information from the Complainant, and may request information from the Councillor against whom the complaint is directed.

The Councillor against whom the complaint is directed, may seek the views of the Independent Person at any stage in the process. This could be to provide a view on the complaint itself, the process under which the complaint will be dealt with or to provide a view on any other query the Councillor may have relating to the complaint. An Independent Person's role is not to act as an 'advisor' to the Subject Councillor.

7. Local Resolution

In appropriate cases, the Monitoring Officer may seek to resolve the complaint informally, without the need for a formal investigation. Such informal resolution may involve the Councillor accepting that their conduct was unacceptable and offering an apology, or other remedial action by the authority. Where the Councillor or the authority make a reasonable offer of local resolution, but the Complainant does not agree with that offer, the Monitoring Officer will take account of those views in deciding whether the complaint merits formal investigation.

The Monitoring Officer will complete a decision notice, whether or not a matter is to be investigated, which will outline the reasons for the decision.

The Monitoring Officer will normally only decide to investigate a complaint about alleged conduct that happened within six months of the date of receipt of the complaint. If the Monitoring Officer is of the view that exceptional circumstances apply, then this time limit may be waived.

8. Referral for Investigation

If the Monitoring Officer decides that a complaint merits formal investigation, they will appoint an Investigating Officer/Officers, who may be another senior officer of the authority, an officer of another authority or an external investigator.

The Investigating Officer will decide whether they need to meet or speak to the Complainant to understand the nature of the complaint and so the Complainant can explain their understanding of events and suggest what documents the Investigating Officer needs to see, and who the Investigating Officer needs to interview.

The Investigating Officer would normally write to the Councillor(s) against whom the complaint has been made and provide them with details of the complaint.

The Subject Councillor has the opportunity to provide an explanation of events, identify any documents they believe the Investigating Officer needs to see and who should be interviewed.

In exceptional cases, where it is appropriate to keep the Complainant's identity confidential or disclosure of details of the complaint to the Councillor might prejudice the investigation, the Monitoring Officer can delete the Complainant's name and address from the papers given to the Councillor, or delay notifying the Councillor until the investigation has progressed sufficiently.

The Investigating Officer may ask the Councillor to attend an interview about the complaint. The interview may be tape recorded, unless the Investigating Officer considers there to be good reason not to.

The disclosure of any evidence to the Councillor at any stage of the investigation is a matter for the Investigating Officer, having regard to the rules of natural justice and ensuring fairness to all parties concerned.

If at any point during the investigation, the Investigating Officer forms the opinion that the investigation should cease, they will consult with the Monitoring Officer, who may consult the Independent Person and take a decision to stop the investigation at any stage.

At the end of their investigation, the Investigating Officer will produce a draft report and will send a copy of that draft report, in confidence, to the Monitoring Officer. The Monitoring Officer, if satisfied with the report, will then send the draft report to the Complainant and the Subject Councillor.

The evidence gathered during the course of the investigation is not disclosed to the Complainant or the Subject Councillor at this stage.

The Complainant and the Subject Councillor will be given a period to comment on the draft report. All comments should be directed to the Investigating Officer for consideration.

The Investigating Officer, having received and taken account of any comments made on the draft report, will undertake any further investigation they consider relevant and appropriate. The Investigating Officer will then send their final report to the Monitoring Officer.

9. What happens if the Investigating Officer concludes that there is no evidence of a failure to comply with the Councillor Code of Conduct?

The Monitoring Officer will review the Investigating Officer's report and, if they are satisfied that the Investigating Officer's report is sufficient, the Monitoring Officer will write to the Complainant and to the Councillor, notifying them that they are satisfied that no further action is required, and provide both with a copy of the Investigating Officer's final report. If the Monitoring Officer is not satisfied that the investigation has been conducted properly or has other concerns relating to the complaint or the investigation report, they may ask the Investigating Officer to reconsider their report. The Monitoring Officer may also consult the Independent Person about this.

10. What happens if the Investigating Officer concludes that there is evidence of a failure to comply with the Councillor Code of Conduct?

The Monitoring Officer will review the Investigating Officer's report and will then either send the matter for local hearing before a Sub Committee of the Standards Committee or, after consulting the Independent Person, seek local resolution.

11. What action can the Sub Committee of the Standards Committee take where a Councillor has failed to comply with the Councillor Code of Conduct?

The Council has delegated to the Standards Committee such of its powers to take action in respect of individual Councillors as may be necessary to promote and maintain high standards of conduct. Accordingly a Sub-Committee, on behalf of the

Standards Committee, will publish the breach of the Code of Conduct and the sanction imposed on the Councillor's profile on the Council's website for a period of time to be determined by the Sub Committee, which is to be no less than the time required for compliance with any sanction. If a Councillor fails to comply with a sanction in the timescale set, the information will remain on the profile until compliance is achieved. The Sub Committee will also report its findings to Council for information.

The Standards Committee may –

- 11.1 Recommend to the Councillor's Group Leader (or in the case of ungrouped Councillors, recommend to Council or to Committees) that the Subject Councillor be removed from any or all Committees or Sub Committees of the Council;
- 11.2 Recommend to the Leader of the Council that the Councillor be removed from the Cabinet, or removed from particular Portfolio responsibilities;
- 11.3 Instruct the Monitoring Officer to arrange appropriate training for the Councillor;
- 11.4 Recommend to Council to remove the Councillor from all outside appointments to which he or she has been appointed or nominated by the authority;
- 11.5 Withdraw facilities provided to the Councillor by the Council, such as a IT equipment, website and/or email and Internet access;
- 11.6 Exclude the Councillor from the Council's offices or other premises, with the exception of meeting rooms as necessary for attending Council, Committee and Sub-Committee meetings.
- 11.7 Recommend to the Council that the Councillor be issued with a formal censure (i.e. the issue of an unfavourable opinion or judgement or reprimand) by motion.
- 11.8 Instruct the Monitoring Officer to apply the informal resolution process.
- 11.9 Recommend the Council to issue a press release or other form of publicity.
- 11.10 Recommend that the Subject Councillor makes an apology at the next full Council meeting.
- 11.11 Take such steps as appropriate, reasonable and proportionate to the particular conduct that amounted to the breach of the Code of Conduct.

The Standards Committee has no power to suspend or disqualify the Councillor or to withdraw Councillors' or special responsibility allowances.

12. What happens at the end of the hearing?

At the end of the hearing, the Chair will state the decision of the Sub Committee as to whether the Councillor failed to comply with the Councillor Code of Conduct and as to any actions which the Sub-Committee resolves to take.

As soon as reasonably practicable thereafter, and within 5 working days, the Monitoring Officer shall prepare a formal decision notice in consultation with the Chair of the Sub-Committee, and send a copy to the Complainant and the Councillor and make that decision notice available for public inspection and report the decision to the next convenient meeting of the Council.

If the Councillor complies with the sanction imposed by the Standards Committee, within the timescale set, the Monitoring Officer will report the matter to the Standards Committee for information. If the Councillor fails to comply with the sanction within the timescale set, the matter will be referred to the Standards Committee and Full Council for information.

13. Who are the Standards Committee?

The Standards Committee is appointed each year by the Council. Details of the current membership of the Committee can be found on the Council's web site.

The Independent Person(s) is/are invited to attend all meetings of the Standards Committee and their views are sought and taken into consideration before a Sub Committee of the Standards Committee takes any decision on consideration of an investigation report on whether the Councillor's conduct constitutes a failure to comply with the Code of Conduct for Councillors and as to any action to be taken following a finding of failure to comply with the Councillor Code of Conduct.

14. Who is the Independent Person?

The Independent Person is a person who has applied for the post following advertisement of a vacancy for the post, and is appointed by a positive vote from a majority of all the Councillors of Council.

A person cannot be "independent" if he/she –

- 14.1 Is, or has been within the past 5 years, a Councillor, co-opted member or officer of the authority;
- 14.2 Is a relative, or close friend, of a person within paragraph 14.1 above. For this purpose, "relative" means –
 - 14.2.1 Spouse or civil partner;
 - 14.2.2 Living with the other person as husband and wife or as if they were civil partners;
 - 14.2.3 Grandparent of the other person;
 - 14.2.4 A lineal descendent of a grandparent of the other person;
 - 14.2.5 A parent, sibling or child of a person within paragraphs 14.2.1 or 14.2.2;
 - 14.2.6 A spouse or civil partner of a person within paragraphs 14.2.3, 14.2.4 or 14.2.5; or

14.2.7 Living with a person within paragraphs 14.2.3, 14.2.4 or 14.2.5 as husband and wife or as if they were civil partners.

15. Publication of Standards Investigations

The Council acknowledges that there is a need to balance the public interest in transparency of these types of matters with the requirement of fairness to a Councillor who is subject to an allegation.

The contents of the initial assessment of a complaint and the investigation will remain confidential.

When a matter progresses to a local hearing before a Sub Committee of the Standards Committee, the hearing will be in public, unless there is a particular reason for the information that will be disclosed during it, to be exempt. The Monitoring Officer will make this decision prior to the hearing in consultation with the Independent Person(s) and the Chair of the Committee. Each case will be determined on its own merits.

In making this decision, particular consideration will be given to the necessity of transparency, the requirements of witnesses, any Data Protection issues that may become relevant and schedule 12A of the Local Government Act 1972 which outlines what exempt information is.

Consideration will also be given to the disclosure of the papers prior to and or after the hearing and whether any redactions of the papers need to be made.

16. Access to Information during an Investigation

During an investigation and any subsequent hearing, it is important to ensure that information and evidence that has been gathered, is kept confidential in order to protect the integrity of the process. With that in mind, the access to certain information will be restricted.

16.1 Subject Access Requests

The Data Protection Act 2018 entitles individuals (both members of the public and employees) to access personal data held about them by Telford & Wrekin Council. These requests are referred to as Subject Access Requests.

There are certain circumstances where the Council can legitimately withhold personal information, if one of the exemptions within the Data Protection Act applies. Information which has been obtained during an investigation under these arrangements is likely to be exempt, under the Act, as it is likely that disclosure would prejudice the prevention and detection of crime and/or prejudice certain regulatory functions. Therefore, if a Subject Access Request is made during an investigation, relating to information relevant to the investigation, it is unlikely that it will be granted. The final decision will be made by the Monitoring Officer in consultation with the Audit and Governance Team of the Council.

16.2 Freedom of Information Requests

The Freedom of Information Act 2000 places a statutory requirement on the Council to provide information to the public. Any individual has a right to request information held by the Council, regardless of where they reside. This right also extends to employees, businesses, politicians and members of the press.

There are certain circumstances where information is exempt from disclosure. Information which has been obtained during an investigation under these arrangements is likely to be exempt but any request will be considered in accordance with the requirements and exemptions applicable at the relevant time.

The final decision will be made by the Monitoring Officer in consultation with the Audit and Governance Team of the Council.

17. Revision of these arrangements

The Monitoring Officer, in consultation with the Chair, may agree to depart from these arrangements where they consider that it is expedient to do so in order to secure the effective and fair consideration of any matter.

18. Appeals

There is no right of appeal against a decision of a Sub Committee of the Standards Committee.

If the Complainant or Subject Councillor feels that the authority has failed to deal with the complaint properly, they may seek independent legal advice.

Glossary of Key Terms

Complainant(s)	The person/people making the complaint.
Independent person(s)	The Council must appoint at least one Independent Person and seek that person's views before it takes decision on a complaint that it has decided to investigate. The Independent Person's views can also be sought by the Council on any other issue in the complaints handling process. The Independent Person will also provide, on request, procedural advice to a Subject Councillor.
Investigator	The person appointed by the Monitoring Officer to undertake a formal investigation. This may involve the appointment of an investigating officer, who may be another officer of the Council, an officer of another council or an external investigator.
Legal advisor	The officer responsible for providing legal advice to the Sub-committee of the Standards Committee conducting the Local Hearing. This may be the Monitoring Officer, another legally qualified officer, or someone appointed for this purpose from outside the council.
Local Hearing	A meeting of a sub-committee of the Standards Committee at which they consider whether the "Subject Councillor" has breached the Code of Conduct.
Monitoring Officer	The Monitoring Officer is a senior officer of the council who has statutory responsibility for maintaining the register of Councillors' interests and who is responsible for administering the system in respect of complaints of Councillor misconduct.
Public Interest	Public interest considerations are part of the assessment of the complaint.
Subject Councillor(s)	The Councillor or Councillors against whom an allegation has been made.

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Telford & Wrekin
Co-operative Council

Protect, care and invest
to create a better borough

Borough of Telford and Wrekin

Standards Committee

Wednesday 28 September 2022

**Government's Response to Committee on Standards in Public Life's Ethical
Standards Review**

Cabinet Member:	Rae Evans - Cabinet Member: Finance, Governance and Customer Services
Lead Director:	Anthea Lowe - Director: Policy & Governance
Service Area:	Policy & Governance
Report Author:	Emma Harvey - Lead Lawyer, Legal & Democracy
Officer Contact Details:	Tel: 01952 383255 Email: emma.harvey@telford.gov.uk
Wards Affected:	All Wards
Key Decision:	Not Key Decision
Forward Plan:	Not Applicable
Report considered by:	N/A

1.0 Recommendations for decision/noting:

1.1 That Members note the Government's response to the Ethical Standards Review conducted by the Committee on Standards in Public Life.

2.0 Purpose of Report

2.1 To update Members on the Government's position in relation to the above review and to consider any recommendations made which may need to be implemented by the Council.

3.0 Background

3.1 The Committee on Standards in Public Life ("CSPL") published a report in January 2019 following its review into ethical standards. A number of recommendations were made but the vast majority were highlighted as being the responsibility of Government. Some of the recommendations required legislative changes whilst some were referenced as best practice that could be adopted by local authorities.

- 3.2 One of the recommendations made which was progressed and implemented by the Local Government Association (“LGA”) was the introduction of a Model Code of Conduct for Members. The LGA published their suggested Model Code and the Council subsequently discussed and adopted a new Code.
- 3.3 Officers are currently considering which of the recommendations below are capable of being lawfully incorporated in to the Council’s Code of Conduct and a further report will be brought to Committee for its consideration.

4.0 Summary of main proposals

- 4.1 Since the original report, the Government have been working on a response to the CSPL January 2019 report and, on 18 March 2022, a letter was sent by Kemi Badenoch the then Minister for Equalities and Levelling Up Communities (to 6 July 2022). A copy of the letter is attached at Appendix 1.
- 4.2 Although there are a number of recommendations made in the letter there are some which are more relevant to Local Government and therefore these have been specifically referred to below for ease of reference:-

Recommendation 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.

The Government agrees with the principle of safeguarding elected representatives and is considering amending legislation to implement this recommendation. In doing so it will engage with interested parties to ensure that this is achieved in the most practical and effective way. This does not mean that home addresses of candidates and councillors need not be held within the Council though as this is important for monitoring purposes; particularly with regards to conflicts of interest.

Recommendation 3

Councillors should be presumed to be acting in an official capacity in their public life, including statements on publicly accessible social media.

The Government response is that this should be dealt with in each Council’s Code of Conduct and each Council should consider whether their Code deals with this adequately.

The Government notes that “it is important to recognise that there is a boundary between an elected representative’s public life and their private or personal life. Automatically presuming (irrespective of the context and circumstances) that any comment is in an official capacity risks conflating the two.”

Recommendation 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.

The Government agrees that local authority elected representatives should act in good faith in the public interest and not seek to influence decisions for personal gain, for malicious intent or to further the interests of any business or any other organisations which they may be affiliated with.

It is for individual local authorities to ensure that their codes of conduct are regularly updated, comprehensive and fit for purpose. Elected members receive the necessary training to make them aware of their personal responsibilities in upholding the code.

Recommendation 8

The Localism Act 2011 should be amended to require that Independent Persons are appointed for a fixed term of two years, renewable once.

The Government did not accept this recommendation, recognising that there is a small pool of people capable and willing to undertake the role, and that local authorities are likely to wish to retain effective Independent Persons.

Recommendation 11

Local Authorities should provide legal indemnity to Independent Persons if their views or advice are disclosed.

The Government agrees in principle and endorses this as best practice rather than through amending legislation.

Recommendation 16

Local Authorities should be given the power to suspend councillors without allowances for up to 6 months (and other related recommendations regarding sanctions)

The Government has no plans to legislate for additional sanctions. The Government states "local authorities are not without sanctions under the current regime...if the elected member is a member of a political group, they would also expect to be subject to party discipline...All councillors are ultimately held to account via the ballot box".

Recommendation 18

The criminal offences in the Localism Act 2011 relating to Disclosable Pecuniary Interests should be abolished.

The Government does not agree, but believes that a potential criminal investigation and conviction is a necessary and proportionate safeguard and deterrent against corruption.

Recommendation 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.

The Government agrees in principle that the disciplinary protections for the three statutory officers (Monitoring Officer, the Head of Paid Service (Chief Executive) and the Chief Finance Officer (s151)) should be extended to all disciplinary actions.

It has agreed to “engage with sector representative bodies of all tiers of local government to seek views on amending the Local Authorities (Standing Orders) (England)(Amendment) Regulations to provide disciplinary protections for statutory officers.”

Recommendation 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.

The Government agrees with this and recommends this as best practice.

Recommendation 24

Councillors should be listed as ‘prescribed persons’ for the purposes of the Public Interest Disclosure Act 1998.

Prescribed persons are individuals or organisations that a worker may approach outside their workplace to report suspected or known wrongdoing and still be protected by the rights afforded to them under whistleblowing legislation. Councillors would not meet the criteria for a Prescribed Person. “However, the Government recognises that this may provide a further check and balance against council corruption or wrongdoing and is open to further representations on the matter on how local accountability can be strengthened in this regard.”

5.0 Alternative Options

5.1 Not applicable

6.0 Key Risks

6.1 None

7.0 Council Priorities

7.1 Good Governance and an effective standards regime for Elected Councillors links to the Council's desire to be a community-focussed, innovative council providing efficient, effective and quality services. The adoption of the model Code of Conduct and consideration of these recommendations supports confidence the Councillors will uphold the seven principles of public life and undertake their roles in an honest and open way.

8.0 Financial Implications

8.1 There are no direct financial implications arising from this report.

9.0 Legal and HR Implications

9.1 The recommendations of the Committee for Standards in Public life were wide ranging and reflected the collective views of the Local Authorities across the Country. Many of the recommendations made to Government would require legislative changes in order for Councils to lawfully adopt the recommendations. Legal advice is being provided on those recommendations above which the Council may choose to adopt and incorporate within its Code of Conduct for Councillors.

10.0 Ward Implications

10.1 There are no specific ward implications arising from this report.

11.0 Health, Social and Economic Implications

11.1 There are no health, social and economic implications arising from this report.

12.0 Equality and Diversity Implications

12.1 There are no equality and diversity implications arising from this report.

13.0 Climate Change and Environmental Implications

13.1 There are no no climate change and environmental implications arising from this report.

14.0 Background Papers

1 Minutes of Standards Committee 28 April 2021

15.0 Appendices

Appendix 1 Letter from Kemi Badenoch MP from March 2022

16.0 Report Sign Off

Signed off by	Date sent	Date signed off	Initials
Legal	14/09/2022	14/09/2022	RP
Finance	14/09/2022	14/09/2022	MB



Department for Levelling Up,
Housing & Communities

Lord Evans of Weardale, KCB, DL
Chair Committee on Standards in Public Life
Room G07
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London
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Kemi Badenoch MP
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Dear Lord Evans,

On behalf of the Government, I would like to thank the Committee on Standards in Public Life for its report and the recommendations arising from its review of Local Government Ethical Standards, and to all those who engaged with the Committee's work. Attached is the Government response to the Committee's individual recommendations that were directed at Government.

Vibrant local democracies flourish where the reputation of the local authority is held in high regard, where councillors' decision-making is transparent, valued and trusted by the communities they serve, and where people are willing and confident to put themselves forward as potential candidates. The standards and conduct framework within which local authorities operate must drive out corruption and promote commitment to the principles on standards in public life, and tolerance to the differing views of others. In responding to the review, the Government has taken into account the importance of protecting free speech and freedom of association within the law.

The Government is committed to working with local authorities and their representative organisations to ensure that local government is supported in reinforcing its reputation for ethical local standards.

The fact that this review had been conducted in such a collaborative way with the sector has been apparent from the outset and is borne out in the final report. I am keen that Government builds on the sector-wide enthusiasm for improvement.

The Government agrees with the Committee's conclusion that there have been benefits from local authorities being responsible for ethical standards, including the flexibility and

discretion to resolve standards issues informally. However, we also recognise the role of Government in ensuring that the system is robust.

The number of requests for legislation in the Committee's recommendations to strengthen the standards and conduct framework and its safeguards is considerable. As indicated in this response, the Government believes that some of these suggestions do not need a legislative response but can be more appropriately, effectively, and swiftly taken forward by local authorities as best practice. The Committee will recognise that the Government and Parliament has taken a different view on these matters when it legislated for the Localism Act 2011.

I thank the Committee for their work on the review and for their patience whilst Government carefully considered their recommendations, and I personally look forward to continuing to work with you as Government progresses the commitments made in this response with the sector.

Yours sincerely,

KEMI BADENOCH MP

**Minister of State for Equalities
and Levelling Up Communities**

Government response to the Committee on Standards in Public Life review of local government ethical standards

This Government response confines itself to the Committee's recommendations directed at Government, other than with regards to the first recommendation. The response to recommendations 10, 12, 13, 14 and 16 have been grouped together and therefore appear out of numerical order below.

Recommendation 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.

The Localism Act 2011 states that relevant authorities must promote and maintain high standards of conduct by members and co-opted members. It requires these authorities to adopt a code of conduct for their councillors.¹ Authorities can determine the content of their own code of conduct. However, codes must conform to the seven 'Nolan' principles of standards in public life: selflessness, integrity, objectivity, accountability, openness, honesty, and leadership. Relevant authorities for the purposes of these requirements include local authorities in England, namely county councils, district councils, London borough councils and parish and town councils.

It is for individual councils to set their own local code, in line with the Act. The Government has previously published a light-touch illustrative code of conduct.

The Local Government Association has worked with sector representative bodies to update its own suggested code of conduct, with the intention that this new suggested code could establish a consistent benchmark that local authorities can amend or add to as they see fit to reflect local circumstances and priorities. The Local Government Association published the updated code of conduct in January 2021. However, it remains a local decision on whether this model code is adopted.

Recommendation 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.

¹ References to councillors in this document also should be deemed to include elected mayors.

This issue was brought up in the Committee's work on intimidation in public life, and the Government has already taken forward several steps in this regard. The Government is open and receptive to further steps to help prevent intimidation.

The Government agrees with the principle behind this recommendation – which safeguards elected representatives - and considers amending the Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012 would be an option to achieve it.

The Government will engage with interested parties on the best means to ensure that candidates and councillors are not required publicly to disclose their home address.

Notwithstanding, it is important that home addresses are internally registered with monitoring officers, to help avoid conflicts of interest.

Recommendation 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.

The Government's view is that it is for individual local authorities to consider if their code of conduct is adequate in addressing the issue of inappropriate use of social media.

As the Government outlined to Parliament in March 2021 on tackling intimidation in public life: 'It is important to distinguish between strongly felt political debate on the one hand, and unacceptable acts of abuse, intimidation and violence on the other. British democracy has always been robust and oppositional. Free speech within the law can sometimes involve the expression of political views that some may find offensive': a point that the Government has recognised in a Department for Education policy paper². But a line is crossed when disagreement mutates into intimidation, which refuses to tolerate other opinions and seeks to deprive others from exercising their free speech and freedom of association.'

It is important to recognise that there is a boundary between an elected representative's public life and their private or personal life. Automatically presuming (irrespective of the context and circumstances) that any comment is in an official capacity risks conflating the two.

² Higher education: free speech and academic freedom Feb 2021
<https://www.gov.uk/government/publications/higher-education-free-speech-and-academic-freedom>

Recommendation 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.

The Government agrees that local authority elected representatives should act in good faith in the public interest and not seek to influence decisions for personal gain, for malicious intent or to further the interests of any business or any other organisations which they may be affiliated with.

The Local Government Association have updated their [own suggested code of conduct](#) to state that the code applies when “[a member’s] actions could give the impression to a reasonable member of the public with knowledge of all the facts that [they] are acting as a [member]”.

It is for individual local authorities to ensure that their codes of conducts are regularly updated, comprehensive and fit for purpose. Elected members receive the necessary training to make them aware of their personal responsibilities in upholding the code.

The Government will keep this matter under review but has no immediate plans to amend the regulations.

Recommendation 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.

The electorate must have confidence that the decisions of their elected representatives are being made in the best interests of the community they have been elected to serve. Unpaid roles may need to be declared if it is relevant to council business, and councillors should recuse themselves if necessary if discussions relate to private bodies, they are involved in.

The Government is mindful that councillors have a right to a private life, and rights of freedom of association outside their role as a councillor. It is frequently the case that people in public life have a complex pattern of interests and play a variety of roles with different types of organisations, including community interest groups and charities.

The Government will keep this matter under review but has no immediate plans to amend the regulations.

Recommendation 6

Local authorities should be required to establish a register of gifts and hospitality, with councillors required to record 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.

The Local Government Association's suggested code of conduct published in January 2021 includes a requirement for members to "register... any gift or hospitality with an estimated value of at least £50". However, it did not contain any requirements relating to the total value of gifts or hospitality received from the same source over a sustained period.

Local authorities have the autonomy to set gifts and hospitality requirements in their own codes of conduct. The Government accepts that there is merit in best practice guidance on the thresholds for gifts and hospitality and agrees that a register of gifts and hospitality should be publicly available.

Recommendation 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 the matter".

Section 31 of the Localism Act 2011 requires that a councillor must not participate in a discussion or vote on a matter where they have a disclosable pecuniary interest in any matter to be considered at the meeting. Section 30(3) of the Localism Act 2011 further provides that any relevant pecuniary interests of a councillor's spouse or partner are considered as a disclosable pecuniary interest of the councillor.

The Committee's report reflects concerns that the disclosable pecuniary interest arrangements infringe on the privacy of a councillor's spouse or partner. Where there would be a potential conflict of interest, the principle of integrity requires that any such interests should nevertheless be declared and resolved.

The Government will keep this matter under review but has no immediate plans to repeal Section 31 of the Localism Act 2011.

Recommendation 8

The Localism Act 2011 should be amended to require that Independent Persons are appointed for a fixed term of two years, renewable once.

The Government does not accept this recommendation as appropriate for legislation on the basis that it would be likely to be unworkable. The Government's view is that it would be more appropriately implemented as a best practice recommendation for local authorities.

In principle, it may be attractive to limit the terms Independent Persons serve to keep their role and contribution "fresh" and avoid them becoming too closely affiliated with the overriding organisational culture. However, discussions with Monitoring Officers indicate that in practice most local authorities would likely find servicing this rate of turnover unachievable. There is frequently a small pool of people capable and willing to undertake the role, who also fit the stringent specifications of being amongst the electorate, having no political affiliation, no current or previous association with the council, and no friends or family members associated with the council.

When local authorities have found effective Independent Persons who demonstrate the capability, judgement and integrity required for this quite demanding yet unpaid role, it is understandable that they may be reluctant to place limitations on the appointment.

Recommendation 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.

The Government does not agree with this. The Local Government Transparency Code is a statutory requirement to publish information; it does not regulate the content of councils' minutes or decision notices.

The substantive policy suggestion has merit but will depend on circumstances. In cases where there is no case to answer from an unfounded complaint, it should not necessarily be a legal requirement to publish details of that unfounded complaint.

Recommendation 10

A local authority should only be able to suspend a councillor where the authority's Independent Person agrees both with the finding or a breach and that suspending the councillor would be a proportionate sanction.

Recommendation 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.

Recommendation 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.

Recommendation 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, an appeal by a councillor who has had a suspension imposed. The Ombudsman's decision should be binding on the local authority.

Recommendation 16

Local authorities should be given the power to suspend councillors, without allowances, for up to six months.

There is no provision in current legislation for a sanction to suspend a councillor found to have breached the code of conduct, and this was a deliberate policy decision by the Coalition Government at the time of the Localism Act 2011 to differentiate from the previous, failed Standards Board regime. The Standards Board regime allowed politically motivated and vexatious complaints and had a chilling effect on free speech within local government. These proposals would effectively reinstate that flawed regime.

It would be undesirable to have a government quango to police the free speech of councillors; it would be equally undesirable to have a council body (appointed by councillors, and/or made up of councillors) sitting in judgment on the political comments of fellow councillors.

On the rare occasions where notable breaches of the code of conduct have occurred, local authorities are not without sanctions under the current regime. Councillors can be barred from Cabinet, Committees, or representative roles, and may be publicly criticised. If the elected member is a member of a political group, they would also expect to be subject to party discipline, including being removed from that group or their party. Political parties are unlikely to reselect councillors who have brought their group or party into disrepute. All councillors are ultimately held to account via the ballot box.

As part of the Government's response to the Committee's report on intimidation in public life, the Government recommended that every political party establish their own code of conduct for party members, including elected representatives.

The Government will engage with sector representative bodies of councillors and officers of all tiers of local government to seek views on options to strengthen sanctions to address breaches of the code which fall below the bar of criminal activity and related sanctions but involve serious incidents of bullying and harassment or disruptive behaviour.

Recommendation 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.

The Government agrees in principle.

Initial soundings with the sector indicate that some local authorities already provide legal indemnity for Independent Persons.

The Government endorses providing legal indemnity for Independent Person as local authority best practice but does not currently see the need to require this through secondary legislation.

Recommendation 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.

The Government believes that this is better addressed through the sector adopting as best practice a regular pattern of annual reporting by Standard Committees of the cases and complaints handled and would encourage this as best practice by the sector.

The Government does not believe that there is a requirement to prescribe to local authorities the form and content of such Standard Committee annual reports.

Recommendation 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.

The criminal law, overseen by the police and courts, provides for more appropriate and effective action against breaches of public order, for anti-social behaviour, and against harassment.

The occasion where councils would seek to bar councillors from council premises are thought to be extremely rare. We will consider this further.

Recommendation 18

The criminal offences in the Localism Act 2011 relating to Disclosable Pecuniary Interests should be abolished.

It is a criminal offence to fail to declare pecuniary interests, which acts as a strong deterrent against corruption.

The Government does not agree with this recommendation, but rather believes the criminal offence of a non-disclosure of pecuniary interest to be a necessary and proportionate safeguard and deterrent against corruption.

The high bar of police involvement has served to discourage politically motivated and unfounded complaints.

Recommendation 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.

The Government does not agree that this is necessary and has no plans to repeal Section 27(3) of the Localism Act 2011.

The Government considers that the adoption of the principal authority's code or the new model code is a matter for local determination.

There are merits in achieving consistency within principal authority areas to eliminate potential confusion amongst constituents and elected members but there may be instances where a parish council may want to add to the code of their principal authority to reflect local circumstances.

Recommendation 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.

The Government has no current plans to repeal Section 28 (11) of the Localism Act 2011 but will give this matter further consideration.

Recommendation 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.

The three statutory officers in local government are the Monitoring Officer, the Head of Paid Service (Chief Executive) and the Chief Finance Officer (often referred to as the Section 151 Officer).

Under the current disciplinary arrangements for statutory officers, any decision to dismiss a statutory officer must be taken by full council, following a hearing by a panel that must include at least two Independent Persons. The Committee consider that the disciplinary protections for statutory officers should be enhanced, by extending disciplinary protections to all disciplinary actions (such as suspension or formal warnings), not just dismissal.

The Government agrees in principle with this recommendation and recognises this will be pertinent to Monitoring Officers who may not necessarily be afforded the same seniority in the organisational hierarchy of a local authority as the two other statutory officers (Head of Paid Service and the Section 151 Officer), and who may be subject to personal pressures when conducting high profile breach of conduct investigations.

The Government will engage with sector representative bodies of all tiers of local government to seek views on amending the Local Authorities (Standing Orders) (England)(Amendment) Regulations to provide disciplinary protections for statutory officers.

Recommendation 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.

The Government agrees with the principle that openness is essential.

Most local authorities already publish their whistleblowing policy, procedures and a named contact on their websites, and Government is recommending that this is adopted as a best practice recommendation.

The Government published the UK National Action Plan for Open Government 2021 – 2023 in January 2022. This includes a commitment on local transparency.³ The Department for Levelling Up Housing and Communities (DLUHC) will work with the local government community to develop a set of specific actions to advance transparency in the sector. DLUHC will support local government to solidify their transparency policies and processes and encourage proactive publication of open data across councils.

Recommendation 24

Councillors should be listed as ‘prescribed persons’ for the purposes of the Public Interest Disclosure Act 1998.

Prescribed persons are individuals or organisations that a worker may approach outside their workplace to report suspected or known wrongdoing and still be protected by the rights afforded to them under whistleblowing legislation. They are prescribed by an order made by the Secretary of State (for Business, Energy and Industrial Strategy) for this purpose. A complete list of prescribed persons is available here: <https://www.gov.uk/government/publications/blowing-the-whistle-list-of-prescribed-people-and-bodies--2>.

Local councillors would not meet the criteria of being external to an individual’s workplace in relation to matters affecting the council and could therefore not be considered as a ‘prescribed person’ for the purposes of the Public Interest Disclosure Act 1998. Disclosures relating to local authorities can be made to the external auditor of the relevant authority, the Comptroller and Auditor General (National Audit Office), or a Member of Parliament.

However, the Government recognises that this may provide a further check and balance against council corruption or wrongdoing and is open to further representations on the matter on how local accountability can be strengthened in this regard.

³ <https://www.gov.uk/government/publications/uk-national-action-plan-for-open-government-2021-2023/uk-national-action-plan-for-open-government-2021-2023#local-transparency>