



B O S T O N

B O R O U G H C O U N C I L

REPORT TO:	STANDARDS SUB-COMMITTEE
DATE:	1 AUGUST 2019
SUBJECT:	REVIEW OF LOCAL GOVERNMENT ETHICAL STANDARDS BY THE COMMITTEE ON STANDARDS IN PUBLIC LIFE
PORTFOLIO HOLDER:	N/A
REPORT AUTHOR:	MONITORING OFFICER
EXEMPT REPORT?	NO

SUMMARY

To advise the Standards Sub-Committee on the outcome of the review by the Committee on Standards in Public Life on Local Government Ethical standards.

RECOMMENDATIONS

1. That the 26 recommendations made by the Review of Local Government Ethical Standards by the Committee on Standards in Public Life and the 15 best practice points be noted.
2. To note that the Council already practices some of the recommendations which do not require legislative changes as a matter of good practice.
3. To agree an action plan to deliver the 15 best practice recommendations (draft attached at Appendix 2).
4. To agree that the Code of Conduct for Councillors be reviewed taking into account the Committee on Standards in Public Life report and supporting legal advice.

REASONS FOR RECOMMENDATIONS

To ensure the Council promotes and maintains the highest ethical standards.

ALTERNATIVES CONSIDERED

Not to review the Code of Conduct

REPORT

1. Background

- 1.1 The current Local Government Ethical Standards Regime was introduced under the Localism Act 2011 and has been in operation since June 2012. The arrangements were intended to be lighter touch than those under the former Standards Board for England with emphasis on local councillors being held accountable by the electorate at the ballot box.
- 1.2 In January 2018 the Committee for Standards in Public Life (CSPL) commenced a review of the Local Government Ethical Standards regime and, in particular, the effectiveness of sanctions available in relation to breaches of the Member Code of Conduct.
- 1.3 The terms of reference for the review were to examine the structures, processes and practices in local government in England for:
 - Maintaining codes of conduct for local councillors
 - Investigating alleged breaches fairly and with due process
 - Enforcing codes and imposing sanctions for misconduct
 - Declaring interests and managing conflicts of interest; and
 - Whistleblowing

And to:

- Assess whether the existing structures, processes and practices are conducive to high standards of conduct in local government
- Make any recommendations for how they can be improved
- Note any evidence of intimidation of councillors, and make recommendations for any measures that could be put in place to prevent and address such intimidation.

2. The Findings of the Review

- 2.1 The Review identified some specific areas of concern relating to bullying and harassment and other disruptive behaviour by a minority of councillors. The Review also identified a number of risks in respect of the current rules around conflicts and declaring of interests, gifts and hospitality and the increased complexity of local government decision making.
- 2.2 However, the Review continues to support the current framework whereby local authorities have responsibility for ethical standards, and although the need for a central body to govern and adjudicate on standards was considered, the Committee has concluded that there is no reason to reintroduce centralisation.
- 2.3 The Committee has made 26 recommendations and identified 15 recommendations of best practice to improve ethical standards in local government.
- 2.4 The recommendations include the suggestion for the Local Government Association (LGA) to create an updated model code of conduct, to enhance consistency and the quality of local authority codes. There are also further recommendations regarding

declaring and managing interests, investigations and safeguards, and sanctions. The full list of recommendations is included within the report attached at Appendix 1.

2.5 There are 5 key recommendations which will impact on Councillors:-

- (a) **updating the model code and extending it to Parish Councils** – The report found that there is considerable variation in the length, quality and clarity of local authority codes of conduct. It therefore recommends that the Local Government Association draft an updated code. It also recommends that Town and Parish Councils adopt the Code of Conduct of their principal authorities or the new model code.
- (b) **Presumption of Official Capacity** – The Code of Conduct only applies when a Councillor is acting in or gives the impression that they are acting in their official capacity. The report found that the current understanding of public and private capacity is too narrow, undermining public confidence. Therefore, it is proposed that there is a rebuttable presumption that a Councillor will be acting in their official capacity (i.e. the Councillor will be deemed to have been acting in their official capacity unless they can demonstrate otherwise).
- (c) **Extending the list of Registerable Interests** – The report considers that the current arrangements for declaring interests are too narrow and do not meet public expectations. The report therefore recommends changes to the interests' rules including extending the list of registerable interests to include two categories of non-pecuniary interest:
 - (i) relevant unpaid commercial interests such as unpaid directorships; and
 - (ii) trusteeship or membership of organisations that seek to influence opinion or public policy.
- (d) **A new 'objective' test for when Councillors must withdraw or not vote** - The report recommends that the test for when Councillors are prohibited from voting/participating in discussion on matters in which they have an interest is amended. It recommends that Councillors be required to refrain from voting or withdraw whenever they have any interest at all (whether registered or not) that a member of the public would reasonably regard as so significant as to likely prejudice the Councillors decision making.
- (e) **Strengthening the sanctions system** – The report considers the current sanctions insufficient and so recommends allowing authorities to suspend Councillors without allowances for up to six months, with suspended Councillors having a right of appeal to the Local Government Ombudsman for investigation and a binding decision on the matter.

2.6 Other recommendations in the report include:

- Giving local authorities a discretionary power to establish a Standards Committee with voting independent members to advise on standards issues and decide on alleged breaches and/or sanctions for breaching the Code of Conduct.

- Providing Independent Members with legal indemnities if their views or advice are disclosed.
- Abolishing criminal offences in the Localism Act 2011 relating to disclosable pecuniary interests, which CSPL consider to be disproportionate in principle and ineffective in practice.
- Requiring local authorities to take a range of steps to prevent and manage conflicts of interest that can arise when decisions are made in more complex and potentially less transparent contexts such as Local Enterprise Partnerships.
- Fostering an ethical culture and practice by requiring Councillors to attend formal induction training by their political groups, with national parties adding the same requirements to their group rules.

2.7 Most of the recommendations will require primary legislation and therefore any changes will be subject to Parliamentary timetabling. The changes relating to registerable interests will require secondary legislation and could be implemented more quickly. CSPL intends to monitor the implementation of its recommendations in 2020.

2.8 The Report sets out a list of 15 best practice recommendations for local authorities which should be considered a benchmark of good ethical practice and which all local authorities should implement. The Committee has expressed the intention to review the implementation of best practice in 2020. The full list of best practice recommendations is included at pages 18-19 of Appendix 1.

2.9 Some of the recommendations and best practice points are already in operation within Boston. For example:

- unpaid directorships; trusteeships; management roles in a charity or body of a public nature; and membership of any organisation that seek to influence public policy are included under the Local Choice Interests;
- A Register for Gifts and Hospitality is in operation;
- A Standards Committee has been established;
- The Code of Conduct is available on the Council website together with guidance on how to make a complaint and the process for handling complaints;
- There are arrangements in place to appoint independent investigators to investigate allegations against Members;
- The Monitoring Officers role includes providing advice, support and management of investigations and adjudications on alleged breaches to parish councils within the remit of the principal authority.

2.10 A draft action plan to deliver the 15 best practice recommendations is attached at Appendix 2.

3.0 Code of Conduct

- 3.1 However, there are some best practice points which the Council does not currently meet and therefore it is proposed that the Standards Sub Committee review the Council's Code of Conduct and consider amendments to reflect the outcomes of the report. Any proposed changes to the Code of Conduct would need to be approved by full Council.
- 3.2 A review of the current Code of Conduct was considered by the Audit and Governance Committee on 23 April 2018 and referred to full Council for approval. However, concerns were raised by Members regarding the content of the proposed code and it was agreed to set up a Cross Party Working Group to consider the proposed changes in detail, before being considered by full Council.
- 3.3 The Working Group met on 4 occasions between June and November 2018 and ultimately agreed to defer a review of the Code of Conduct until a Standards Committee had been established and task that Committee with the review.
- 3.4 Therefore, the Standards Sub Committee is now asked to consider the proposed Code of Conduct, attached at Appendix 3 (revisions are highlighted).

FINANCIAL IMPLICATIONS

There are no financial implications arising directly of the report.

LEGAL & EQUALITY IMPLICATIONS

The Council has a duty under s.27 of the Localism Act 2011 to promote and maintain high standards of conduct by its Members and to adopt a Code of conduct that is consistent with the Nolan Principles. The majority of recommendations made in the report will require legislative changes to take effect. However, the Council has the discretion to review and update its Code of Conduct to reflect some of the identified good practice prior to legislation being enacted.

There are no equality implications arising out of the report.

ANY OTHER IMPLICATIONS

None

CONSULTATION

None

APPENDICES

Appendices are listed below and attached to the back of the report: -

APPENDIX 1	Local Government Ethical Standards – A Review by the Committee on Standards in Public Life
APPENDIX 2	Draft Action Plan
APPENDIX 3	Proposed revisions to the Code of Conduct

BACKGROUND PAPERS

No background papers as defined in Section 100D of the Local Government Act 1972 were used in the production of this report.

CHRONOLOGICAL HISTORY OF THIS REPORT

A report on this item has not been previously considered by a Council body.