

**Council**

**Monday, 22 July 2019**

**7.00 pm at the**

**Wallington County Grammar School, Croydon Road, Wallington, SM6 7PH**



<b>COMMITTEE RECOMMENDATIONS</b>
----------------------------------

To all members of Council:-

6c. Appointment of an Independent Audit & Governance Committee Member (Pages 1 - 8)

6d. Local Government Ethical Standards (Pages 9 - 38)

Helen Bailey  
Chief Executive  
12 July 2019

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<b>Report to:</b>	Strategy and Resources Committee	<b>Date:</b>	8 July 2019
<b>Report title:</b>	Appointment of Audit Independent Person		
<b>Report from:</b>	Strategic Director of Resources		
<b>Ward/Areas affected:</b>	Borough Wide		
<b>Chair of Committee/Lead Member:</b>	Councillor Ruth Dombey, Leader of the Council Councillor David Hicks, Vice Chair of Audit and Governance Committee		
<b>Author(s)/Contact Number(s):</b>	Alexa Coates, Head of Committee and Management Support, 020 8770 5094		
<b>Corporate Plan Priorities:</b>	<ul style="list-style-type: none"> <li>• Making Informed Choices</li> </ul>		
<b>Open/Exempt:</b>	Open		
<b>Signed:</b>		<b>Date:</b>	26 June 2019

## 1. Summary

- 1.1 This report is presented for members to consider the appointment of an Independent Persons to the Audit and Governance Committee for audit matters. CIPFA guidance recommends a balanced membership to audit committees, with the right mix of apolitical expertise. The recruitment of an Independent Person supports this aim, by bringing independent assurance to Councillors on audit matters.

## 2. Recommendations

- 2.1 To recommend to Council the appointment of David Parrett as the Independent Person to the Audit and Governance Committee for audit matters
- 2.2 To recommend to Council amendments to article 8 of the Council's Constitution as set out in paragraph 4.3

## 3. Background

- 3.1 The Audit and Governance Committee is a key component of the Council's corporate governance. It provides an independent and high-level focus on the audit, assurance and reporting arrangements that underpin good governance and financial standards.

3.2 The independence of the committee is strengthened, by bringing independent assurance to Councillors of the adequacy of the risk management framework and the internal control environment, with the appointment of a suitably qualified independent person to advise on audit matters. It is proposed that this person would be co-opted onto the committee as a non-voting member. Currently Standards Independent Members are invited to attend Audit and Governance Committee meetings in an advisory capacity. The Audit Independent member will be appointed as a co-optee as the role is different to that of the Independent Persons who are appointed in accordance with the Localism Act 2011.

#### 4. Issues

4.1 Following discussions with the chair and vice chair of the Audit and Governance Committee, a role profile and job advert were prepared and advertised on the Council's job website. The role also featured on the Council's social media channels, in an online advertising campaign via the Sutton Guardian, and was circulated among members by email.

4.2 Overall, 7 applications were received, 3 candidates shortlisted and 1 interviewed. The interview panel consisted of the chair and vice chair of the committee along with the Council's Section 151 officer who has responsibility for audit matters in the Council. Following the completion of a successful selection process the committee are asked to recommend to Council the required Constitutional changes and appointment of David Parrett as the independent member.

4.3 Article 8 of the Council's Constitution sets out the composition of the Audit and Governance Committee. Suggested amendments are set out below (the current text is in *italics* and additions are underlined):

#### Composition

8.4 *Only one member of the Strategy and Resources Committee, per political group, may be a member of the Audit and Governance Committee.*

*The Leader of the Council may not be a member of the Audit and Governance Committee.*

*The Chair of the Audit and Governance committee may not be a member of Strategy and Resources Committee.*

*The Vice-Chair of the Audit and Governance Committee will come from the principal opposition group and lead on audit matters.*

8.5 Standards Independent Person(s) are invited to attend in an advisory, non-voting capacity.

8.6 Council may appoint an Audit Independent Person, co-opted to the committee in a non-voting capacity

The following restrictions apply to the Audit Independent Person. They must not:

- be a councillor or officer of the Council or have been so in the preceding five years prior to appointment
- be related to, or a close friend of, any councillor or officer of Sutton Council.
- have been convicted of any offence. The Council has the right to CRB check any independent committee members.
- be an undischarged bankrupt
- have significant business dealings with the Council
- have a formal connection with any political group
- have a proven history of vexatious and/or frivolous complaints against Sutton Council.
- be the holder of a significant office in an organisation being grant aided/supported by the London Borough of Sutton.

## 5. Options Considered

- 5.1 There is no statutory requirement to appoint an Independent Member to the Audit and Governance Committee. CIPFA guidance recommends a balanced membership to audit committees, with the right mix of apolitical expertise. The recruitment of an Independent Person supports this aim.

## 6. Impacts and Implications

### Financial

- 6.1 No allowance will be paid to members of the Council's Committees and Sub-Committees who are not Councillors. However, Co-Opted Members are entitled to claim a travel allowance when on Council business both inside and outside the borough. Any travel allowance claims can be accommodated within existing budget provisions.

### Legal

- 6.2 The appointment of an Audit Independent Person to the Audit and Governance Committee is not a statutory requirement but assists the Council with ensuring an independent and objective perspective is brought to the audit work of the committee.

## 7. Appendices and Background Documents

Appendix letter	Title
A	Independent Person Role Profile and Person Specification

<b>Background documents</b>
None

<b>Audit Trail</b>		
Version	Final	Date: 26 June 2019
<b>Consultation with other officers</b>		
Finance	Yes	Richard Simpson
Legal	Yes	Tracy Swan
Equality Impact Assessment required?	No	N/A

# Independent Audit and Governance Committee Member

## Role profile

The London Borough of Sutton has a strong track record of good corporate governance and robust financial management, but remains keen to implement continuous improvement in these areas. To support this ongoing process, we are now seeking to recruit a proficient independent member to serve on the Council's Audit and Governance Committee.

### About the Audit and Governance Committee

The Audit and Governance Committee is a key component of Sutton Council's corporate governance. It provides an independent and high-level focus on the audit, assurance and reporting arrangements that underpin good governance and financial standards.

Its role is:

To provide independent assurance to Councillors of the adequacy of the risk management framework and the internal control environment:

- It provides independent review of the Council's governance, risk management and control frameworks and oversees the financial reporting and annual governance processes.
- It oversees internal audit and external audit, helping to ensure efficient and effective assurance arrangements are in place.

To promote and maintain high standards of conduct and probity for all councillors, co-opted members, other members of Council committees and joint committees, assisting those members to observe Sutton's Code of Conduct, and considering allegations of breaches of Sutton's Code of Conduct.

To have oversight of Human Resources and Health and Safety issues.

### Job Purpose

As part of the Audit and Governance Committee your role will be:

- To monitor the effective development and operation of risk management and corporate governance in the Council.
- To monitor the counter-fraud strategy and policies, actions and resources.
- To review the Council's Annual Governance Statement prior to approval and consider whether it properly reflects the risk environment and supporting assurances.
- To approve the risk-based internal audit plan.
- To consider the external auditor's annual letter, relevant reports and the report to those charged with governance.
- To review and approve the annual statement of accounts.
- To review the implementation of the Council's Treasury Management Strategy.

The full list of functions of the Audit and Governance Committee can be found in [the Council's constitution](#).

### **Commitment**

You will be expected to attend at least 3 of 4 meetings per year. Meetings usually take place in January, April, July, and October. They are held at the Civic Offices, Sutton and start at 7pm. They last approximately 2 to 3 hours and time will also be needed prior to each meeting for preparation.

## **Person specification**

### **Experience**

You will be a person who has experience of working in a medium / large organisation at a senior level or other experience which would give similar benefits.

Financial management experience (accountancy, audit or management of a large budget) would be advantageous.

### **Skills**

You will have:

- an ability to understand complex issues and the importance of accountability and probity in public life
- an ability to analyse and question written and verbal reports on audit and risk management activities
- an understanding of the need for independence of audit from daily management responsibilities
- an ability to demonstrate integrity and discretion
- effective interpersonal skills
- be able to maintain strictest confidentiality of sensitive information

### **Knowledge**

All members of the Audit and Governance Committee should have, or should acquire as soon as possible after appointment:

- an understanding of the objectives and key activities of the Council and current major initiative and significant issues for the Council
- an understanding of the Council's structures and responsibilities, including key relationships with partners, businesses and organisations
- an understanding of the organisation's culture
- an understanding of any relevant legislation or other rules governing the organisation
- an understanding of corporate governance arrangements in place across the Council

- an understanding of the government environment generally
- an understanding of risk management

### **Other**

#### **You must:**

- Have local connections, and either reside in the Borough, carry out the main part of your work in the Borough or have other recognisable ties to the area.
- Agree to abide by the provisions of the Members Code of Conduct while serving on the Committee.

#### **You must not:**

- be a councillor or officer of the Council or have been so in the preceding five years prior to appointment
- be related to, or a close friend of, any councillor or officer of Sutton Council.
- have been convicted of any offence. The Council has the right to CRB check any independent committee members.
- be an undischarged bankrupt
- have significant business dealings with the Council
- have a formal connection with any political group
- have a proven history of vexatious and/or frivolous complaints against Sutton Council.
- be the holder of a significant office in an organisation being grant aided/supported by the London Borough of Sutton.

### **Remuneration**

No allowance will be paid to members of the Council's Committees and Sub-Committees who are not Councillors. However, Co-Opted Members are entitled to claim a travel allowance when on Council business both inside and outside the borough.

### **Application**

Please submit a cover letter outlining your interest in the role, relevant experience and connections to the London Borough of Sutton alongside a CV.

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**Recommendation of the Audit and Governance Committee  
16 May 2019**

**47. AG/2018/27 - LOCAL GOVERNMENT ETHICAL STANDARDS**

The report was taken as read and the Independent Persons there present invited to comment.

Clarification was given to the constitutional rules surrounding gifts and hospitality in response to Best Practice 5. Comment was given to the subjective nature of the value to different persons but the guidelines were acknowledged. Members were reminded that they could also declare gifts or hospitality under the guidance value in the interests of openness and transparency.

Positive mention was also given to Best Practice 3 and the involvement of the public in reviewing the code of conduct - beginning with community organisations. Members of the Committee agreed with the implementation of this best practice at Sutton.

The Chair also referred to Appendix B of the report - suggested amendments to the Code of Conduct - for further discussion. It was felt that any improvement to the public's confidence in the upholding of standards would be beneficial.

**RESOLVED:** that

1. The best practice recommendations of the Review into Local Government Ethical Standards were considered.
2. It be recommended to Strategy and Resources Committee and then Council to include definitions of bullying and harassment in the Code of Conduct as set out at Appendix B.
3. It be recommended to Strategy and Resources Committee and then Council to amend the Code of Conduct to include a provision that Members are required to comply with this procedure and participate in any formal standards investigation.

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<b>Report to:</b>	Audit and Governance Committee	16 May 2019
<b>Report title:</b>	AG/2018/27 - Local Government Ethical Standards	
<b>Report from:</b>	Jessica Crowe, Monitoring Officer	
<b>Ward/Areas affected:</b>	Borough Wide	
<b>Chair of Committee/Lead Member:</b>	Councillor Richard Clifton	
<b>Author(s)/Contact Number(s):</b>	Alexa Coates, Head of Committee and Management Support, 020 8770 5094	
<b>Corporate Plan Priorities:</b>	<ul style="list-style-type: none"> <li>• Making Informed Choices</li> </ul>	
<b>Open/Exempt:</b>	Open	
<b>Signed:</b>		<b>Date:</b> 1 May 2019

## 1. Summary

- 1.1 To consider the Committee on Standards in Public Life (CSPL) - Review into Local Government Ethical Standards.

## 2. Recommendations

The Audit and Governance Committee is recommended to:

- 2.1 Consider the best practice recommendations of the Review into Local Government Ethical Standards.
- 2.2 Recommend to Strategy and Resources Committee and then Council to include definitions of bullying and harassment in the Code of Conduct as set out at Appendix B.
- 2.3 Recommend to Strategy and Resources Committee and then Council to amend the Code of Conduct to include a provision that Members are required to comply with this procedure and participate in any formal standards investigation.

## 3. Background

- 3.1 In January 2019 the CSPL published a report considering Local Government Ethical Standards (extracts of which are available as Appendix A) in the context of changes made to the

Standards framework by the Localism Act 2011. This was in lieu of the government themselves carrying out a review of the framework as had been promised during the passage of the Localism Bill. The CSPL have made a series of recommendations around: the Code of Conduct; arrangements for registration and declaration of interests; the available sanctions; the role of the Independent Person, the Monitoring Officer and standards committees; and support for parishes.

- 3.2 Overall the CSPL found that the majority of Councillors maintain high standards of conduct. They found evidence of misconduct by some Councillors and the majority of these cases related to bullying or harassment or other disruptive behaviour. Although the report identifies some issues with current rules around declaring interests, gifts and hospitality, and the increased complexity of local government decision-making, there are no calls for a return to a centralised ethical framework.
- 3.3 The CSPL have made 26 recommendations, for example for the Local Government Association to develop an updated model code of conduct and for the Localism Act to be updated to state that a local authority’s code of conduct applies to a member when they claim to act, or give the impression they are acting, in their capacity as a member or as a representative of the local authority. The majority of the recommendations are the responsibility of central government to implement.

**4. Issues**

- 4.1 The CSPL have also made some best practice recommendations which are directed at local authorities. The table below outlines the best practice recommendations and issues for the committee to consider

Best Practice Suggestion	Response
<p>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.</p>	<p>Consider amending General Obligations section of the code of conduct as set out at Appendix B to include definitions and examples of bullying and harassment. The Council recently passed a motion on bullying and signed up to the Anti Bullying Alliance, whose definition of bullying could be incorporated.</p>
<p>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.</p>	<p>Consider amending the Code of Conduct to include: Part 7 of the Constitution sets out how complaints that a member has failed to comply with the code of conduct will be dealt with. Members are required to comply with this procedure and participate in any formal standards investigation. Failure to participate in an investigation will be considered a breach of the Code of Conduct</p>

<p>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.</p>	<p>Suggest the code of conduct is brought to the committee to consider on an annual basis, and consider consultation with the public on this.</p>
<p>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.</p>	<p>The code of conduct forms part of the Council's constitution and there is a designated page of the website informing residents on how to complain about a councillor.</p>
<p>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.</p>	<p>Functionality on modern.gov is active to allow members to register gifts and hospitality at any point. This information is available on the council website. Guidance will be provided to remind members to keep this updated.</p>
<p>Best practice 6: Councils should publish a clear and straightforward public interest test against which allegations are filtered.</p>	<p>The standards regime complaints procedure forms part of the Council Constitution and is straightforward and easy to understand. This document includes criteria for investigation, which covers what would be included in a 'public interest test'.</p>
<p>Best practice 7: Local authorities should have access to at least two Independent Persons.</p>	<p>The Council has appointed three Independent Persons</p>
<p>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)</p>	<p>This is already part of our standards regime complaints procedure. An Independent Person is consulted as part of an initial assessment of every code of conduct complaint submitted to the Council.</p>
<p>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.</p>	<p>This is already part of the provisions of the Standards Regime Complaints Procedure</p>

<p>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.</p>	<p>A straightforward and accessible complaint form is available from the Council website along with a link to the Constitution which includes the Standards Regime Complaints Procedure which clearly sets out the process for handling complaints including timescales and outcomes.</p>
<p>Best practice 11: Formal standards complaints about the conduct of a parish councillor towards a clerk should be made by the chair or by the parish council as a whole, rather than the clerk in all but exceptional circumstances.</p>	<p>Not Applicable</p>
<p>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.</p>	<p>Not Applicable</p>
<p>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.</p>	<p>The Monitoring Officer may appoint an investigating officer from a different authority under the Standards Regime Complaints Procedure</p>
<p>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.</p>	<p>In future the annual governance statement will cover Council owned bodies, which was agreed as part of the review of the Council's interests in companies agreed by Sutton Shareholdings Board last year. Companies in which the council has a shareholding interest will be encouraged to publish key documents online in the interest of openness and transparency.</p>

Best practice 15: Senior officers should meet regularly with political group leaders or group whips to discuss standards issues.	The Monitoring Officer has regular meetings with political group leaders and / or other group officers where standards issues are discussed.
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## 5. Options Considered

- 5.1 There are no statutory requirements arising from the CSPL report, although changes to the standards regime may follow depending on the response of government. The Localism Act requires the Council to have in place a code of conduct, but there is local choice in terms of the content. The CSPL expect Councils to implement their best practice recommendations but this is the choice of the Council.

## 6. Impacts and Implications

### Financial

- 6.1 There are no financial implications arising from the report.

### Legal

- 6.2 There are no legal implications arising from the report.

## 7. Appendices and Background Documents

Appendix letter	Title
A	Committee on Standards in Public Life - Review into Local Government Ethical Standards ( <i>Circulated to members of the committee electronically with an extract included here</i> )
B	Amended General Obligations

### **Background documents**

None

### **Audit Trail**

Version	Final	Date: 03 May 2019
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<b>Consultation with other officers</b>		
Finance	No	N/A
Legal	No	N/A
Equality Impact Assessment required?	No	N/A



# Local Government Ethical Standards

Committee on Standards in Public Life

*Chair: Lord Evans of Weardale KCB DL*

January 2019



# The Seven Principles of Public Life

The Principles of Public Life apply to anyone who works as a public office-holder. This includes all those who are elected or appointed to public office, nationally and locally, and all people appointed to work in the Civil Service, local government, the police, courts and probation services, non-departmental public bodies (NDPBs), and in the health, education, social and care services. All public office-holders are both servants of the public and stewards of public resources. The principles also have application to all those in other sectors delivering public services.

## **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 declare 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.

Dear Prime Minister,

I am pleased to present the 20th report of the Committee on Standards in Public Life, on the subject of ethical standards in local government.

The Committee has had a long-standing interest in local government, which was the subject of its third report, and which it has considered a number of times since then. This review was not prompted by any specific allegations of misconduct, but rather to assure ourselves that the current framework, particularly since the Localism Act 2011, is conducive to promoting and maintaining the standards expected by the public.

Local government impacts the lives of citizens every day, providing essential services to those it serves. Its decisions directly affect the quality of life of local people. High standards of conduct in local government are needed to demonstrate that those decisions are taken in the public interest and to maintain public confidence.

It is clear that the vast majority of councillors and officers want to maintain the highest standards of conduct in their own authority. We have, however, identified some specific areas of concern. A minority of councillors engage in bullying or harassment, or other highly disruptive behaviour, and a small number of parish councils give rise to a disproportionate number of complaints about poor behaviour.

We have also identified a number of risks in the sector: the current rules around conflicts of interest, gifts, and hospitality are inadequate; and the increased complexity of local government decision-making is putting governance under strain.

The challenge is to maintain a system which serves the best instincts of councillors, whilst addressing unacceptable behaviour by a minority, and guarding against potential corporate standards risks.

It is clear from the evidence we have received that the benefits of devolved arrangements should be retained, but that more robust safeguards are needed to strengthen a locally determined system. We are also clear that all local authorities need to develop and maintain an organisational culture which is supportive of high ethical standards. A system which is solely punitive is not desirable or effective; but in an environment with limited external regulation, councils need the appropriate mechanisms in place to address problems when they arise.

Our recommendations would enable councillors to be held to account effectively and would enhance the fairness and transparency of the standards process. Introducing a power of suspension and a model code of conduct will enable councillors to be held to account for the most serious or repeated breaches and support officers to address such behaviour, including in parish councils. Strengthening the role of the Independent Person and introducing a right of



appeal for suspended councillors will enhance the impartiality and fairness of the process, which is vital to ensure that councillors are protected from malicious or unfounded complaints. Greater transparency on how complaints are assessed and decided in a system which is currently too reliant on internal party discipline will also provide a safeguard against opaque decision-making and provide reassurance to the public.

A number of these recommendations involve legislative change which we believe the government should implement. We have also identified 'best practice' for local authorities, which represents a benchmark for ethical practice which we expect that any authority can and should implement.

It is clear to us that local government in England has the willingness and capacity to uphold the highest standards of conduct; our recommendations and best practice will enable them to do so.

I commend the report to you.

**Lord Evans of Weardale**  
**Chair, Committee on Standards in Public Life**



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# Executive summary

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

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

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

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

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

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

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

## Codes of conduct

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

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

### **Declaring and managing interests**

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

### **Investigations and safeguards**

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

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

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

### **Sanctions**

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

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

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

### **Town and parish councils**

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

### **Supporting officers**

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

### **Councils' corporate arrangements**

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

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

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

### **Leadership and culture**

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

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

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

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

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



# List of recommendations

Number	Recommendation	Responsible body
1	The Local Government Association should create an updated model code of conduct, in consultation with representative bodies of councillors and officers of all tiers of local government.	Local Government Association
2	The government should ensure that candidates standing for or accepting public offices are not required publicly to disclose their home address. The Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012 should be amended to clarify that a councillor does not need to register their home address on an authority's register of interests.	Government
3	Councillors should be presumed to be acting in an official capacity in their public conduct, including statements on publicly-accessible social media. Section 27(2) of the Localism Act 2011 should be amended to permit local authorities to presume so when deciding upon code of conduct breaches.	Government
4	Section 27(2) of the Localism Act 2011 should be amended to state that a local authority's code of conduct applies to a member when they claim to act, or give the impression they are acting, in their capacity as a member or as a representative of the local authority.	Government
5	The Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012 should be amended to include: unpaid directorships; trusteeships; management roles in a charity or a body of a public nature; and membership of any organisations that seek to influence opinion or public policy.	Government
6	Local authorities should be required to establish a register of gifts and hospitality, with councillors required to record any gifts and hospitality received over a value of £50, or totalling £100 over a year from a single source. This requirement should be included in an updated model code of conduct.	Government

Number	Recommendation	Responsible body
7	Section 31 of the Localism Act 2011 should be repealed, and replaced with a requirement that councils include in their code of conduct that a councillor must not participate in a discussion or vote in a matter to be considered at a meeting if they have any interest, whether registered or not, “if a member of the public, with knowledge of the relevant facts, would reasonably regard the interest as so significant that it is likely to prejudice your consideration or decision-making in relation to that matter”.	Government
8	The Localism Act 2011 should be amended to require that Independent Persons are appointed for a fixed term of two years, renewable once.	Government
9	The Local Government Transparency Code should be updated to provide that the view of the Independent Person in relation to a decision on which they are consulted should be formally recorded in any decision notice or minutes.	Government
10	A local authority should only be able to suspend a councillor where the authority’s Independent Person agrees both with the finding of a breach and that suspending the councillor would be a proportionate sanction.	Government
11	Local authorities should provide legal indemnity to Independent Persons if their views or advice are disclosed. The government should require this through secondary legislation if needed.	Government / all local authorities
12	Local authorities should be given the discretionary power to establish a decision-making standards committee with voting independent members and voting members from dependent parishes, to decide on allegations and impose sanctions.	Government
13	Councillors should be given the right to appeal to the Local Government Ombudsman if their local authority imposes a period of suspension for breaching the code of conduct.	Government



Number	Recommendation	Responsible body
14	The Local Government Ombudsman should be given the power to investigate and decide upon an allegation of a code of conduct breach by a councillor, and the appropriate sanction, on appeal by a councillor who has had a suspension imposed. The Ombudsman’s decision should be binding on the local authority.	Government
15	The Local Government Transparency Code should be updated to require councils to publish annually: the number of code of conduct complaints they receive; what the complaints broadly relate to (e.g. bullying; conflict of interest); the outcome of those complaints, including if they are rejected as trivial or vexatious; and any sanctions applied.	Government
16	Local authorities should be given the power to suspend councillors, without allowances, for up to six months.	Government
17	The government should clarify if councils may lawfully bar councillors from council premises or withdraw facilities as sanctions. These powers should be put beyond doubt in legislation if necessary.	Government
18	The criminal offences in the Localism Act 2011 relating to Disclosable Pecuniary Interests should be abolished.	Government
19	Parish council clerks should hold an appropriate qualification, such as those provided by the Society of Local Council Clerks.	Parish councils
20	Section 27(3) of the Localism Act 2011 should be amended to state that parish councils must adopt the code of conduct of their principal authority, with the necessary amendments, or the new model code.	Government
21	Section 28(11) of the Localism Act 2011 should be amended to state that any sanction imposed on a parish councillor following the finding of a breach is to be determined by the relevant principal authority.	Government
22	The Local Authorities (Standing Orders) (England) (Amendment) Regulations 2015 should be amended to provide that disciplinary protections for statutory officers extend to all disciplinary action, not just dismissal.	Government

Number	Recommendation	Responsible body
23	The Local Government Transparency Code should be updated to provide that local authorities must ensure that their whistleblowing policy specifies a named contact for the external auditor alongside their contact details, which should be available on the authority's website.	Government
24	Councillors should be listed as 'prescribed persons' for the purposes of the Public Interest Disclosure Act 1998.	Government
25	Councillors should be required to attend formal induction training by their political groups. National parties should add such a requirement to their model group rules.	Political groups National political parties
26	Local Government Association corporate peer reviews should also include consideration of a local authority's processes for maintaining ethical standards.	Local Government Association



# List of best practice

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

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

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

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

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

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

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

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

**Best practice 8:** An Independent Person should be consulted as to whether to undertake a formal investigation on an allegation, and should be given the option to review and comment on allegations which the responsible officer is minded to dismiss as being without merit, vexatious, or trivial.

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

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

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

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

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

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

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

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## Suggested Code of Conduct Amendments

General obligations

3. **Do** treat others with respect.
4. **Do not** do anything which may cause the Authority to breach any of the provisions in the Equality Act 2010.
5. **Do not** do anything which may cause you or the Authority to breach any of the provisions in the Bribery Act 2010.
6. **Do not** bully or harass any person.

Bullying is inappropriate and unwelcome behaviour which is offensive and intimidating, and which makes an individual or group feel undermined, humiliated or insulted. It is the impact of any behaviour rather than the intent which is the key. The examples in the following list are, by no means, exhaustive:

- Unwelcome physical, verbal or non-verbal conduct;
- Intimidatory behaviour including verbal abuse or the making of threats;
- Making someone's working life difficult;
- Disparaging, ridiculing or mocking comments and remarks;
- Physical violence; and
- Deliberately excluding an individual from conversations, work or social activities,  
in which they have a right or legitimate expectation to participate.

Harassment can occur through verbal or written comments (including ones made online). The following list provides some examples but it is, by no means, exhaustive:

- Unwelcome physical contact such as touching or invading 'personal space';
- Inappropriate remarks or questioning such as comments about someone's appearance, lewd comments, and offensive jokes (such as ones of a racial, sexual or sectarian nature);
- Intrusive questioning, including the persistent discussion of a person's sexual practices, misogynistic behaviour, sexual orientation or religious beliefs (either directly or with others); and
- Sending unwelcome emails, messages or notes; circulating or displaying explicit or inappropriate images.

7. **Do not** intimidate or attempt to intimidate any person who is or is likely to be:
  - (a) a complainant,
  - (b) a witness, or

(c) involved in the administration of any investigation or proceedings, in relation to an allegation that a member (including yourself) has failed to comply with this Code of Conduct.

8. **Do not** do anything which compromises or is likely to compromise the impartiality of those who work for, or on behalf of, the Authority.

For the purposes of this paragraph those who work for, or on behalf of, the Greater London Authority or its functionary bodies are deemed to include a police or fire officer.

9. **Do not** disclose information given to you in confidence by anyone, or information acquired by you which you believe, or ought reasonably to be aware, is of a confidential nature, unless:
- (a) you have the consent of a person authorised to give it;
  - (b) you are required by law to do so;
  - (c) the disclosure is made to a third party for the purpose of obtaining professional advice, provided that the third party agrees not to disclose the information to any other person; or
  - (d) the disclosure is:
    - (a) reasonable and in the public interest; and
    - (b) made in good faith and in compliance with the reasonable requirements of the authority.
10. **Do not** prevent another person from gaining access to information to which that person is entitled by law.
11. **Do not** conduct yourself in a manner which could reasonably be regarded as bringing your office or the Authority into disrepute.
12. **Do not** use or attempt to use your position as a member improperly to confer on or secure for yourself or any other person, an advantage or disadvantage.
13. **Do not** place yourself under a financial or other obligation to outside individuals or organisations that might seek to influence you in the performance of your official duties.
14. **Do** ensure, when using or authorising the use by others of the resources of the Authority:
- (a) that you act in accordance with the Authority's reasonable requirements;
  - (b) that such resources are not used improperly for political purposes (including party political purposes); and
  - (c) that you have regard to the Local Authority Code of Publicity (2011) made under the Local Government Act 1986.

**Appendix B**

15. **Do** ensure, when taking decisions as part of or on behalf of the Authority that you have regard to any relevant advice provided to you by:

- (a) the Authority's Chief Finance Officer; or
- (b) the Authority's Monitoring Officer;

where that advice is offered pursuant to his or her statutory duties.

16. **Do** give reasons for all decisions in accordance with any statutory requirements and any reasonable additional requirements imposed by the Authority.

17. You must, within 28 days of receipt, notify the Council's Committee Services Section in writing of any gift, benefit or hospitality with a value in excess of £35 which you have accepted as a member from any person or body other than the Authority. Committee Services will place your notification on a public register of gifts and hospitality. This duty does not apply where the gift, benefit or hospitality comes within any description approved by the authority

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