

Local Government Ethical Standards
Reviewing the Committee on Standards in Public Life's Best Practice Recommendations

To support this review:

- The Members' Code of Conduct is attached as Appendix 4A and the Local Assessment Procedure as Appendix 4B
- Shaded boxes indicate those recommendations where the Council has already adopted similar practices within current procedures

Best Practice Recommendation	Commentary	What the Committee need to consider
<p>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>The Code of Conduct does not explicitly refer to bullying or harassment. It is implied that such behaviour would be a breach of the Code under the 'General Conduct' provisions at Section 2, paragraph 2.1 (9) and (10).</p> <p>The CSPL have acknowledged that whilst there is no statutory definition of bullying, the Advisory, Conciliation and Arbitration Service (Acas) have codified a helpful definition of: "Offensive, intimidating, malicious or insulting behaviour, an abuse or misuse of power through means that undermine, humiliate, denigrate or injure the recipient."</p> <p>The CSPL have provided examples of bullying behaviour in their report that could be used to develop an explicit section in the Code and cited Newcastle City Council's Code as an example to follow.</p>	<p>If a specific section should be added to the Code of Conduct to define prohibitions on bullying and harassment.</p>
<p>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>The CSPLs recommendation is to avoid councillors seeking to disrupt standards investigations; or misusing the process to make allegations against another councillor for the purposes of political gain.</p>	<p>If these provisions are satisfactory or should be strengthened within the Code of Conduct at Section 2, paragraph 1.4.</p>

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		<p>Arun District Councillors are asked to sign an undertaking at the start of their term of office to confirm that they will comply with the Code of Conduct. This requirement is confirmed within the Code of Conduct at Section 2, paragraph 1.4.</p> <p>The Local Assessment Procedure confirms at paragraph 3.1 that the Code of Conduct applies to councillors whilst they are acting in their official capacity as a councillor. It also confirms at paragraphs 4.3(d) and 4.3(e) how complaints that are politically motivated may be dealt with.</p>	
3	<p>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>The CSPLs recommendation comes from their finding that a number of authorities had not revisited their Code of Conduct since the legislation changed.</p> <p>This is not the case at Arun as a full review of the Code was conducted in 2017.</p> <p>To date, this review has not involved a wider consultation than Arun councillors. To introduce an annual review with a wider consultation process would be resource intensive to manage. Further, the review proposed to Town and Parish Councils post the adoption of the new Code in 2017 did not demonstrate support for a district-wide Code of Conduct as highlighted in paragraph 2.3 of the Monitoring Officer's covering report.</p>	<p>Whether a review every year, involving public consultation can be resourced; or whether a review every two years would be more manageable and effective, timed so this was considered in say year 2 and 4 of an administration.</p>

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4	<p>An authority's code should be readily accessible to both councillors and the public, in a prominent position on a council's website and available in council premises.</p>	<p>For Arun District Councillors this is provided as part of their induction process at the start of their term of office. It is then maintained in the Council's Constitution and the library of documents available to them.</p> <p>For the public this is:</p> <ul style="list-style-type: none"> ○ published to the Council's website – found from a search under 'C' which takes them to the "Complaints against Councillors" webpage ○ accessible from the website's home page under 'Your Council' and then "Complaints against Councillors" ○ open to inspection in council offices ○ available within the Council's Constitution – which is also published to the website <p>Arun's website and telephone contact with Arun Direct also provide information to allow direct contact with the Monitoring Officer for help and advice.</p>	<p>If the Committee are satisfied with current accessibility arrangements, no further action is required.</p>
5	<p>Local authorities should update their gifts and hospitality register at least once per quarter, and publish it in an accessible format, such as CSV.</p>	<p>The CSPL have acknowledged that there is no legal requirement for Councils to maintain a gifts and hospitality register; and that not all Councils make reference to this within their Code.</p> <p>Arun's Code does set out requirements for councillors at paragraph 11. The figure set for any gift, benefit or hospitality was retained at £25 when the Code was</p>	<p>If a new webpage on the Council's website should be created for this purpose. It would allow nil quarterly reports to be published if no declarations are made.</p>

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		<p>reviewed in 2017 to encourage transparency.</p> <p>A register has not been published by the Council in past administrations as there have been few, if any, declarations. The register has been open for public inspection on request.</p>	
6	Councils should publish a clear and straightforward public interest test against which allegations are filtered.	<p>The CSPL have taken account of the practice of the standards bodies in Scotland, Wales and Northern Ireland in making the recommendation to publish a public interest test. They offer the Northern Ireland Local Government Commissioner for Standards public interest test as a best practice example.</p> <p>The Local Assessment Procedure aims to explain how complaints will be filtered. Paragraph 4.2 explains what types of complaint may not be accepted, whilst Appendix 3 offers a flowchart of the procedure to explain the stages of assessment.</p>	If a public interest test should be included within the Local Assessment Procedure based on the best practice example.
7	Local authorities should have access to at least two Independent Persons.	In their recommendations to Government, the CSPL have also recommended that the requirement for Independent Persons to be appointed should be for a fixed term of two years, renewable once. They have included a further recommendation to formalise the Independent Person's role in statute.	No further action is suggested other than the current plan to increase the number of Independent Persons to three by the end of 2019

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		<p>The basis for their recommendations are ensuring that the Independent Person remains as an impartial advisor and their views are clearly taken into account.</p> <p>Arun has appointed at least two Independent Persons since the Localism Act 2011 was introduced. Terms of over four years have been seen to work well as they have allowed the Independent Persons to develop considerable experience and knowledge to support the Council and Monitoring Officer in standards matters. The Independent Persons have also offered support to councillors who have been the subject of the complaint; and to the complainant themselves.</p>	
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>Arun updated its Local Assessment Procedure in March 2019 to widen the role and involvement of the Independent Person. This practice is confirmed in the Procedure at paragraphs:</p> <ul style="list-style-type: none"> ○ 4.4 ○ 5.9 ○ 6.1 ○ 8.4 (the Independent Person acts as a member of the Standards Committee) <p>This update reflects what is being suggested in this best practice recommendation.</p>	No further action is suggested
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	This practice is confirmed in the Local Assessment Procedure at paragraph 9.	No further action is suggested

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	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.		
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>This best practice is confirmed in the Local Assessment Procedure. Details of how to make a complaint are:</p> <ul style="list-style-type: none"> ○ published to the Council's website under "Complaints against Councillors" – found from a search under 'C' or from the home page under 'Your Council' ○ open to inspection in council offices 	If the Committee are satisfied with current accessibility arrangements, no further action is required.
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>The CSPLs recommendation is based on Parish Councils taking corporate responsibility when there are allegations about a councillor, particularly involving an employee. Experience at Arun is that the Clerk has made the complaint rather than the Chairman of the Council.</p> <p>It should be noted that the CSPLs recommendations to Government (as set out in Appendix 2) make three other proposals affecting Parish Councils namely:</p> <ul style="list-style-type: none"> ● recommendation 19 - that Clerks should hold an appropriate qualification ● recommendation 20 - for an amendment to the law to state that parish councils must adopt the Code of Conduct of their 	<p>Whether they wish to seek the views of Parish Councils on this best practice recommendation to inform any review of the Local Assessment Procedure.</p> <p>Whether they would wish to see the other recommendations of the CSPL drawn to Parish Councils' attention.</p>

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		<p>principal authority or the new model code</p> <ul style="list-style-type: none"> • recommendation 21 – for an amendment to the law to state that any sanction imposed on a parish council following the finding of a breach is to be determined by the relevant principal authority 	
12	<p>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>The role of the Monitoring Officer is set by statute and confirmed within Arun's Constitution.</p> <p>The Constitution also confirms in the Officer Scheme of Delegation at Part 4, Section 3, paragraph 2.3.7 that the Monitoring Officer may appoint a Deputy Monitoring Officer to carry out all functions as required. This authority has been exercised and the Deputy Monitoring Officer is Louise Greene, the Legal Services Manager.</p>	<p>If the Committee are satisfied with current arrangements, no further action is required.</p>
13	<p>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>Current practices are based on informal arrangements with neighbouring councils allowing the Monitoring Officer to seek their support in undertaking an assessment where there is a potential conflict of interest. These have worked adequately when needed.</p>	<p>If the Committee are satisfied with current arrangements, no further action is required.</p>
14	<p>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</p>	<p>The CSPLs have recognised that partnership arrangements of this nature can create the potential for ethical risks in proposing this recommendation.</p>	<p>If they are satisfied with the response of the Internal Audit Manager or wish any further action to be taken whilst the Council has no active separate company/body.</p>

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	abide by the Nolan principle of openness, and publish their board agendas and minutes and annual reports in an accessible place.	<p>The Standards Committee did previously consider whether it needed to add an additional section to the Code of Conduct to cover the interests of councillors and officers when the Council was looking to establish a separate investment company. No further action has been proposed whilst the company remains inactive.</p> <p>A reference was made to the setting up of a local company in the Annual Governance Statement for 2016/17. However, as the project was then deferred it has not been mentioned since. The Internal Audit Manager has confirmed that reference would be included if this project, or a similar proposal, is progressed in the future.</p>	
15	Senior officers should meet regularly with political group leaders or group whips to discuss standards issues.	This is covered as part of regular briefings to Group Leaders	If the Committee are satisfied with current arrangements, no further action is required.