

TELFORD & WREKIN COUNCIL

STANDARDS COMMITTEE – 25 JUNE 2019

COMMITTEE OF STANDARDS IN PUBLIC LIFE – INCORPORATING BEST PRACTICE RECOMMENDATIONS

REPORT OF THE ASSISTANT DIRECTOR: GOVERNANCE, PROCUREMENT & COMMISSIONING

PART A) – SUMMARY REPORT

1. SUMMARY OF MAIN PROPOSALS

- 1.1 To receive an update on the implications of the Report of the Committee on Standards in Public Life for members to note and, specifically, to consider whether or not best practice recommendations from the Committee should be adopted by the Council.

2. RECOMMENDATION

- 2.1 **That Members consider the best practice recommendations detailed in 4.6 below and consider whether or not to accept the recommendations, and if so how to most effectively incorporate them into the Council's governance arrangements; and**
- 2.2 **The Monitoring Officer continues to monitor the progress of this Report and report progress back to the committee.**

3. SUMMARY IMPACT ASSESSMENT

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| COMMUNITY IMPACT | Do these proposals contribute to specific Priority Plan objective(s)? | |
| | Yes | The Committee is part of the Council's decision making framework and therefore contributes to all of the Council's priorities. |
| | Will the proposals impact on specific groups of people? | |
| | No | |
| TARGET COMPLETION/DELIVERY DATE | None. | |
| FINANCIAL/VALUE FOR MONEY IMPACT | No | The recommendations of this report will not have any financial implications. |
| LEGAL ISSUES | Yes | The recommendations from this report are not legal requirements but are best practice recommendations from a review that carries great weight and has a lot of credibility amongst Monitoring Officers. It also has been indicated that the considerations of these |

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| | | <p>recommendations will be reviewed by the Committee on Standards in Public Life in 2020. If the Council is going to remain up to date in its standards regime it is sensible to consider the recommendations and incorporate changes as may be agreed by members at an early stage to enable good time to implement all the recommendations.</p> |
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PART B) – ADDITIONAL INFORMATION

4. INFORMATION

- 4.1 A copy of the report of the Committee on Standards in Public Life on Local Government Ethical Standards is attached at Appendix 1.
- 4.2 The report follows a consultation by the committee in 2018 as part of its review of local government ethical standards.
- 4.3 Key findings include a number of concerns around the conduct of councillors and some parish councils; risks surrounding the current rules on conflicts of interest, gifts, and hospitality; and strains on local authority governance as a result of the increased complexity of local government decision-making.
- <https://www.gov.uk/government/publications/local-government-ethical-standards-report>
- 4.4 This is a high quality, evidence base report demonstrating a real understanding of the current position in respect of local government governance and conduct. It makes sensible and proportionate recommendations for the improvement of the current system.
- 4.5 The report recommends legislative changes including
- the publication of a new model code of conduct for local authority members by the Local Government Association,
 - more clarity on members use of social media, and when the code applies,
 - wider provisions in respect of the declaration of interests that would, or could be perceived as impacting on their ability to make impartial decisions,
 - clarifying the role and importance of the Independent Person and increasing protection for statutory officers,
 - increasing the remit of the Local Government and Social Care Ombudsman to give it the power to investigate, make findings, and impose sanctions in code of conduct complaints against councillors.
 - giving local authorities the power to suspend councillors, without allowances, for up to six months in conduct cases.

- 4.6 The report also makes 15 best practice recommendations for local authorities that can be implemented in the absence of legislative change. These are:

| | Suggested Best Practice | Proposed response/ action |
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| 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. | The Council's current code of conduct is a very high level document and does not go into this level of detail. This type of issue between members and officers is dealt with in the Member/Officer Protocol. Members' view are sought on whether a specific provision is added to the code or as an Advisory to the provision in respect of Leadership. (Code is attached in Appendix 2 for convenient reference) |
| 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. | As for 1 above. |
| 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. | Whilst these recommendations have been identified as being capable of implementation without primary or secondary legislation members views are sought on the extent to which this can/ should be done in the absence of sanctions in the existing regime. The current regime is relatively toothless and lacks credibility. In the absence of change consultation would help raise awareness of the standards regime but might create unreasonable expectation and discredit rather than enhance the reputation of local government. However, officers could certainly approach colleagues in Shropshire and local town and parish councils and develop a regular review process. |
| 4 | An authority's code should be readily accessible to both councillors and the public, in a prominent position on a council's | "Councillor code of conduct" on the web-site provides a lot of information about the Council's code and how to submit a complaint |

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| | website and available in council premises. | |
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| 4 | <p>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.</p> | <p>"Councillor code of conduct" on the web-site provides a lot of information about the Council's code and how to submit a complaint</p> |
| 5 | <p>Local authorities should update their gifts and hospitality register at least once per quarter, and publish it in an accessible format, such as CSV.</p> | <p>This is a document that is regularly reviewed by the Monitoring Officer – and is a recommendation that can easily be adopted. Members support is sought for this to be implemented</p> |

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| | | immediately- with the necessary amendments to the Gifts and Hospitality Guidance |
| 6 | Councils should publish a clear and straightforward public interest test | <p>Such a test sets clear expectations to those making complaints and ensure consistency of approach. Members approval to adopt the following wording and incorporate into the review process</p> <p>1 'CAN' we investigate your complaint? Is the person you are complaining about a councillor? Did the conduct occur within the last six months? Is the conduct something that is covered by the code?</p> <p>2 'SHOULD' we investigate your complaint? Is there evidence which supports the complaint? Is the conduct something which it is possible to investigate? Would an investigation be proportionate and in the public interest?</p> <p>Public interest being something which is of serious concern and benefit to the public – taking into account the seriousness of the complaint.</p> <p>When deciding the level of seriousness of the allegation, relevant considerations are: the extent to which the councillor was at responsible for or was to blame for the alleged breach; the circumstances of the complainant; and whether the alleged conduct caused harm to any person</p> |
| 7 | Local authorities should have access to at least two Independent Persons. | The Council currently has one Independent Person. It would be an opportune time to re-visit this provision and increase the number of independent Persons. Members |

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| | | are asked to delegate this recruitment to the Monitoring Officer in association with the chair of the Standards Committee for approval, in due course by the Council |
| 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. | This is the current informal practice. Members views are sought on formalising this process to improve transparency |
| 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. | Members views are sought. This can easily be incorporated into the current process via a change to the relevant rules for the Standards Hearings Sub Committee |
| 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. | See 4 above. It is proposed that this process is reviewed and brought back to the next Standards Committee for consideration and review. |
| 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. | This seems a sensible suggestion but perhaps this ought to be subject to consultation with Town and Parish Councils |
| 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 | This is currently done within existing resources. |

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| | be provided with adequate training, corporate support and resources to undertake this work. | |
| 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. | This is a sensible suggestion – with Members approval the Monitoring Officer will work on reciprocal arrangements with neighbouring Councils and update the next meeting of this Committee |
| 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. | The Monitoring Officer is pursuing this as part of a review of governance and will consult with the Senior Management Team and Audit colleagues to come forward with a proposal in respect of this Best Practice recommendation. |
| 15 | Senior officers should meet regularly with political group leaders or group whips to discuss standards issues. | In the current regime disciplinary action by a political group is one of the more powerful sanctions available to the Council so this recommendation is welcomed by the Monitoring Officer. Members views are sought, if supportive meetings can be established, on who with and how often. |

5. PREVIOUS MINUTES

5.1 Standards Committee – 5 February 2019.

6. BACKGROUND PAPERS

6.1 None – relevant papers included as appendices

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