

To: Members of the Standards Committee

**Councillors Macdonald, Dirveiks, Hayfield, D Humphreys,
and McLaughlan and Parker**

For the information of the other Members of the Council

For general enquiries please contact Democratic Services on 01827 719221/719226 or via email – democraticservices@northwarks.gov.uk

For enquiries about specific reports please contact the officer named in the reports.

This document can be made available in large print and electronic accessible formats if requested.

STANDARDS COMMITTEE

11 February 2021

The Special Sub-Group will meet on Thursday, 11 February 2021 **at 6.00pm** via Teams. An email invite will be sent to all Members and the meeting will be live streamed on the Council's YouTube channel, accessible from the home page of the Council's website or at <https://www.youtube.com/user/northwarks>

AGENDA

- 1 Apologies for Absence / Members away on official Council business.**
- 2 Disclosable Pecuniary and Non-Pecuniary Interests**

3 **Public Participation**

Up to twenty minutes will be set aside for members of the public to put questions to elected Members. Questions should be submitted by 9.30am two working days prior to the meeting. Participants are restricted to five minutes each.

PLEASE BE AWARE THAT THIS MEETING WILL BE TAKING PLACE REMOTELY.

Members of the public wishing to address the Board must register their intention to do so by 9:30am two working days prior to the meeting. Participants are restricted to five minutes each.

If you wish to put a question to the meeting, please register by email to democraticservices@northwarks.gov.uk or telephone 01827 719221/719226.

Once registered to speak, an invitation will be sent to join the Teams video conferencing for this meeting. Those registered to speak should dial the telephone number and ID number (provided on their invitation) when joining the meeting to ask their question. However, whilst waiting they will be able to hear what is being said at the meeting. They will also be able to view the meeting using the YouTube link provided (if so they made need to mute the sound on YouTube when they speak on the phone to prevent feedback).

4 **New Model Code of Conduct** – Report of the Head of Legal Services and Monitoring Officer

Summary

This report introduces a New Model Code of Conduct for Members and makes proposals for members to consider whether to adopt that Code or modify the Council's existing Code of Conduct.

The Contact Officer for this report is Clive Tobin (719251)

5 **Update on Allegations of Breaches of Codes of Conduct** – Report of the Head of Legal Services and Monitoring Officer

Summary

This report sets summarises complaints received alleging breaches of this Council's Code of Conduct, and the Codes of parish councils in North Warwickshire, since June 2020 and action taken in relation to them.

The Contact Officer for this report is Clive Tobin (719251).

6 Recommendations of the Committee on Standards in Public Life
– Report of the Head of Legal Services and Monitoring Officer

Summary

This report sets out recent recommendations of the Committee on Standards in Public Life and the Council's response to those recommendations, together with the steps which are being taken to address the issues raised.

The Contact Officer for this report is Clive Tobin (719251).

STEVE MAXEY
Chief Executive

Agenda Item No 4

Standards Committee

11 February 2021

**Report of the Head of Legal Services and
Monitoring Officer**

**New Model Code of Conduct for
Members**

1 Summary

- 1.1 This report introduces a New Model Code of Conduct for Members and makes proposals for members to consider whether to adopt that Code or modify the Council's existing Code of Conduct.

Recommendation to the Committee

- a) That a Working Group is set up to consider the content of the new Model Code of Conduct and report back to Standards Committee as to whether the Council's Code of Conduct should be updated in light of the new Model Code;**
- b) That the Working Group also considers any possible modifications to the Arrangements for dealing with standards allegations under the Localism Act 2011;**
- c) That the views of the Independent Persons appointed under the 2011 Act are sought and taken into account when undertaking steps a) and b).**

2 Consultation

- 2.1 Councillors Macdonald and McLauchlan have been consulted in relation to the content of this report and have agreed the approach which is being recommended to Committee.

3 Report

Code of Conduct

- 3.1 Members will be aware that in 2012 amendments were made to the Standards regime for local authorities following the passing of the Localism Act 2011 (the

2011 Act). In particular, local authorities were required to adopt a Code of Conduct which was based on the Seven Principles of Public Life which were first introduced by the Nolan Committee. The 2011 Act made other changes to the standards regime, including removal of certain sanctions which could be imposed if a member was found to have breached the Code and the abolition of the Standards Board for England. These changes gave local authorities a certain amount of discretion over the way in which their members' conduct was regulated and the earlier requirement to follow a mandatory Code of Conduct.

3.2 When those amendments took effect the 2011 Act allowed local authorities to either adapt their existing Code of Conduct or to introduce a completely new Code. Subject to certain requirements such as the registration of interests and a prohibition on voting on matters in which a member had an interest, an authority could decide on the content of its Code. When the 2011 Act was passed a new model Code of Conduct was introduced which many authorities chose to adopt. The 2011 Act allows local authorities to revise or replace their Code of Conduct at any time. Some authorities have made revisions in the intervening years whilst others have not amended their Code during that time.

3.3 During 2019 the Local Government Association (the LGA) commenced a consultation exercise in which it invited local authorities to give their views on the effectiveness of the standards regime and their current Code of Conduct. Following this a draft Model Code of Conduct was produced by the LGA and a further consultation exercise undertaken. Once that further consultation was concluded the LGA published its new Model Code of Conduct and invited authorities to adopt it.

3.4 It is important to note that the LGA Model Code of Conduct is not mandatory and local authorities still have the legal power to adopt a Code of Conduct which it considers appropriate to regulate the conduct of its members, provided this meets with the basic requirements of the 2011 Act.

3.5 Under this Council's Constitution the Standards Committee has been delegated the function of; 'Advising the Council on the adoption or revision of the Members' Code of Conduct'. Under the 2011 Act the function of adopting, revising or replacing a Code of Conduct may only be exercised by the Council as a whole and may not be delegated to a committee or officer. Once it has adopted, revised or replaced its Code of Conduct a local authority must publicise it in such a way as will bring it to the attention of persons who live in its area. For that reason, it is appropriate for Standards Committee to consider the Model Code of Conduct and make such recommendation to Council as it sees fit.

... 3.6 A copy of the Model Code of Conduct is attached at Appendix A. Whilst the Committee should consider the content of the Model Code of Conduct as a whole, there are a number of matters which may require particular attention:

3.6.1 On page 3 it states that it; 'applies to you when you are acting in your capacity as a councillor which may include when:

- you misuse your position as a councillor;

- your actions would give the impression to a reasonable member of the public with knowledge of all the facts that you are acting as a councillor;’.

This contradicts the 2011 Act which says the Code applies only when members *are* acting in that capacity (as case law confirms) meaning we must pay close attention to that terminology.

3.6.2 Paragraph 7.2 b. suggests that Council resources may be used for political purposes in certain situations. This must be carefully considered since legislation contains a prohibition on use of Council resources for political purposes.

3.6.3 Paragraph 10.2 deals with gifts and hospitality but does not consider ‘cumulative gifts’ e.g. repeated gifts or hospitality from a source each of which are less than £50 in value but would accumulate to a significant sum.

3.6.4 Appendix B 4 of the draft requires a member to leave the room if they have an interest in a matter which is being considered. This Council’s Standing Orders do not require a member to do so however, we could of course consider revising Standing Orders if we update the Code.

Arrangements for Dealing with Breaches

3.7 The 2011 Act requires that a district council has in place arrangements for investigating allegations of breaches of its Code of Conduct and under which decisions on allegations can be made. Arrangements must also be in place for investigating and making decisions on allegations of breaches of the Code of Conduct for parish councils within a district council’s area. A copy of this Council’s arrangements is attached at Appendix B.

3.8 Whilst the 2011 Act allows a reasonably wide discretion in relation to the arrangements for dealing with breaches, it does require that those arrangements include for appointment of at least one independent person:

3.8.1 whose views are to be sought, and taken into account, by the authority before it makes its decision on an allegation that it has decided to investigate, and

3.8.2 whose views may be sought by:

- the authority in relation to an allegation in circumstances not within paragraph 3.8.1;
- a member, or co-opted member, of the authority if that person's behaviour is the subject of an allegation; and
- a member, or co-opted member, of a parish council if that person's behaviour is the subject of an allegation and the authority is the parish council's principal authority.

3.9 The current arrangements generally work well in practice however, regardless of whether the Council decides to make changes to its Code of Conduct, it may

be appropriate to consider whether these require any amendment to ensure that these operate effectively.

3.10 The Council has now appointed seven Independent Persons whose views are sought on allegations. Given the statutory requirement to involve Independent Persons in the Standards regime it may be appropriate to involve them in any review of the Code of Conduct and Arrangements for Dealing with Breaches as they would be able to give insight into the practicalities of the process.

3.11 Since the new Model Code of Conduct is drafted in a completely different manner to previous versions and since the application of any Code of Conduct will have far reaching impact on the role of elected and co-opted members, it appears more practical for members to appoint a Working Group to review the new Model Code and Arrangements and to report back to Committee. This would enable the Committee to consider a more detailed report on the issue. It is also suggested that the Independent Persons are invited to comment on the draft and the existing arrangement for breaches. This would enable Standards Committee to formulate appropriate recommendations to Council in relation to its Code of Conduct.

4 Report Implications

4.1 There are the following implications to the recommendations in this report.

4.2 Finance and Value for Money Implications

4.2.1 There are no resources implications in relation to the proposals in this report.

4.3 Safer Communities Implications

4.3.1 There are no Safer Communities implication in relation to the proposals in this report.

4.4 Legal and Human Rights Implications

4.4.1 The legal implications are mainly set out in the body of this report. The proposals will ensure that the Council retains an up to date and appropriate Standards regime which complies with the legislation concerned and maintains public confidence.

4.5 Environment and Sustainability Implications

4.5.1 There are no Environmental and Sustainability implications to the proposals in this report.

4.6 Human Resources Implications

4.6.1 There are no Human Resources implications to the proposals in this report.

4.7 Risk Management Implications

4.7.1 There are no Risk Management implications to the proposals in this report.

4.8 Equalities Implications

4.8.1 There are no Equalities implications in relation to the proposals in this report.

4.9 Links to Council's Priorities

4.9.1 Good governance in decision making supports the Council's Priority of Responsible Financial and Resource Management.

The Contact Officer for this report is Clive Tobin (01827 719251)

Local Government Act 1972 Section 100D, as substituted by the Local Government Act, 2000 Section 97

Background Paper No	Author	Nature of Background Paper	Date

Local Government Association

Model Councillor Code of Conduct 2020

Joint statement

The role of councillor across all tiers of local government is a vital part of our country's system of democracy. It is important that as councillors we can be held accountable and all adopt the behaviors and responsibilities associated with the role. Our conduct as an individual councillor affects the reputation of all councillors. We want the role of councillor to be one that people aspire to. We also want individuals from a range of backgrounds and circumstances to be putting themselves forward to become councillors.

As councillors, we represent local residents, work to develop better services and deliver local change. The public have high expectations of us and entrust us to represent our local area; taking decisions fairly, openly, and transparently. We have both an individual and collective responsibility to meet these expectations by maintaining high standards and demonstrating good conduct, and by challenging behaviour which falls below expectations.

Importantly, we should be able to undertake our role as a councillor without being intimidated, abused, bullied or threatened by anyone, including the general public.

This Code has been designed to protect our democratic role, encourage good conduct and safeguard the public's trust in local government.

Introduction

The Local Government Association (LGA) has developed this Model Councillor Code of Conduct, in association with key partners and after extensive consultation with the sector, as part of its work on supporting all tiers of local government to continue to aspire to high standards of leadership and performance. It is a template for councils to adopt in whole and/or with local amendments.

All councils are required to have a local Councillor Code of Conduct.

The LGA will undertake an annual review of this Code to ensure it continues to be fit-for-purpose, incorporating advances in technology, social media and changes in legislation. The LGA can also offer support, training and mediation to councils and councillors on the application of the Code and the National Association of Local Councils (NALC) and the county associations of local councils can offer advice and support to town and parish councils.

Definitions

For the purposes of this Code of Conduct, a “councillor” means a member or co-opted member of a local authority or a directly elected mayor. A “co-opted member” is defined in the Localism Act 2011 Section 27(4) as “a person who is not a member of the authority but who

- a) is a member of any committee or sub-committee of the authority, or;
- b) is a member of, and represents the authority on, any joint committee or joint sub-committee of the authority;

and who is entitled to vote on any question that falls to be decided at any meeting of that committee or sub-committee”.

For the purposes of this Code of Conduct, “local authority” includes county councils, district councils, London borough councils, parish councils, town councils, fire and rescue authorities, police authorities, joint authorities, economic prosperity boards, combined authorities and National Park authorities.

Purpose of the Code of Conduct

The purpose of this Code of Conduct is to assist you, as a councillor, in modelling the behaviour that is expected of you, to provide a personal check and balance, and to set out the type of conduct that could lead to action being taken against you. It is also to protect you, the public, fellow councillors, local authority officers and the reputation of local government. It sets out general principles of conduct expected of all councillors and your specific obligations in relation to standards of conduct. The LGA encourages the use of support, training and mediation prior to action being taken using the Code. The fundamental aim of the Code is to create and maintain public confidence in the role of councillor and local government.

General principles of councillor conduct

Everyone in public office at all levels; all who serve the public or deliver public services, including ministers, civil servants, councillors and local authority officers; should uphold the [Seven Principles of Public Life](#), also known as the Nolan Principles.

Building on these principles, the following general principles have been developed specifically for the role of councillor.

In accordance with the public trust placed in me, on all occasions:

- I act with integrity and honesty
- I act lawfully
- I treat all persons fairly and with respect; and
- I lead by example and act in a way that secures public confidence in the role of councillor.

In undertaking my role:

- I impartially exercise my responsibilities in the interests of the local community
- I do not improperly seek to confer an advantage, or disadvantage, on any person
- I avoid conflicts of interest
- I exercise reasonable care and diligence; and
- I ensure that public resources are used prudently in accordance with my local authority's requirements and in the public interest.

Application of the Code of Conduct

This Code of Conduct applies to you as soon as you sign your declaration of acceptance of the office of councillor or attend your first meeting as a co-opted member and continues to apply to you until you cease to be a councillor.

This Code of Conduct applies to you when you are acting in your capacity as a councillor which may include when:

- you misuse your position as a councillor
- Your actions would give the impression to a reasonable member of the public with knowledge of all the facts that you are acting as a councillor;

The Code applies to all forms of communication and interaction, including:

- at face-to-face meetings
- at online or telephone meetings
- in written communication
- in verbal communication
- in non-verbal communication
- in electronic and social media communication, posts, statements and comments.

You are also expected to uphold high standards of conduct and show leadership at all times when acting as a councillor.

Your Monitoring Officer has statutory responsibility for the implementation of the Code of Conduct, and you are encouraged to seek advice from your Monitoring Officer on any matters that may relate to the Code of Conduct. Town and parish councillors are encouraged to seek advice from their Clerk, who may refer matters to the Monitoring Officer.

Standards of councillor conduct

This section sets out your obligations, which are the minimum standards of conduct required of you as a councillor. Should your conduct fall short of these standards, a complaint may be made against you, which may result in action being taken.

Guidance is included to help explain the reasons for the obligations and how they should be followed.

General Conduct

1. Respect

As a councillor:

1.1 I treat other councillors and members of the public with respect.

1.2 I treat local authority employees, employees and representatives of partner organisations and those volunteering for the local authority with respect and respect the role they play.

Respect means politeness and courtesy in behaviour, speech, and in the written word. Debate and having different views are all part of a healthy democracy. As a councillor, you can express, challenge, criticise and disagree with views, ideas, opinions and policies in a robust but civil manner. You should not, however, subject individuals, groups of people or organisations to personal attack.

In your contact with the public, you should treat them politely and courteously. Rude and offensive behaviour lowers the public's expectations and confidence in councillors.

In return, you have a right to expect respectful behaviour from the public. If members of the public are being abusive, intimidatory or threatening you are entitled to stop any conversation or interaction in person or online and report them to the local authority, the relevant social media provider or the police. This also applies to fellow councillors, where action could then be taken under the Councillor Code of Conduct, and local authority employees, where concerns should be raised in line with the local authority's councillor-officer protocol.

2. Bullying, harassment and discrimination

As a councillor:

2.1 I do not bully any person.

2.2 I do not harass any person.

2.3 I promote equalities and do not discriminate unlawfully against any person.

The Advisory, Conciliation and Arbitration Service (ACAS) characterises bullying as offensive, intimidating, malicious or insulting behaviour, an abuse or misuse of power through means that undermine, humiliate, denigrate or injure the recipient. Bullying might be a regular pattern of behaviour or a one-off incident, happen face-to-face, on social media, in emails or phone calls, happen in the workplace or at work social events and may not always be obvious or noticed by others.

The Protection from Harassment Act 1997 defines harassment as conduct that causes alarm or distress or puts people in fear of violence and must involve such conduct on at least two occasions. It can include repeated attempts to impose unwanted communications and contact upon a person in a manner that could be expected to cause distress or fear in any reasonable person.

Unlawful discrimination is where someone is treated unfairly because of a protected characteristic. Protected characteristics are specific aspects of a person's identity defined by the Equality Act 2010. They are age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex and sexual orientation.

The Equality Act 2010 places specific duties on local authorities. Councillors have a central role to play in ensuring that equality issues are integral to the local authority's performance and strategic aims, and that there is a strong vision and public commitment to equality across public services.

3. Impartiality of officers of the council

As a councillor:

3.1 I do not compromise, or attempt to compromise, the impartiality of anyone who works for, or on behalf of, the local authority.

Officers work for the local authority as a whole and must be politically neutral (unless they are political assistants). They should not be coerced or persuaded to act in a way that would undermine their neutrality. You can question officers in order to understand, for example, their reasons for proposing to act in a particular way, or the content of a report that they have written. However, you must not try and force them to act differently, change their advice, or alter the content of that report, if doing so would prejudice their professional integrity.

4. Confidentiality and access to information

As a councillor:

4.1 I do not disclose information:

- a. given to me in confidence by anyone**
- b. acquired by me which I believe, or ought reasonably to be aware, is of a confidential nature, unless**
 - i. I have received the consent of a person authorised to give it;**
 - ii. I am required by law to do so;**
 - iii. the disclosure is made to a third party for the purpose of obtaining professional legal advice provided that the third party agrees not to disclose the information to any other person; or**
 - iv. the disclosure is:**
 - 1. reasonable and in the public interest; and**
 - 2. made in good faith and in compliance with the reasonable requirements of the local authority; and**
 - 3. I have consulted the Monitoring Officer prior to its release.**

4.2 I do not improperly use knowledge gained solely as a result of my role as a councillor for the advancement of myself, my friends, my family members, my employer or my business interests.

4.3 I do not prevent anyone from getting information that they are entitled to by law.

Local authorities must work openly and transparently, and their proceedings and printed materials are open to the public, except in certain legally defined circumstances. You should work on this basis, but there will be times when it is required by law that discussions, documents and other information relating to or held by the local authority must be treated in a confidential manner. Examples include personal data relating to individuals or information relating to ongoing negotiations.

5. Disrepute

As a councillor:

5.1 I do not bring my role or local authority into disrepute.

As a Councillor, you are trusted to make decisions on behalf of your community and your actions and behaviour are subject to greater scrutiny than that of ordinary members of the public. You should be aware that your actions might have an adverse impact on you, other councillors and/or your local authority and may lower the public's confidence in you or your local authority's ability to discharge your/its functions. For example, behaviour that is considered dishonest and/or deceitful can bring your local authority into disrepute.

You are able to hold the local authority and fellow councillors to account and are able to constructively challenge and express concern about decisions and processes undertaken by the council whilst continuing to adhere to other aspects of this Code of Conduct.

6. Use of position

As a councillor:

6.1 I do not use, or attempt to use, my position improperly to the advantage or disadvantage of myself or anyone else.

Your position as a member of the local authority provides you with certain opportunities, responsibilities and privileges, and you make choices all the time that will impact others. However, you should not take advantage of these opportunities to further your own or others' private interests or to disadvantage anyone unfairly.

7. Use of local authority resources and facilities

As a councillor:

7.1 I do not misuse council resources.

7.2 I will, when using the resources of the local or authorising their use by others:

- a. act in accordance with the local authority's requirements; and**
- b. ensure that such resources are not used for political purposes unless that use could reasonably be regarded as likely to facilitate, or be conducive to, the discharge of the functions of the local authority or of the office to which I have been elected or appointed.**

You may be provided with resources and facilities by the local authority to assist you in carrying out your duties as a councillor.

Examples include:

- office support
- stationery
- equipment such as phones, and computers
- transport
- access and use of local authority buildings and rooms.

These are given to you to help you carry out your role as a councillor more effectively and are not to be used for business or personal gain. They should be used in accordance with the purpose for which they have been provided and the local authority's own policies regarding their use.

8. Complying with the Code of Conduct

As a Councillor:

8.1 I undertake Code of Conduct training provided by my local authority.

8.2 I cooperate with any Code of Conduct investigation and/or determination.

8.3 I do not intimidate or attempt to intimidate any person who is likely to be involved with the administration of any investigation or proceedings.

8.4 I comply with any sanction imposed on me following a finding that I have breached the Code of Conduct.

It is extremely important for you as a councillor to demonstrate high standards, for you to have your actions open to scrutiny and for you not to undermine public trust in the local authority or its governance. If you do not understand or are concerned about the local authority's processes in handling a complaint you should raise this with your Monitoring Officer.

Protecting your reputation and the reputation of the local authority

9. Interests

As a councillor:

9.1 I register and disclose my interests.

Section 29 of the Localism Act 2011 requires the Monitoring Officer to establish and maintain a register of interests of members of the authority .

You need to register your interests so that the public, local authority employees and fellow councillors know which of your interests might give rise to a conflict of interest. The register is a public document that can be consulted when (or before) an issue arises. The register also protects you by allowing you to demonstrate openness and a willingness to be held accountable. You are personally responsible for deciding whether or not you should disclose an interest in a meeting, but it can be helpful for you to know early on if others think that a potential conflict might arise. It is also important that the public know about any interest that might have to be disclosed by you or other councillors when making or taking part in decisions, so that decision making is seen by the public as open and honest. This helps to ensure that public confidence in the integrity of local governance is maintained.

You should note that failure to register or disclose a disclosable pecuniary interest as set out in Table 1, is a criminal offence under the Localism Act 2011.

Appendix B sets out the detailed provisions on registering and disclosing interests. If in doubt, you should always seek advice from your Monitoring Officer.

10. Gifts and hospitality

As a councillor:

- 10.1 I do not accept gifts or hospitality, irrespective of estimated value, which could give rise to real or substantive personal gain or a reasonable suspicion of influence on my part to show favour from persons seeking to acquire, develop or do business with the local authority or from persons who may apply to the local authority for any permission, licence or other significant advantage.**
- 10.2 I register with the Monitoring Officer any gift or hospitality with an estimated value of at least £50 within 28 days of its receipt.**
- 10.3 I register with the Monitoring Officer any significant gift or hospitality that I have been offered but have refused to accept.**

In order to protect your position and the reputation of the local authority, you should exercise caution in accepting any gifts or hospitality which are (or which you reasonably believe to be) offered to you because you are a councillor. The presumption should always be not to accept significant gifts or hospitality. However, there may be times when such a refusal may be difficult if it is seen as rudeness in which case you could accept it but must ensure it is publicly registered. However, you do not need to register gifts and hospitality which are not related to your role as a councillor, such as Christmas gifts from your friends and family. It is also important to note that it is appropriate to accept normal expenses and hospitality associated with your duties as a councillor. If you are unsure, do contact your Monitoring Officer for guidance.

Appendices

Appendix A – The Seven Principles of Public Life

The principles are:

Selflessness

Holders of public office should act solely in terms of the public interest.

Integrity

Holders of public office must avoid placing themselves under any obligation to people or organisations that might try inappropriately to influence them in their work. They should not act or take decisions in order to gain financial or other material benefits for themselves, their family, or their friends. They must disclose and resolve any interests and relationships.

Objectivity

Holders of public office must act and take decisions impartially, fairly and on merit, using the best evidence and without discrimination or bias.

Accountability

Holders of public office are accountable to the public for their decisions and actions and must submit themselves to the scrutiny necessary to ensure this.

Openness

Holders of public office should act and take decisions in an open and transparent manner. Information should not be withheld from the public unless there are clear and lawful reasons for so doing.

Honesty

Holders of public office should be truthful.

Leadership

Holders of public office should exhibit these principles in their own behaviour. They should actively promote and robustly support the principles and be willing to challenge poor behaviour wherever it occurs.

Appendix B Registering

interests

Within 28 days of becoming a member or your re-election or re-appointment to office you must register with the Monitoring Officer the interests which fall within the categories set out in **Table 1 (Disclosable Pecuniary Interests)** which are as described in "The Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012". You should also register details of your other personal interests which fall within the categories set out in **Table 2 (Other Registerable Interests)**.

"Disclosable pecuniary interest" means an interest of yourself, or of your partner if you are aware of your partner's interest, within the descriptions set out in Table 1 below.

"Partner" means a spouse or civil partner, or a person with whom you are living as husband or wife, or a person with whom you are living as if you are civil partners.

1. You must ensure that your register of interests is kept up-to-date and within 28 days of becoming aware of any new interest, or of any change to a registered interest, notify the Monitoring Officer.
2. A 'sensitive interest' is as an interest which, if disclosed, could lead to the councillor, or a person connected with the councillor, being subject to violence or intimidation.
3. Where you have a 'sensitive interest' you must notify the Monitoring Officer with the reasons why you believe it is a sensitive interest. If the Monitoring Officer agrees they will withhold the interest from the public register.

Non participation in case of disclosable pecuniary interest

4. Where a matter arises at a meeting which directly relates to one of your Disclosable Pecuniary Interests as set out in **Table 1**, you must disclose the interest, not participate in any discussion or vote on the matter and must not remain in the room unless you have been granted a dispensation. If it is a 'sensitive interest', you do not have to disclose the nature of the interest, just that you have an interest. Dispensation may be granted in limited circumstances, to enable you to participate and vote on a matter in which you have a disclosable pecuniary interest.
5. Where you have a disclosable pecuniary interest on a matter to be considered or is being considered by you as a Cabinet member in exercise of your executive function, you must notify the Monitoring Officer of the interest and must not take any steps or further steps in the matter apart from arranging for someone else to deal with it

Disclosure of Other Registerable Interests

6. Where a matter arises at a meeting which **directly relates** to one of your Other Registerable Interests (as set out in Table 2), you must disclose the interest. You may speak on the matter only if members of the public are also allowed to speak at the meeting but otherwise must not take part in any discussion or vote on the matter and must not remain in the room unless you have been granted a dispensation. If it

is a 'sensitive interest', you do not have to disclose the nature of the interest.

Disclosure of Non-Registerable Interests

7. Where a matter arises at a meeting which **directly relates** to your financial interest or well-being (and is not a Disclosable Pecuniary Interest set out in Table 1) or a financial interest or well-being of a relative or close associate, you must disclose the interest. You may speak on the matter only if members of the public are also allowed to speak at the meeting but otherwise must not take part in any discussion or vote on the matter and must not remain in the room unless you have been granted a dispensation. If it is a 'sensitive interest', you do not have to disclose the nature of the interest.
8. Where a matter arises at a meeting which **affects** –
 - a. your own financial interest or well-being;
 - b. a financial interest or well-being of a friend, relative, close associate; or
 - c. a body included in those you need to disclose under Disclosable Pecuniary Interests as set out in **Table 1**

you must disclose the interest. In order to determine whether you can remain in the meeting after disclosing your interest the following test should be applied

9. Where a matter **affects** your financial interest or well-being:
 - a. to a greater extent than it affects the financial interests of the majority of inhabitants of the ward affected by the decision and;
 - b. a reasonable member of the public knowing all the facts would believe that it would affect your view of the wider public interest

You may speak on the matter only if members of the public are also allowed to speak at the meeting but otherwise must not take part in any discussion or vote on the matter and must not remain in the room unless you have been granted a dispensation.

If it is a 'sensitive interest', you do not have to disclose the nature of the interest.

10. Where you have a personal interest in any business of your authority and you have made an executive decision in relation to that business, you must make sure that any written statement of that decision records the existence and nature of your interest.

Table 1: Disclosable Pecuniary Interests

This table sets out the explanation of Disclosable Pecuniary Interests as set out in the [Relevant Authorities \(Disclosable Pecuniary Interests\) Regulations 2012](#).

Subject	Description
Employment, office, trade, profession or vocation	Any employment, office, trade, profession or vocation carried on for profit or gain. [Any unpaid directorship.]
Sponsorship	Any payment or provision of any other financial benefit (other than from the council) made to the councillor during the previous 12-month period for expenses incurred by him/her in carrying out his/her duties as a councillor, or towards his/her election expenses. This includes any payment or financial benefit from a trade union within the meaning of the Trade Union and Labour Relations (Consolidation) Act 1992.
Contracts	Any contract made between the councillor or his/her spouse or civil partner or the person with whom the

	<p>councillor is living as if they were spouses/civil partners (or a firm in which such person is a partner, or an incorporated body of which such person is a director* or a body that such person has a beneficial interest in the securities of*) and the council —</p> <p>(a) under which goods or services are to be provided or works are to be executed; and</p> <p>(b) which has not been fully discharged.</p>
Land and Property	<p>Any beneficial interest in land which is within the area of the council.</p> <p>'Land' excludes an easement, servitude, interest or right in or over land which does not give the councillor or his/her spouse or civil partner or the person with whom the councillor is living as if they were spouses/civil partners (alone or jointly with another) a right to occupy or to receive income.</p>
Licenses	<p>Any licence (alone or jointly with others) to occupy land in the area of the council for a month or longer</p>
Corporate tenancies	<p>Any tenancy where (to the councillor's knowledge)—</p> <p>(a) the landlord is the council; and</p> <p>(b) the tenant is a body that the councillor, or his/her spouse or civil partner or the person with whom the councillor is living as if they were spouses/civil partners is a partner of or a director* of or has a beneficial interest in the securities* of.</p>
Securities	<p>Any beneficial interest in securities* of a body where—</p> <p>(a) that body (to the councillor's knowledge) has a place of business or land in the area of the council; and</p> <p>(b) either—</p> <p>(i) the total nominal value of the securities* exceeds £25,000 or one hundredth of the total issued share capital of that body; or</p> <p>(ii) if the share capital of that body is of more than one class, the total nominal value of the shares of any one class in which the councillor, or his/her spouse or civil partner or the person with whom the councillor is living as if they were</p>

	spouses/civil partners has a beneficial interest exceeds one hundredth of the total issued share capital of that class.
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* 'director' includes a member of the committee of management of an industrial and provident society.

* 'securities' means shares, debentures, debenture stock, loan stock, bonds, units of a collective investment scheme within the meaning of the Financial Services and Markets Act 2000 and other securities of any description, other than money deposited with a building society.

Table 2: Other Registerable Interests

<p>You have a personal interest in any business of your authority where it relates to or is likely to affect:</p> <ul style="list-style-type: none">a) any body of which you are in general control or management and to which you are nominated or appointed by your authorityb) any body<ul style="list-style-type: none">(i) exercising functions of a public nature(ii) any body directed to charitable purposes or(iii) one of whose principal purposes includes the influence of public opinion or policy (including any political party or trade union)

Appendix C – the Committee on Standards in Public Life

The LGA has undertaken this review whilst the Government continues to consider the recommendations made by the Committee on Standards in Public Life in their report on [Local Government Ethical Standards](#). If the Government chooses to implement any of the recommendations, this could require a change to this Code.

The recommendations cover:

- Recommendations for changes to the Localism Act 2011 to clarify in law when the Code of Conduct applies
- The introduction of sanctions
- An appeals process through the Local Government Ombudsman
- Changes to the Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012
- Updates to the Local Government Transparency Code
- Changes to the role and responsibilities of the Independent Person
- That the criminal offences in the Localism Act 2011 relating to Disclosable Pecuniary Interests should be abolished

The Local Government Ethical Standards report also includes Best Practice recommendations. These are:

Best practice 1: Local authorities should include prohibitions on bullying and harassment in codes of conduct. These should include a definition of bullying and harassment, supplemented with a list of examples of the sort of behaviour covered by such a definition.

Best practice 2: Councils should include provisions in their code of conduct requiring councillors to comply with any formal standards investigation and prohibiting trivial or malicious allegations by councillors.

Best practice 3: Principal authorities should review their code of conduct each year and regularly seek, where possible, the views of the public, community organisations and neighbouring authorities.

Best practice 4: An authority's code should be readily accessible to both councillors and the public, in a prominent position on a council's website and available in council premises.

Best practice 5: Local authorities should update their gifts and hospitality register at least once per quarter, and publish it in an accessible format, such as CSV.

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

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

Best practice 8: An Independent Person should be consulted as to whether to undertake a formal investigation on an allegation, and should be given the option to

review and comment on allegations which the responsible officer is minded to dismiss as being without merit, vexatious, or trivial.

Best practice 9: Where a local authority makes a decision on an allegation of misconduct following a formal investigation, a decision notice should be published as soon as possible on its website, including a brief statement of facts, the provisions of the code engaged by the allegations, the view of the Independent Person, the reasoning of the decision-maker, and any sanction applied.

Best practice 10: A local authority should have straightforward and accessible guidance on its website on how to make a complaint under the code of conduct, the process for handling complaints, and estimated timescales for investigations and outcomes.

Best practice 11: Formal standards complaints about the conduct of a parish councillor towards a clerk should be made by the chair or by the parish council, rather than the clerk in all but exceptional circumstances.

Best practice 12: Monitoring Officers' roles should include providing advice, support and management of investigations and adjudications on alleged breaches to parish councils within the remit of the principal authority. They should be provided with adequate training, corporate support and resources to undertake this work.

Best practice 13: A local authority should have procedures in place to address any conflicts of interest when undertaking a standards investigation. Possible steps should include asking the Monitoring Officer from a different authority to undertake the investigation.

Best practice 14: Councils should report on separate bodies they have set up or which they own as part of their annual governance statement and give a full picture of their relationship with those bodies. Separate bodies created by local authorities should abide by the Nolan principle of openness and publish their board agendas and minutes and annual reports in an accessible place.

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

The LGA has committed to reviewing the Code on an annual basis to ensure it is still fit for purpose.

Arrangements for dealing with standards allegations under the Localism Act 2011

1 Context

These “Arrangements” set out how you may make a complaint that an elected or co-opted member of this authority or of a parish council within North Warwickshire has failed to comply with the authority’s Code of Conduct, and sets out how the authority will deal with allegations of a failure to comply with the authority’s Code of Conduct.

Under Section 28(6) and (7) of the Localism Act 2011, the Council must have in place “arrangements” under which allegations that a member or co-opted member of the authority, or of a Committee or Sub-Committee of the authority, or of a parish council within the authority’s area has failed to comply with that authority’s Code of Conduct can be investigated and decisions made on such allegations.

Such 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 an allegation which it has decided shall be investigated, and whose views can be sought by the authority at any other stage, or by a member or a member or co-opted member of a parish council against whom an allegation as been made.

2 The Code of Conduct

The Council has adopted a Code of Conduct for members, which is attached as Appendix One to these arrangements and available for inspection on the authority’s website and on request from Reception at the Council’s Offices.

Each parish council is also required to adopt a Code of Conduct. If you wish to inspect a Parish Council’s Code of Conduct, you should inspect any website operated by the parish council or request the parish clerk to allow you to inspect the parish council’s Code of Conduct.

3 Making a complaint

If you wish to make a complaint, please write to:

Richard Dobbs
Monitoring Officer
North Warwickshire Borough Council
Council Offices
South Street
Atherstone
Warwickshire
CV9 1DE

Or email: richarddobbs@northwarks.gov.uk

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 member misconduct.

In order to ensure that we have all the information which we need to be able to process your complaint, please complete and send us the model complaint form, which can be downloaded from the authority's website, next to the Code of Conduct, and is available on request from the One Stop Shop at the Council's Offices.

Please do provide us with your name and a contact address or email address, so that we can acknowledge receipt of your complaint and keep you informed of its progress. If you want to keep your name and address confidential, please indicate this in the space provided on the complaint form, in which case we will not disclose your name and address to the member against whom you make the complaint, without your prior consent. 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 five working days of receiving it, and will keep you informed of the progress of your complaint.

4 Will your complaint be investigated?

The Monitoring Officer will review every complaint received and, after consultation with the Independent Person and the Group Spokespersons on the Standards Committee, take a decision as to whether it merits formal investigation. This decision will normally be taken within 14 days of receipt of your complaint. Where the Monitoring Officer has taken a decision, he/she will inform you of his/her decision and the reasons for that decision.

If the complainant is not happy with that decision, the matter will be reported to the Standards Committee for Councillors to review that decision.

Where he/she requires additional information in order to come to a decision, he/she may come back to you for such information, and may request information from the member against whom your complaint is directed. Where your complaint relates to a Parish Councillor, the Monitoring Officer may also inform the Parish Council of your complaint and seek the views of the Parish Council before deciding whether the complaint merits formal investigation.

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 member accepting that his/her conduct was unacceptable and/or offering an apology, or other remedial action by the authority. Where the member or the authority makes a reasonable offer of local resolution, but you are not willing to accept that offer, the Monitoring Officer will take account of this in deciding whether the complaint merits formal investigation.

If your 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.

5 How is the investigation conducted?

The Council has adopted a procedure for the investigation of misconduct complaints, which is attached as Appendix Two to these arrangements.

If the Monitoring Officer or Standards Committee decides that a complaint merits formal investigation, he/she will appoint an Investigating Officer, who may be another officer of the authority, an officer of another authority or an external investigator. The Investigating Officer will decide whether he/she needs to meet or speak to you to understand the nature of your complaint and so that you can explain your 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 member against whom you have complained and provide him/her with a copy of your complaint, and ask the member to provide his/her explanation of events, and to identify what documents he needs to see and who he needs to interview. In exceptional cases, where it is appropriate to keep your identity confidential or disclosure of details of the complaint to the member might prejudice the investigation, the Monitoring Officer can delete your name and address from the papers given to the member, or delay notifying the member until the investigation has progressed sufficiently.

At the end of his/her investigation, the Investigating Officer will produce a draft report and will send copies of that draft report, in confidence, to you and to the member concerned, to give you both an opportunity to identify any matter in that draft report which you disagree with or which you consider requires more consideration.

Having received and taken account of any comments which you may make on the draft report, the Investigating Officer will send his/her final report to the Monitoring Officer.

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

The Monitoring Officer will review the Investigating Officer's report and, if he is satisfied that the Investigating Officer's report is sufficient, the Monitoring Officer will write to you and to the member concerned and to the Parish Council, where your complaint relates to a Parish Councillor, notifying you that he is satisfied that no further action is required, and give you both a copy of the Investigating Officer's final report. If the Monitoring Officer is not satisfied that the investigation has been conducted properly, he may ask the Investigating Officer to reconsider his/her report.

The Monitoring Officer, in consultation with the Group Spokesperson, may still report the findings of the Investigating Officer to the Standards Committee.

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

The Monitoring Officer will review the Investigating Officer's report and will then either send the matter for local hearing before the Hearings Panel or, after consulting the Independent Person and Group Spokespersons on the Standards Committee, seek local resolution.

7.1 Local Resolution

The Monitoring Officer may consider that the matter can reasonably be resolved without the need for a hearing. In such a case, he/she will consult with the Independent Person, Group Spokespersons on the Standards Committee and with you as complainant and seek to agree what you consider to be a fair resolution which also helps to ensure higher standards of conduct for the future. Such resolution may include the member accepting that his/her conduct was unacceptable and/or offering an apology, and/or other remedial action by the

authority. If the member complies with the suggested resolution, the Monitoring Officer will report the matter to the Standards Committee and the Parish Council for information, but will take no further action. However, if you tell the Monitoring Officer that any suggested resolution would not be adequate, the Monitoring Officer will refer the matter for a local hearing.

7.2 Local Hearing

If the Monitoring Officer considers that local resolution is not appropriate, or you are not satisfied by the proposed resolution, or the member concerned is not prepared to undertake any proposed remedial action, such as giving an apology, then the Monitoring Officer will report the Investigating Officer's report to the Hearings Panel which will conduct a local hearing before deciding whether the member has failed to comply with the Code of Conduct and, if so, whether to take any action in respect of the member.

The Council has agreed a procedure for local hearings, which is attached as Appendix Three to these arrangements.

Essentially, the Monitoring Officer will conduct a "pre-hearing process", requiring the member to give his/her response to the Investigating Officer's report, in order to identify what is likely to be agreed and what is likely to be in contention at the hearing, and the Chair of the Hearings Panel may issue directions as to the manner in which the hearing will be conducted. At the hearing, the Investigating Officer will present his/her report, call such witnesses as he/she considers necessary and make representations to substantiate his/her conclusion that the member has failed to comply with the Code of Conduct. For this purpose, the Investigating Officer may ask you as the complainant to attend and give evidence to the Hearings Panel. The member will then have an opportunity to give his/her evidence, to call witnesses and to make representations to the Hearings Panel as to why he/she considers that he/she did not fail to comply with the Code of Conduct.

The Hearings Panel, with the benefit of any advice from the Independent Person, may conclude that the member did not fail to comply with the Code of Conduct, and so dismiss the complaint. If the Hearings Panel concludes that the member did fail to comply with the Code of Conduct, the Chair will inform the member of this finding and the Hearings Panel will then consider what action, if any, the Hearings Panel should take as a result of the member's failure to comply with the Code of Conduct. In doing this, the Hearings Panel will give the member an opportunity to make representations to the Panel and will consult the Independent Person, but will then decide what action, if any, to take in respect of the matter..

8 What action can the Hearings Panel take where a member has failed to comply with the Code of Conduct?

The Council has delegated to the Hearings Panel such of its powers to take action in respect of individual members as may be necessary to promote and maintain high standards of conduct. Accordingly the Hearings Panel may:

- 8.1 Censure or reprimand the member;
- 8.2 Publish its findings in respect of the member's conduct;
- 8.3 Report its findings to Council or to the Parish Council for information;

- 8.4 Recommend to the member's Group Leader (or in the case of un-grouped members, recommend to Council or to Committees) that he/she be removed from any or all Committees or Sub-Committees of the Council;
- 8.5 Recommend to the Leader of the Council that the member be removed from particular responsibilities;
- 8.6 Instruct the Monitoring Officer to or recommend that the Parish Council arrange training for the member;
- 8.7 Remove or recommend to the Parish Council that the member be removed from all outside appointments to which he/she has been appointed or nominated by the authority or by the Parish Council;
- 8.8 Withdraw or recommend to the Parish Council that it withdraws facilities provided to the member by the Council, such as a computer, website and/or email and Internet access; or
- 8.9 Exclude or recommend that the Parish Council exclude the member from the Council's offices or other premises, with the exception of meeting rooms as necessary for attending Council, Committee and Sub-Committee meetings.

The Hearings Panel has no power to suspend or disqualify the member or to withdraw members' special responsibility allowances.

9 What happens at the end of the hearing?

At the end of the hearing, the Chair will state the decision of the Hearings Panel as to whether the member failed to comply with the Code of Conduct and as to any actions which the Hearings Panel resolves to take.

As soon as reasonably practicable thereafter, the Monitoring Officer shall prepare a formal decision notice in consultation with the Chair of the Hearings Panel, and send a copy to you, to the member and to the Parish Council, make that decision notice available for public inspection and report the decision to the next convenient meeting of the Council.

10 Who are the Hearings Panel?

The Hearings Panel is a sub-committee of the Council's Standards Committee. The Standards Committee has decided that it will comprise a maximum of five members of the Council, including members drawn from at least two different political parties. Subject to those requirements, it is appointed on the nomination of party group leaders in proportion to the strengths of each party group on the Council.

The Independent Person is invited to attend all meetings of the Hearings Panel and his/her views are sought and taken into consideration before the Hearings Panel takes any decision on whether the member's conduct constitutes a failure to comply with the Code of Conduct and as to any action to be taken following a finding of failure to comply with the Code of Conduct.

11 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 members of Council.

A person cannot be “independent” if he/she:

- 11.1 Is, or has been within the past five years, a member, co-opted member or officer of the authority, with the exception that former Independent Members of Standards Committees can be appointed as Independent Persons;
- 11.2 Is or has been within the past five years, a member, co-opted member or officer of a parish council within the authority’s area, or
- 11.3 Is a relative, or close friend, of a person within paragraph 11.1 or 11.2 above. For this purpose, “relative” means:
 - 11.3.1 Spouse or civil partner;
 - 11.3.2 Living with the other person as husband and wife or as if they were civil partners;
 - 11.3.3 Grandparent of the other person;
 - 11.3.4 A lineal descendant of a grandparent of the other person;
 - 11.3.5 A parent, sibling or child of a person within paragraphs 11.3.1 or 11.3.2;
 - 11.3.6 A spouse or civil partner of a person within paragraphs 11.3.3, 11.3.4 or 11.3.5; or
 - 11.3.7 Living with a person within paragraphs 11.3.3, 11.3.4 or 11.3.5 as husband and wife or as if they were civil partners.

12 Revision of these arrangements

The Council may by resolution agree to amend these arrangements, and has delegated to the Chair of the Hearings Panel the right to depart from these arrangements where he/she considers that it is expedient to do so in order to secure the effective and fair consideration of any matter.

13 Appeals

There is no right of appeal for you as complainant or for the member against a decision of the Monitoring Officer or of the Hearings Panel.

If you feel that the authority has failed to deal with your complaint properly, you may make a complaint to the Local Government Ombudsman.

Agenda Item No 5

Standards Committee

11 February 2021

**Report of the Head of Legal Services and
Monitoring Officer**

**Complaints and allegations under
the Code of Conduct - Update**

1 Summary

- 1.1 This report sets summarises complaints received alleging breaches of this Council's Code of Conduct, and the Codes of parish councils in North Warwickshire, since June 2020 and action taken in relation to them.

Recommendation to the Committee

That Committee note the complaints received and comment on any issues arising.

2 Consultation

- 2.1 Councillors Macdonald and McLauchlan were consulted in relation to the content of this report and any feedback received will be given at the meeting.

3 Report

- 3.1 As set out in another agenda item, this Council must have a Code of Conduct in place to regulate the conduct of its members and which complies with the requirements of the Localism Act 2011 (the 2011 Act).
- 3.2 The 2011 Act also requires that a district council has in place arrangements for investigating allegations of breaches of its Code of Conduct and under which decisions on allegations can be made. Arrangements must also be in place for investigating and making decisions on allegations of breaches of the Code of Conduct for parish councils within a district council's area.
- 3.3 As referred to in another agenda item, it is recommended that local authorities regularly publish reports following formal investigations, setting out the findings of those investigations and any sanctions which are imposed. In the period since June 2020 several complaints have been made however, having consulted the Chair and Spokesperson and the Independent Persons as required under this Council's arrangements for dealing with breaches, it has been determined in all cases that either no breach has occurred or that a minor breach has occurred but that in no case is a formal investigation necessary.

3.4 This report provides members with a summary of the allegations which have been made in relation to this Council's Code of Conduct and for parishes within North Warwickshire, and in respect of which no formal investigation has been undertaken. These are summarised and anonymised in the Table below:

Ref.	Summary of allegation	Council	Summary of Finding
A	Councillor made posts on social media inaccurately alleging the complainant made racist comments at a football match.	Parish	Person concerned was not acting in their role as a councillor at the time of the incident concerned but, in another capacity. No action can be taken.
B	Councillor made posts on social media suggesting that a person had tried to demand money with menaces from a local business	NWBC	Person concerned initially acted in a personal capacity not identifying themselves as a councillor, nor did they use a social media account identifying them as such. Once the complainant identified the person concerned as a councillor, they reiterated their earlier comment 'as a councillor'. Although the comments amounted to a very minor breach of the Code, no action or formal investigation was required.
C	Parish councillor made inappropriate gestures when addressing the Planning and Development Board which may have influenced the Board to make a particular decision. This meeting was broadcast on YouTube and the behaviour concerned could be seen by viewers.	Parish	No breach of the Code of Conduct. The person concerned simply reacted to comments made by others and the gestures were not out of the ordinary course of human behaviour.

3.5 Members are asked to note that each allegation relates to communications made via technology and that the Independent Persons suggested that training and/or guidance for members may assist in ensuring that their communications are not misinterpreted and that they do not inadvertently breach the Code.

3.6 Committee should note that, in the past two weeks three further allegations have been received and that these will be actioned in accordance with the arrangements that are in place for dealing with allegations.

4 **Report Implications**

4.1 There are the following implications to the recommendations in this report.

4.2 **Finance and Value for Money Implications**

4.2.1 There are no resources implications in relation to the proposals in this report.

4.3 **Safer Communities Implications**

4.3.1 There are no Safer Communities implications in relation to the proposals in this report.

4.4 **Legal and Human Rights Implications**

4.4.1 There are no direct legal implications from this report.

4.5 **Environment and Sustainability Implications**

4.5.1 There are no Environmental and Sustainability implications to the proposals in this report.

4.6 **Human Resources Implications**

4.6.1 There are no Human Resources implications to the proposals in this report.

4.7 **Risk Management Implications**

4.7.1 There are no Risk Management implications to the proposals in this report.

4.8 **Equalities Implications**

4.8.1 There are no Equalities implications in relation to the proposals in this report.

The Contact Officer for this report is Clive Tobin (01827 719251).

Local Government Act 1972 Section 100D, as substituted by the Local Government Act, 2000 Section 97

Background Paper No	Author	Nature of Background Paper	Date

Agenda Item No 6

Standards Committee

11 February 2021

Report of the Head of Legal Services and Monitoring Officer

Recommendations of the Committee on Standards in Public Life

1 Summary

- 1.1 This report sets out recent recommendations of the Committee on Standards in Public Life and the Council's response to those recommendations, together with the steps which are being taken to address the issues raised.

Recommendation to the Committee

That Committee note the recommendations of the Committee on Standards in Public Life, the Council's response to the recommendations and the ongoing steps to address those issues and comment on any issues arising.

2 Consultation

- 2.1 Councillors Macdonald and McLauchlan have been informed of the recommendations and responses, along with the content of this report, and any feedback received will be given at the meeting.

3 Report

- 3.1 The Committee on Standards in Public Life (CSPL) was established in 1994 and is responsible for promoting the Seven Principles of Public Life across a range of bodies. Members will be aware that the Seven Principles of Public Life underpin the role of elected members and are the foundation on which the Council's Code of Conduct must be based. Those principles are:

Selflessness,
Integrity;
Objectivity;
Accountability
Openness
Honesty; and,
Leadership.

- 3.2 The CSPL has previously compiled detailed reports on the standards regime in local government and made recommendations to central government which have influenced policy and legislation. Its most detailed report was compiled in 1997 and supported a change to the law regarding standards and, since that time, the CSPL has continued to monitor and report to central government on this issue.
- 3.3 In January 2019 the CSPL submitted a further detailed report to central government following an extensive review of the standards regime and made a number of observations and recommendations to government. The report concluded that the vast majority of officers and elected members in local government wish to maintain the highest standards however, for those small number of cases in which they do not do so, the current regime is not always robust enough to address the issue and take appropriate action. Of note the CSPL report concluded that:
- 3.3.1 the range of sanctions available to deal with members who are found to have breached the Code of Conduct were insufficient; and,
- 3.3.2 further categories of interests held by members should be disclosable.
- 3.4 It would be necessary for central government to amend the law to address those issues and, to date, no such changes have been made. The CSPL report also made a wide range of additional recommendations to government, local authorities, parish groups, political parties and the LGA which did not require any change to the law.
- 3.5 The CSPL report made 15 best practice recommendations to local government which could improve the operation of their standards regimes. When reporting to government the CSPL undertook to raise these issues with local authorities during the following year. This Council received various communications from the CPSL and in July it was asked to respond to setting out its current practice in relation to those recommendations and any action it was taking to address them. A copy of the recommendations and the Council's response is set out in Appendix A.
- ...
- 3.6 The response in relation to recommendations 1, 2 and 3 indicated that the Council was due to review its Code of Conduct at which time the provisions relating to bullying and harassment would be addressed, consideration could be given to incorporating a requirement to comply with investigations and a programme for ongoing reviews could be considered.
- 3.7 Whilst most of the recommendations and responses are self-explanatory, members' attention is drawn to those in the table below and the views of the Committee are requested as to whether additional work is required to address these.

Table

No.	Recommendation	Further comment
6.	Councils should publish a clear and straightforward public interest test against which allegations are filtered.	It is recommended in a separate report that a Working Party is set up to review the Code and Arrangements for dealing with breaches which could include whether this test is revised.
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.	A separate report to Committee summarises complaints in respect of which there has been no formal investigation. Where a complaint results in a formal investigation the Standards Sub-committee which adjudicates on any allegation will be asked to consider the content of any decision notice and the appropriate steps to publish it.
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 is outside of the direct control of this Council and, although we could recommend how complaints about parish councillors are made, we must consider all complaints regardless of the identity of the person making them.

3.8 Members are asked to comment on any issues arising from the CPSL recommendations and identify any matters on which they require a further report.

4 Report Implications

4.1 There are the following implications to the recommendations in this report.

4.2 Finance and Value for Money Implications

4.2,1 There are no resources implications in relation to the proposals in this report.

4.3 Safer Communities Implications

4.3.1 There are no Safer Communities implication in relation to the proposals in this report.

4.4 Legal and Human Rights Implications

4.4.1 There are no direct legal implications from this report.

4.5 Environment and Sustainability Implications

4.5.1 There are no Environmental and Sustainability implications to the proposals in this report.

4.6 Human Resources Implications

4.6.1 There are no Human Resources implications to the proposals in this report.

4.7 Risk Management Implications

4.7.1 There are no Risk Management implications to the proposals in this report.

4.8 Equalities Implications

4.8.1 There are no Equalities implications in relation to the proposals in this report

The Contact Officer for this report is Clive Tobin (01827 719251).

Local Government Act 1972 Section 100D, as substituted by the Local Government Act, 2000 Section 97

Background Paper No	Author	Nature of Background Paper	Date

CSPL local government ethical standards 15 best practice recommendations

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.

Progress:

Please see the covering email

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.

Progress:

As Q1

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.

Progress:

As Q1

4: An authority's code should be readily accessible to both councillors and the public, in a prominent position on a council's website and available in council premises.

Progress:

We comply with this recommendation

5: Local authorities should update their gifts and hospitality register at least once per quarter, and publish it in an accessible format, such as CSV.

Progress:

Our register is available in hard copy and we will consider this recommendation

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

Progress:

Our procedures for the consideration and investigation of complaints is contained in a written document which includes this criteria

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

Progress:

We have more than two independent persons

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.

Progress:

We comply with this recommendation

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.

Progress:

As Q1 above

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.

Progress:

We comply with this recommendation

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.

Progress:

This will depend on the circumstances of the case and the right to make a complaint cannot be taken away from the clerk.

12: Monitoring Officers' roles should include providing advice, support and management of investigations and adjudications on alleged breaches to parish councils within the remit of

the principal authority. They should be provided with adequate training, corporate support and resources to undertake this work.

Progress:

We comply with this recommendation

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.

Progress:

We comply with this recommendation

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.

Progress:

We do not currently have any separate bodies

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

Progress:

We comply with this recommendation
