

Local government ethical standards

Written evidence

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SUBMISSION 1

My Lord,

I have been invited to contribute to the current consultation into Local Government Ethical Standards. I spoke to the Complaints Officer of the Parliamentary Commissioner for Standards, Gwen Harrison this morning. I was advised that the Commissioner could only investigate a Member of Parliament if he or she does do something that would bring the House of Commons into disrepute. Conversely if the MP does not do something required - a debate into the Conduct of High Court Judges - Senior Courts Act 1981, then it does not come within the Commissioners remit. Perhaps your Committee could have cognisance of this absurdity.

The above was the reason why I contacted the CSPL (Nolan Committee) in about 2000 who advised me they could not take action on the matter. However I was advised of the Committee's inquiry into Local Government which revealed the role of the Monitoring Officer appointed under the provisions of the Local Government & Housing Act 1989.

Therefore since 2000 I have encountered the suppression of S5 (2) of the above Act in order not to expose the lack of independence and integrity within the Employment Tribunal and Employment Appeal Tribunal (EAT) since 1991 (see Debate in the Lords in 1994 *Hansard* Vol 554 No's 77/78 " Independence of the Judiciary "). Other contraventions of law outwith Sex Discrimination Law ie Freedom of Information Act 2000 are also not reported to the full council ,by the Monitoring Officer.

Consequently Criminal Acts reported to the Police are not acted upon by the Police with collusion of your elected MP, (not an uncommon set of circumstances Internet Research indicates). This aspect constitutes the third " conflict of interest " in having the Monitoring Officer discharging a dual role.

The first " conflict of interest " arises in the common practice of the Head of Legal Service also being the Monitoring Officer. If the Officer retains the required integrity and the Judicial process retains similar integrity then the system works. However if the Officer does not retain the required integrity against the history recounted regarding the Judicial Process then it ends up being corrupt.

The second " conflict of interest " arises in having the Monitoring Officer also being appointed to hear complaints against the Local Authority elected representative ie Councillor. Complaints previously heard by the now defunct Standards Board of England.

An elected councillor as in my case over numerous years complaining about the Monitoring Officer was previously told to " keep out of it ". However there is now the additional lever of the Monitoring Officer explaining to the councillor that he or she may hear a complaint against the councillor or even engineer one and the councillor may not like the outcome !.

The third " conflict of interest " arises in the Monitoring Officer who refuses to discharge the duties of office (S5 (2)) thus committing the offence of Misconduct in Public Office, also playing a part in complaints against the Police & Crime Commissioner (Cumbria Police & Crime Panel) who is not holding the Chief Constable to account in respect of criminal activity by the Monitoring Officer !.

Recently obtained " Minutes/Agenda " of Cumbria Police & Crime Panel meetings in 2016 reveal two things :-

- A co - opted independent Panel Member, having being made aware of the circumstances of the case, by letter, appears to have made the point of this conflict of interest. However it does not appear (according to the Minutes) in the context of my complaint but in the context of a Government Consultation Paper regarding more powers afforded the Panel to hold the Police & Crime Commissioner to account.
- The Minutes over a period of some months convey to the reader that my complaint after consultation with the office of the Police & Crime Commissioner was put back to me for consideration. The next meeting of the Police & Crime Panel, Minutes convey that I was satisfied with the outcome of the complaint and the complaint was closed. In fact none of this took place !.

In 2016 the Prime Minister merely acknowledged correspondence seeking a Public Inquiry into these issues !.

Yours sincerely,



Mr S. J. Lindsay.

cc.Gwen Harrison
Complaints Officer Parliamentary Commissioner for Standards.

SUBMISSION 2

Dear Sirs,

There is a very serious weakness in internal review/appeal arrangements at the office of the Local Government Ombudsman (LGO) and I believe the same may apply at the office of the Financial Ombudsman Service (FOS).

If the weakness is not remedied it could lead to an erosion of individual democratic rights and run an increased risk of corruption.

Best practice dictates that any appeal process should include a review by an official independent of the official who made the original decision, as does guidance from the LGO, except that this, it appears, is meant to apply to others and not the LGO itself! This type of requirement is also envisaged in question e.ii of your consultation document.

When I mention this aberration to friends and acquaintances they are horrified that such a state of affairs, clearly contrary to generally accepted best practice, can exist at these offices. Systems need to be reviewed, regularised and tightened and your review might assist with achieving this.

I should perhaps say that I am a retired former public sector auditor and this is a form of weakness I would like to see remedied in the interests of all concerned. This e-mail is not set out in the format for submissions laid down in your consultation document but I can do that if required. All I wish to do at this stage is establish whether this is a matter you can embrace in your review before I go on to consider alternative remedies.

Yours faithfully,

R J Thomas

SUBMISSION 3

I have attached my comment below in red to the questions from the consultation link.

a. Are the existing structures, processes and practices in place working to ensure high standards of conduct by local councillors? If not, please say why. **Definitely not. In the case of code of conduct (ethical) complaints, the monitoring officer seems to have few powers (and often it seems little inclination) to make rulings against local councillors, particularly in the case of bringing the council into disrepute. As regards procedural complaints (breaches of standing orders) there is no legal basis for a local council to impose sanctions on a councillor who is in clear breach of these. We have had a case recently where a councillor unilaterally made an offer on behalf of the council and also entered into discussions with developers unbeknown to the council. We were compelled to treat this as a complaint against the council rather than the councillor. With no sanction at our disposal, this councillor will continue to breach standing orders**

b. What, if any, are the most significant gaps in the current ethical standards regime for local government?

My experience of this is limited but I would say that the code-of-conduct offences are all-or-nothing. If there is a strong likelihood of an offence being committed there should be a lesser offence than a full breach.

Codes of conduct

c. Are local authority adopted codes of conduct for councillors clear and easily understood? **They could be more straightforward. The general obligations are 4 pages in and perhaps ought to appear at the front.** Do the codes cover an appropriate range of behaviours? **Yes** What examples of good practice, including induction processes, exist? **We insist on induction courses within 6 weeks of appointment – these are run regularly by our county association of Local councils.**

d. A local authority has a statutory duty to ensure that its adopted code of conduct for councillors is consistent with the Seven Principles of Public Life and that it includes appropriate provision (as decided by the local authority) for registering and declaring councillors' interests. Are these requirements appropriate as they stand? If not, please say why. **Appropriate**

Investigations and decisions on allegations

e. Are allegations of councillor misconduct investigated and decided fairly and with due process?

i. What processes do local authorities have in place for investigating and deciding upon allegations? Do these processes meet requirements for due process? Should any additional safeguards be put in place to ensure due process? **All written complaints regarding the C-of-C investigated by Monitoring officer. More communication from the MO to local councils over complaints received and expected decision date would be good**

ii. Is the current requirement that the views of an Independent Person must be sought and taken into account before deciding on an allegation sufficient to ensure the objectivity and fairness of the decision process? Should this requirement be strengthened? If so, how? **Sufficient**

iii. Monitoring Officers are often involved in the process of investigating and deciding upon code breaches. Could Monitoring Officers be subject to conflicts of interest or undue pressure when doing so? How could Monitoring Officers be protected from this risk? **I'm not in a position to judge**

Sanctions

- f. Are existing sanctions for councillor misconduct sufficient? **Definitely not**
- i. What sanctions do local authorities use when councillors are found to have breached the code of conduct? Are these sanctions sufficient to deter breaches and, where relevant, to enforce compliance? **I am not aware of all the sanctions available to MO but graded sanctions should be available see b above**
 - ii. Should local authorities be given the ability to use additional sanctions? If so, what should these be? **I am not fully aware what sanctions are available to second tier authorities but in both C-of-C issues and procedural (standing order) issues a short temporary disqualification "sin-bin" should be available to 2nd and 3rd Tier councils and disqualifications from committees and sub-committees should be available to local councils for procedural issues.**

Officers of both local councils and borough/district councils definitely need more teeth!

Many thanks for your time

With Kind Regards,

Phil Burgess

SUBMISSION 4

I very much welcome this review and urge that since parish councils are being asked to take on more and more responsibilities residents should be given real powers to make councils accountable. Despite all the verbiage on this matter residents have no such powers and councillors, as well as clerks, are acting *ultra vires* with impunity. Councillors' failure to declare interests should be heavily sanctionable. I suggest it should be made easy to bring them before a magistrate for fining, or higher court for possible imprisonment in serious cases.

SUBMISSION 5

Review of Local Government Ethical Standards: Stakeholder Consultation

The Chamber tries to work with the Town Council for the good of local businesses and the town in general.

This has proven impossible over the past few years due to a dishonest Town Clerk who was finally suspended when it was proved she had made a dishonest statement, (purporting to be from the Council but without their knowledge), to an appeal court slandering a member of the public in order to try to avoid a Freedom of Information request she did not want to reveal. Whilst this is deemed as Contempt of Court and was reported to the police by the Mayor the Town Clerk refused to be cautioned by the police over the matter and, as usual, they have taken no action.

On the advice of the Unitary Authority's HR department, (conflict of interests? Public servants looking after each other?), the Town Clerk was given a lump sum of money by the town council, and a gagging clause was agreed between the two parties, and as far as the public are aware she has resigned.

A number of town councillors were supporting the town clerk even though it has been apparent for a long time that she has been acting dishonestly. Those trying to expose the wrongdoings, (councillors and members of the public), have suffered harassment on social media, physical threats and even threats from the police who felt someone in the position of Town Clerk should be believed over other members of the public.

My answers to the questions reflect the above.

- a. Are the existing structures, processes and practices in place working to ensure high standards of conduct by local councillors? If not, please say why.

No. Since the abolition of the Standards Board there appears to be no effective structures, processes or practices in place to ensure high standards of conduct by local councillors. We have town councillors using social media to incite others to harass fellow councillors and members of the Public, and to try to influence the result of local elections.

ALL complaints to the Monitoring Officer by town councillors and members of the Public in the past 5 years have seen no action taken, the usual response being it is not for the Monitoring Officer to do anything, and to complain to the Town Council itself.

Town Councils have no powers to impose any sanctions on a Councillor acting inappropriately.

Where dishonesty or illegal activity is seen, all approaches to the police have failed to see any action taken. In my experience the police do not want to get involved in such matters and do not understand their obligations with regard to such matters.

The Department for Local Communities has confirmed there is currently no Government process to get action taken against a Councillor acting dishonestly.

- b. What, if any, are the most significant gaps in the current ethical standards regime for local government?

The use/abuse of social media by some Councillors and their supporters is something that needs to be urgently addressed.

Codes of conduct

- c. Are local authority adopted codes of conduct for councillors clear and easily understood? Do the codes cover an appropriate range of behaviours? What examples of good practice, including induction processes, exist?

The codes are clear and appropriate but as there is no method of redress, they are useless.

- d. A local authority has a statutory duty to ensure that its adopted code of conduct for councillors is consistent with the Seven Principles of Public Life and that it includes appropriate provision (as decided by the local authority) for registering and declaring councillors' interests. Are these requirements appropriate as they stand? If not, please say why.

I see no problem with the Nolan principles but, as above, if there is no method of redress then it is all pointless. Those who voluntarily abide by the codes of conduct are the honest conscientious councillors who would act appropriately anyway.

Investigations and decisions on allegations

- e. Are allegations of councillor misconduct investigated and decided fairly and with due process?

No.

- i. What processes do local authorities have in place for investigating and deciding upon allegations? Do these processes meet requirements for due process? Should any additional safeguards be put in place to ensure due process?

*Our town council has processes but complaints have to go to the town clerk and are generally ignored and not passed on to the Council. The town clerk is not an elected member of the council. To have an unelected official controlling the system is wide open to abuse, and whilst our town clerk has now been removed from office, it has been extremely difficult to bring this about despite her being dishonest and breaking the law, as there is NO SYSTEM IN PLACE TO REPORT A TOWN CLERK!!!
The town clerk is an employee of the town council. Any complaint about an employee of the council has to be sent to...the town clerk!!!*

The town clerk gives legal advice to the council. Where the town clerk is breaking the law, but advises councillors that she is not, how can councillors do anything?

- ii. Is the current requirement that the views of an Independent Person must be sought and taken into account before deciding on an allegation sufficient to ensure the objectivity and fairness of the decision process? Should this requirement be strengthened? If so, how?

I have never seen this requirement met by our local council; it is ignored.

- iii. Monitoring Officers are often involved in the process of investigating and deciding upon code breaches. Could Monitoring Officers be subject to conflicts of interest or undue pressure when doing so? How could Monitoring Officers be protected from this risk?

In my experience the Monitoring Officer does not consider herself to be responsible for town council code breaches. Where a councillor lied about a council matter on social media I was advised there was nothing could be done unless they did it in a council meeting. Where a councillor has lied in a council meeting the Monitoring Officer still takes no action.

Monitoring Officers could certainly be subject to conflicts of interest. The system should be changed so that such decisions are taken by an independent officer not employed by the Council.

Sanctions

- f. Are existing sanctions for councillor misconduct sufficient?
- i. What sanctions do local authorities use when councillors are found to have breached the code of conduct? Are these sanctions sufficient to deter breaches and, where relevant, to enforce compliance?

I am not aware of any sanctions that exist. If they do exist then it appears councillors themselves are unaware of this, or who would impose them. My own research has found as councillors are elected by the Public they cannot be removed from office other than by the Public at the ballot box.

- ii. Should local authorities be given the ability to use additional sanctions? If so, what should these be?

Town Councils should be able to suspend a councillor found to be breaching the code of conduct if the majority of the council agree to this. Particularly where you have someone who has managed to get a seat on the council without being elected due to lack of nominees in their ward, it is not right that that councillor can disrupt meetings and bring the whole council into disrepute through inappropriate behaviour in public, and there is nothing the other councillors can do.

Declaring interests and conflicts of interest

- g. Are existing arrangements to declare councillors' interests and manage conflicts of interest satisfactory? If not please say why.

- i. A local councillor is under a legal duty to register any pecuniary interests (or those of their spouse or partner), and cannot participate in discussion or votes that engage a disclosable pecuniary interest, nor take any further steps in relation to that matter, although local authorities can grant dispensations under certain circumstances. Are these statutory duties appropriate as they stand?
- ii. What arrangements do local authorities have in place to declare councillors' interests, and manage conflicts of interest that go beyond the statutory requirements? Are these satisfactory? If not, please say why.

Whilst honest councillors declare interests and act appropriately the system should be such that it prevents dishonest councillors from abusing it. That would mean some form of independent monitoring or some way of reporting breaches to an independent body for investigation. This currently does not exist.

Whistleblowing

- h. What arrangements are in place for whistleblowing, by the public, councillors, and officials? Are these satisfactory?

None. In my experience any councillor or member of the public who speaks out against a dishonest councillor risks being abused and defamed on social media by those taking advantage of the system.

Improving standards

- i. What steps could *local authorities* take to improve local government ethical standards?

Not many without support from central Government.

- j. What steps could *central government* take to improve local government ethical standards?

Set up an independent ombudsman to investigate complaints. Whilst I understand there will be false complaints and it is not simple, the abolition of the Standards Board was a disaster for local democracy and left the door wide open for corruption.

Intimidation of local councillors

- k. What is the nature, scale, and extent of intimidation towards local councillors? What measures could be put in place to prevent and address this intimidation?

The intimidation of honest councillors both by other councillors and members of the public with vested interests is appalling, and dissuades good honest people from putting themselves forward as potential councillors. The majority takes place on social media. The police refuse to take any action for reasons unknown.

SUBMISSION 6

I am a member of the public who has in recent years had cause to take a close interest in the way my local parish and district councils operate. I am married to a county councillor so I have some insight from a councillor's point of view too. My email address [REDACTED]

1. Codes of Conduct

I believe that there is a recommended format for these. Nevertheless there are significant and unnecessary differences between the code of my local district council and that for my local parish council. I made a complaint about one of my parish councillors (who just happens to also be a district councillor) but it was not upheld because the code of conduct for the parish council was not sufficiently clear.

Solution: There should be a standard code of conduct for all councils established in law.

Consideration should be given to requiring newly elected councillors to swear an oath promising to abide by the code of conduct.

There should be more emphasis in the code of conduct on taking all information into account when making decisions and remaining objective. I could quote numerous examples where councillors appear not to have even read the agenda papers.

2. Councillor's Interests

I think that the DPI requirements are sufficient whereby the councillor's interest is his/her own or that of his/her spouse.

However, I think the rules regarding other interests/conflicts of interest are weak. There are some situations where other conflicts of interest are of sufficient importance that a simple declaration is not enough and the councillor involved should not be allowed to vote. One example of this is where there is a family relationship eg father and son or a close friend. To some extent there is always going to have to be a reliance on the honesty and integrity of the councillor to identify and declare such conflicts.

Perhaps detailed guidance should be issued setting out examples of possible conflicts of interest and how the councillor should act in each situation.

Another example where there is less room for flexibility would be where a councillor sits on both a district and parish council and where the district council has submitted a planning application to itself and the parish council has been asked to comment. In this situation the councillor should not be involved in the parish council's response.

More generally, I think twin and triple-hatted councillors are frequently in a conflicted position and the situation where people are members of more than one council should be discouraged. Where this cannot be avoided it should be assumed that there is a conflict of interest and the councillor should decide in advance at which council he/she wished to speak and vote on the matter and then refrain from doing so at the other council.

If a member has a DPI or other significant interest then not only should he/she not vote but he/she should not be allowed to be present at the debate in order to be clear that he/she has not influenced the vote.

3. Sanctions

I think it is correct that there should be criminal sanctions where a councillor has clearly used his position for personal financial gain or to assist another person or person(s) obtain a financial advantage. However I think care needs to be taken not to put people off from standing as a councillor by introducing too many possible financial penalties.

Other sanctions that could be imposed eg removing the councillor from committees or not giving him/her confidential information (eg following disclosure of a confidential document) could restrict him/her from properly carrying out his/her duties and would thus be an unfair punishment on his/her constituents. These sorts of sanctions should only be used as a last resort.

However, public censure would not only be appropriate but an important way of keeping the electorate informed about the behaviour of their elected representatives.

Where a councillor has been shown to have improperly used his/her vote that result of that vote should be invalidated and a new vote called excluding the offending councillor.

4. Monitoring Officer and Independent Person

As an employee of the council I can't see that the monitoring officer is sufficiently independent to rule on complaints against councillors and is liable to pressure from councillors and maybe other officers.

The role of the independent person is potentially a good balance against this but when I made my complaint I had no proof, other than her word, that the monitoring officer had discussed my complaint with the independent person. A complainant should have the right to contact the independent person directly. The vast majority of the public will not be aware of the existence of the independent person. There is insufficient transparency about how this person is appointed. Appointment should be made by central Government not the council in question.

The complaints procedure should be shortened to 30 days for the first stage of the complaint.

There should be an appeal process for both councillor and complainant.

The role of the Local Government Ombudsman should be expanded. At present he/she will only accept a complaint where there has been an individual injustice. However there are many instances where the injustice affects everyone in the council's area and yet there seems to be no way of a member of the public challenging a council's decision except a usually unaffordable judicial review.

5. Transparency

There is a widely held view, often expressed on social media, that councillors are corrupt and make decisions based on the "backhanders" they receive. In most cases I think this view is unfounded but much greater transparency would help to dispel this view.

All meetings involving councillors should appear on a public calendar, be open to the public and filmed. The recording and detailed minutes of the meeting should be published as soon as possible. This should apply to "informal" meetings even if "decisions" are not made at those meetings. Information provided to councillors in informal meetings could influence how they vote at subsequent formal meetings.

REVIEW OF LOCAL GOVERNMENT ETHICAL STANDARDS: STAKEHOLDER CONSULTATION

1. This submission is from a retired legally qualified local authority chief executive. I was during my career, successively the head of a legal department, a chief officer and the chief executive of a large growth district, a London Borough and a unitary most purpose County Council. I was then for eight years a member of the Administrative Justice and Tribunals Council, charged with 'supervising' access to justice for citizens in their relationship with the central and local government and promoting the importance both of good administration and fairness principles within tribunal justice. That role also included observing and reporting on the fairness of the Standards Board for England hearing process. I recently undertook an MA in Legal and Political Theory at UCL with a dissertation on **integrity and governance** in public life. One reason for doing so was my concern that the current regulatory regime is not fit for purpose. I am currently an "Independent Person" under the Localism Act 2011 for a County Council and three District / Borough Councils for which I do not seek payment. The period of my intimate engagement with local government therefore spans the period from 1971 to the present day.
2. Many of the reasons for my concern are set out in a report produced by TRANSPARENCY INTERNATIONAL UK – "Corruption in Local Government: The Mounting Risks" 2013 <http://www.transparency.org.uk/our-work/publications/page/17/#.WociYRPFJTY>, which I would commend as a good starting point for reflection. The proposition in that paper was not that local government was provably corrupt on any scale but that a combination of factors creates an environment in which the potential for corruption is greatly enhanced, amounting perhaps to the ingredients for a 'perfect storm'. As statistics on misbehaviour in local government are no longer maintained following abolition of the Audit Commission, any judgement about the overall ethicality of local government is likely to remain anecdotal at best and media driven at worst. My first proposition is that such statistics should again be kept centrally and transparently, ideally by an arms-length body and on a statutory basis.
3. I would suggest that there is a need also to categorise broadly what is meant by misbehaviour. I believe that **it is a fundamental requirement for monitoring ethical behaviour to define what we are measuring**. TI's focus was on corruption, (which equates primarily to criminal behaviour and which might be described as the more visible end of a spectrum of misbehaviour). I would seek to include other different types of ethical misbehaviour, which do not amount to criminality, but all of which have the **potential to undermine faith and trust in the democratic process**. An appendix to my dissertation lists over 50 types of behaviour ranging from obvious criminality to 'just politics' and is a rudimentary attempt to begin that process. MY underlying point however is that an examination of ethicality should covers all aspects of elected member and officer misbehaviour as they all exist along a spectrum.
4. Consideration of ethicality in local government should not in my view be considered in isolation from the history of changes in organisational structure at both officer and political level which have taken place since the 1970's, not

because I wish to turn back the clock but because awareness of context better enables judgement to be made about action required.

5. At officer level, the leadership of local government was in the 1970's overwhelmingly in the hands of legally (and to a lesser extent finance) trained chief executives. Such officers were called 'Town clerks' and as might have been expected, their authority was maintained in substantial part from their training as interpreters of statute and their intimacy with rules-based behaviour (which in my experience placed a high premium on probity and 'doing the right thing'). With the passage of time, managerial emphasis morphed from legally based authority and 'rule following' in favour of what I will call a more managerialist approach. The most effective chief executives at the time arguably encompassed both skill sets. Lawyer trained chief executives are now a rarity and chief executives overwhelmingly come from non-lawyer backgrounds. A trend for chief executives and management teams to serve more than one council, the managerial stress from austerity and the cultural variety of professional and managerial chief executives all seem to me to conspire to dilute managerial time and energy toward a focus on ethical behaviour.
6. As the monitoring officer concept emerged, it became separated from the role of chief executive, ostensibly on the basis that chief executives need to be more entrepreneurial and be independently scrutinised in that role. The role of Monitoring Officer (MO) became associated primarily with the Head of Legal Services function, although statutory MO's are not required to be legally trained. Over the same period, legal professionals, under pressure initially from the introduction of compulsory competitive tendering have in my view 'retreated' to a more private practice culture in which component parts of a council were (and still are) perceived as clients and where lawyers have to justify their costs. Local government lawyers are today much more likely to emulate the behaviour of the private sector and wait for clients to approach them rather than be perceived as imposing their costs on other services. With the current trend for the combination of back office activities into consortia, many lawyers have become further removed from the centre of their 'home' authority. Lawyers today are therefore in my opinion less engaged with the day to day probity and ethicality issues around them than in the past so that 'eyes and ears' on the ground have diminished.
7. None of this is to say that chief executives and in-house lawyers (whose training is arguably most relevant to spotting and containing probity issues) are today not concerned about ethicality, far from it. But rather that the centrality and importance of ethical behaviour in the hierarchy of leadership values is less visible and less emphatic than before and that for those leading today's councils, day to day compliance and ethicality is more likely to struggle for attention.
8. At elected member level, there has in parallel been a sea change in the relative power and authority of political leadership over the same period, when compared to that of officers. This change in relationships, which continues today, has many aspects, each of which would require a small thesis to describe in history and consequence and each of which may no doubt be individually justified on political and or managerial grounds. A simple list is all there is space for in this submission. They are in no particular order – the introduction of cabinet government, special responsibility allowances, portfolio holders with individual delegated power, weak scrutiny, 'strong mayors', internal political advisors, the removal of surcharge and an external standards regime, dilution of the statutory audit regime, reports to council in the names of portfolio holders and directors jointly, reductions in the role and function of full Council and many more.

Whilst there has been some improvement in transparency by the greater use of technology and access to information legislation (later decried by its political originator as his biggest regret), one thing is clear. If there was an imbalance in the relative authority of elected members and officers, it has been more than redressed by the combined effect of these and other changes. For my generation of 'lawyer clerks', probity played a daily, central and formative role in setting the values and direction of councils. In current local government, heavily preoccupied with austerity and where the boundary between officer roles and member roles has become progressively eroded, the potential not just for a repetition of Poulsen or Porter but for a wider ethical malaise, is in my view substantially increased. At the same time greater focus on ethical behaviour is less likely to be welcomed by elected members, some of whom are ready to view it as an interference with their mandate.

9. This part of my submission relates to the present-day regime, not just from my perspective as a lawyer and ex chief executive but also from my experience as an Independent Member:
 - A) Monitoring Officers are employees of the organisation, which they are charged with 'policing'. They are today generally employed at second or third tier level, and rarely come from the same professional background as their chief executive. The decisions they take can have serious consequences for the reputations and / or careers of elected members or colleague officers. Their careers are in turn heavily dependent upon the goodwill of the very people they may have to criticise in public reports, both other officers and members. That is an impossible position in which to place an employed Monitoring Officer. They may sometimes escape this dilemma in individual cases by employing a neighbouring MO or an outside firm of lawyers by reference to a disqualifying interest or to workload but that may not protect them from the feelings of a slighted senior member or officer. Nor does it fix the fact that the role of a MO placed internally is fundamentally flawed from the perspective of natural justice. No judge would preside over a trial where he or she was related to any party to the proceedings. Nor should an MO.
 - B) Monitoring Officers work within a culture in which the political leader and the managerial head of the service are usually closely allied. Prior to the structural changes which I have described above, the traditional relationship might be described as 'officers advise and implement, members represent and decide'. That was never a subtle enough description to describe the relationship in either direction but today I think it is fair to say that many elected members operate further within the traditional territory of officers as described above both at Leader / Chief Executive and Portfolio holder/Director level. Whilst one still hears complaints that officers have too much power and many variations in working relationships were then and are still possible, the potential for Leaders in particular to 'give word' by various means so that an MO fully understands the political needs of a Leader in a given situation is unhealthy.
 - C) A Monitoring Officer's actions may be career or reputation threatening for both members and other officers and the skills and judgements employed are heavily reliant on legal knowledge. Yet MO's are not required to be legally qualified though most are combined with the legal function. I have seen situations where another professional undertakes the role, for example from an audit background. The role however requires an in-depth understanding of the rules of evidence and the application of the principles of natural justice. It is also highly desirable that a practitioner is

under the supervision externally of a professional regulatory body able to advise the practitioner in cases for example of professional conflicts of interest and to enforce professional standards.

- D) Independent Members whose role is to provide some external commentary when a complaint is made, are an insufficient safeguard from the point of view of the parties involved internally or from an external regulatory reassurance point of view. They are self-selecting, in that they are usually appointed following response to an external advert but are not required to have any particular qualification nor is training mandatory. Where more than one is appointed, MO's can quickly understand their strengths and weaknesses and select accordingly in individual cases but bearing in mind that MO's need to satisfy the requirements of internal stakeholders in circumstances mentioned above and their external Independent Person, one can envisage situations where the choice becomes in itself an issue. Independent Persons are lone, lay individuals. They have no external source of access to advice and support and are (depending on their individual backgrounds) heavily reliant on what they hear from the Monitoring Officer and on how information and opinion is presented and the degree of access offered. They may be asked to express a view on matters which require an in depth understanding of employment law or other technically related issues, where elected members complained about have already received extensive training, for example on rules relating to declarations of interests, town planning technicality, entitlements to services such as housing and so on. They need an understanding of concepts such as hearsay and the rules of natural justice to engage properly with the issues. All the Independent Persons I have met so far have been thoughtful and honourable people but that does not equate to an ability to perform the function effectively. The use of an Independent Person is in my view therefore inadequate on its own to provide public or even internal reassurance reliably and consistently and is open to the criticism that it provides an illusory safeguard. The legislation also gives an elected member complained about, a direct right of access to the Independent Member on his or her own and during a complaint process. In my view this breaches two well-established principles of fair complaint handling, firstly to avoid any suggestion of bias or the appearance of bias and secondly, the principle of audi alterem partem. It places an Independent Person in the position of having to say to such a person (as I have) that if they wish to share with me something they would not share with a complainant, I will be obliged to recuse myself from acting. Meanwhile it is of course 'the only game in town'.

10. I do not think it is easy to produce a simple list of solutions to what is in my view a fundamentally flawed system of regulatory reassurance and oversight. Ironically, successive governments have progressively introduced a vast range of regimes to reassure the public that the political process is secure at **national level** without much success but has effectively dismantled almost all the safeguards operating at **local level**. Some discussion of this process in relation to national governments be found in "The Life and Death of Democracy" by John Keane (2010). A concern for the heavy handedness of the previous system as perceived by local and national politicians, in particular concerning the activities of the for the Standards Board for England regime is understandable, although much of that concern was in my view created by political parties themselves seeking to use the national regime as a

means of settling local political scores. More importantly, such deficiencies as there were could have been remedied. What followed, amounted in my view to throwing out the baby with the bathwater.

11. I believe that proper consideration of the issues below could however lead to a regime, which is more able to sustain public confidence. The main issues requiring addressing are in my view:

- A) Statistics should be maintained centrally, nationally, and transparently as to categories of misbehaviour occurring in local government. See para 2 above. The body charged with doing this should be able to compel that such information is provided. Without doing so there is no reliable way of monitoring the on going ethical health of local government or monitoring emerging trends such as at national level, the expenses scandal or inappropriate sexual behaviour.
- B) The body mentioned above should maintain a visible and accessible role in promoting advice and information exchange for councils and to citizens. It should also create a single statutory best practice model for a Code of Conduct and the procedural requirements for complaint handling and review them regularly in place of the rather minimalist model currently promoted, which has led to every Council producing its own version, so that for example 'double hatted' councillors may act under different regimes and Independent Members may work under different Codes in adjoining authorities.
- C) Monitoring Officers should be under a clearly stated statutory duty to refer credible allegations of criminality directly to the police and where financial irregularity is concerned, to local audit.
- D) Consideration should be given to a successor power to what was previously called "surcharge" under which individuals might become personally liable for misconduct leading to financial loss. In my view, surcharge was abolished without adequate consideration, explanation or debate. Whilst surcharge was politically unpopular and may have appeared to some politicians as a heavy-handed threat, or as an unjustified limitation on a political mandate, it was in my experience rarely used or threatened. But its existence provided a way (and sometimes the) only way of drawing the attention of political leaderships to potential adverse consequences from an intended course of action, so as to create time for reflection and the consideration of legal and other advice. Without surcharge it is difficult to envisage how another Westminster homes for votes scandal might be avoided. Its abolition in my view effectively insulates individuals from the personal financial consequences of Wednesday unreasonableness. The only offence created under the most recent 'reforms' is that of failure to report or record a pecuniary interest. This narrowly drawn provision is plainly inadequate to provide an adequate disincentive for unethical behaviour more generally and some commentators regard it to be unenforceable.
- E) The local audit process which has been in my view much reduced in efficacy should be reviewed and refreshed to enhance its transparency and the powers of auditors and to guarantee that potential conflicts of interest of auditors are obviated.
- F) The Monitoring Officer role in relation to **serious** elected member misconduct should be externalised so that the internal function is limited to prima facie minor complaints and liaison. Externally serious complaints should be handled regionally by consortia of local authorities and the range of responses to a finding of serious misbehaviour should be enlarged beyond what amounts only to a slap

on the wrist for a finding of fault under the current regime. There should be a mechanism for passing complaints in either direction.

- G) The protections against unfair dismissal for chief executives should be reviewed so as to encourage willingness to give unpopular advice. The current regime is unfit for purpose and does not satisfy accepted principles of fairness. Nor does it effectively discourage elected representatives from solving differences by simply paying off their chief executive off and silencing him or her by a non-disclosure requirement, which I consider is not in the public interest.
- H) I do not think there is a simple response in the case of whistle blowers. Firstly, a distinction must be made between a whistle blower who seeks to defend himself or herself from legitimate disciplinary action by contrived whistleblowing and a genuine whistle blower, (although both situations could be true at the same time). In relation to alleged misconduct by a whistle blower, I believe that properly instigated disciplinary action needs to be allowed to run its normal course but under close procedural supervision. Allegations otherwise made by a whistle blower unrelated to impending disciplinary action should in my view be considered according to the seriousness of the allegation and range from internal investigation which might lead to grievance / mediation processes being implemented, engagement with the internal standards process, external regional oversight or an employment tribunal depending on the circumstances. My own view is that those who have the courage to whistle blow in legitimate circumstances will often thereafter be at risk of reprisal or at least some 'distancing' within the organisation even when vindicated. It then becomes a leadership issue as to how that individual is counselled and supported thereafter. A good starting point would be to promulgate a best practice whistle blower procedure reflecting all the above points
- I) My dissertation sought to explain that having effective rules are an essential first step, but that integrity and ethicality has to be **lived and displayed in the daily conduct of business especially by those in leadership roles**. A Council which displays integrity understand that there are limits to political difference, that mutual respect and civility are not optional extras and that it is not enough just to produce and follow rules of engagement when issues of misbehaviour arise. Producing Codes of Conduct, declaring interests and ticking the boxes of what I would describe as a minimalist approach to ethical behaviour are in my view insufficient. Nor is it enough to offer short courses to elected members on how the regime works and review events once a year in a routinised report to committee as I have observed. It requires on going and systematic leadership, reflection and reinforcement of what acting with integrity means and be visible like the wording in a stick of rock. Sadly, my experience leads me to conclude that that is a big ask for councillors and officers grappling with austerity and the many competing pressures for their time. If I am correct in that belief, the least that needs to be in place are rules and processes that are fit for purpose. Ideally however it should be coupled with an **incentivising process**, which engages positively with the ethicality agenda and rewards as well as punishes compliance. Such incentives should be linked to a council's corporate and business planning process and actively promote ethical processes and targets which drive and reinforce ethical behaviour. Doing so would in my view contribute greatly to the success and reputation of local

authorities and enable them to keep their Codes of Conduct in a cupboard.

- J) Finally it is important to include within consideration, the many different kinds of agency that now deliver services previously delivered by councils alone, including a wide variety of arms-length, outsourced and partnership based agencies. Ethical behaviour is no less an issue for them than for the councils who deliver services through them.

Bernard Quoroll

SUBMISSION 8

Dear Sir/Madam,

Review of Local Government Ethical Standards: Stakeholder Consultation

I would like to make the following submissions to this consultation.

I would be also be keen to assist further and would be willing to make verbal representations, if invited.

About me

1. From May 2008 - May 2017, I was a member of Berwick-upon-Tweed Town Council. Positions held include Deputy Mayor and Chairman of the Finance Committee.
2. In September 2013, following mismanagement of the Berwick Portas Pilot, I began raising serious concerns about governance and the lack of transparency within the Council.
3. It would take too long to detail here, even a basic outline of, what then occurred in relation to Berwick Town Council during a period of turmoil which lasted over two years. However, I am one of many complainants/whistleblowers in Local Government (the Town/Parish Council sector is especially problematical) who has suffered reprisals for doing this.
4. In 2015 Northumberland County Council found me guilty of several breaches of the code of conduct.
5. I have made contact and shared experiences with a number of other Councillors and residents across the country who have been in similar positions (faced reprisals for raising concerns and trying to hold public bodies to account). This is usually through being branded "vexatious" and trumped up charges of "bullying". A very clear pattern has emerged.
6. I have been blogging about this for over three years on the "Georgina Hill, Berwick" Facebook site. https://m.facebook.com/GeorgieHill4BerwickEast/?locale2=en_GB
7. I have made several communications to, what was then DCLG, and publicly stated that I believe that the treatment of whistleblowers in Local Government is a national scandal. I also have posed the question of what needs to happen before action is taken ? I have also raised my genuine fear that a whistleblower may be driven to extreme measures, including suicide.
8. In May 2017, I was elected to Northumberland County Council (Berwick East division) and am Chairman of the Council Audit Committee.

The General Problem

1. The Standards system is "not fit for purpose", it is still predominantly used for political purposes and to indulge incompetent and/or wrongdoing Town Clerks who play the "bullying card" when challenged.
2. The Standards system relies too much on prescriptive uniform code of conducts (and interpretation of such) when the emphasis should be on the Nolan Principles.
3. The Standards system, as run by principal authorities, rarely can be considered as truly "independent" and often fails to comply with principles of natural justice, free speech or any of the standards held in a court of criminal or civil law.
4. The Government / Parliament should be focussing on addressing the incompetence, wrongdoing and worse in Local Government.

The Specific Problem

1. There is a major problem at the Town/Parish Council level of local government, in particular.
2. A google search will demonstrate the problem and pattern affecting many Town/Parish Councils throughout the country.
3. This basic research will make you either draw the conclusion that incompetent and wrongdoing Town Clerks are extremely likely to be victims of "bullying" and those who raise concerns about how a Council is being run

- are extremely like to be “vexatious” and/or a “bully” - that premise is, of course, absurd.
4. The other conclusion that you would draw is that the age old problem of whistleblowers facing reprisals for exposing issues in the public interest is happening.
 5. The situation can be summarised as such;

Many, Parish / Town Councils are run extremely badly. By “extremely badly” this can range from incompetence to people trying to run councils as their own personal fiefdom to cronyism to various degrees of corruption (in some cases there has been out and out theft of public money).

The way to detect and prevent all this is through the examination of, and ensuring sound, governance including proper financial controls.

When an individual(s) starts looking in to this and asking questions and then more questions when they are not satisfied with the answers and discover more things (as they should, it is called 'scrutiny'), they will, inevitably, find themselves at loggerheads with the ruling clique of that council and on a quick route to being branded as “vexatious” and/or a “bully”.

This loggerheads situation is what leads to councils becoming dysfunctional, hitting the headlines for all the wrong readings, stormy meetings with the police being called etc.

The role of the Town Clerk is central to this and the lack of means and inclination to intervene results in things spiralling out of control.

For example, in Rothbury Parish Council a resident has been raising concerns about how that Council was being run for several years.

The Council (without lawful authority from a properly constituted meeting of the Council) have spent £60,000 trying to “silence” this resident and maintain that he is being “vexatious”.

Rothbury Parish Council have recently been issued with a public interest report by BDO, a copy sent to the Secretary of State, for persistent and serious governance failings.

In other words, this resident / whistleblower has been proved right (as is regularly the case).

Other Councils worth looking at the history (to see this recurring problem/pattern);

Berwick Town Council
Rothbury Parish Council
Ledbury Town Council
New Mills Town Council
Spennymoor Town Council
Desborough Town Council
Peterlee Town Council
Holywell Town Council
Crowle and Ealand Town Council
Brierley Town Council
Hadleigh Town Council
and many more ...

Conclusion

1. Local Government is riddled with incompetence and various degrees of wrongdoing (fiefdom building, cronyism - to out out and corruption).
2. Whistleblowers and complainants are treated badly - including through the Standards system.
3. As well as political factors and wrongdoers working against complainants, there is also a specific and cultural bias. Most of those presiding over complaints involving Council officers (monitoring officers, LG Ombudsman etc) are current or former Council officers. For example, in my case both the Monitoring Officer and “Independent Person” were former work colleagues of the Clerk accusing me of breaching the code of conduct.
4. The problem is especially chronic in the Town/Parish Council sector but there are link with the principal authorities.

Review of Local Government Ethical Standards: Stakeholder Consultation

Consultation questions

Are the existing structures, processes and practices in place working to ensure high standards of conduct by local councillors? If not, please say why.

No, there is too much variation at Parish level.

What, if any, are the most significant gaps in the current ethical standards regime for local government?

The threshold is too high.

Codes of conduct

Are local authority adopted codes of conduct for councillors clear and easily understood? Do the codes cover an appropriate range of behaviours? What examples of good practice, including induction processes, exist?

The Code of Conduct covers the requirements but the bar is set too high, as if breached there are no sanctions that can be readily applied. There needs to be compulsory training/induction for all new Councillors. There should be a job description for Councillors.

A local authority has a statutory duty to ensure that its adopted code of conduct for councillors is consistent with the Seven Principles of Public Life and that it includes appropriate provision (as decided by the local authority) for registering and declaring councillors' interests. Are these requirements appropriate as they stand? If not, please say why.

No, there should be stricter rules on declaring interests.

Investigations and decisions on allegations

Are allegations of councillor misconduct investigated and decided fairly and with due process?

What processes do local authorities have in place for investigating and deciding upon allegations? Do these processes meet requirements for due process? Should any additional safeguards be put in place to ensure due process?

There is a shared monitoring officer in place. No they do not meet requirements. Standards Board needs to be reinstated. No appeal process on any decisions currently made.

Is the current requirement that the views of an Independent Person must be sought and taken into account before deciding on an allegation sufficient to ensure the objectivity and fairness of the decision process? Should this requirement be strengthened? If so, how?

Statistical reports should be made by the Independent Person of any allegations, and should be made public.

Monitoring Officers are often involved in the process of investigating and deciding upon code breaches. Could Monitoring Officers be subject to conflicts of interest or undue pressure when doing so? How could Monitoring Officers be protected from this risk?

This has been covered by the sharing of the Monitoring Officer by three Councils. By bringing in someone completely independent of the Councils.

Sanctions

Are existing sanctions for councillor misconduct sufficient?

No, not sufficient.

What sanctions do local authorities use when councillors are found to have breached the code of conduct? Are these sanctions sufficient to deter breaches and, where relevant, to enforce compliance?

No powers of redress at all. Strict sanctions should be put in place for Councillors who do not attend meetings.

Should local authorities be given the ability to use additional sanctions? If so, what should these be?

Disqualification of Member, anger management and training.

Declaring interests and conflicts of interest

Are existing arrangements to declare councillors' interests and manage conflicts of interest satisfactory? If not please say why.

Yes, procedures are fine.

A local councillor is under a legal duty to register any pecuniary interests (or those of their spouse or partner), and cannot participate in discussion or votes that engage a disclosable pecuniary interest, nor take any further steps in relation to that matter, although local authorities can grant dispensations under certain circumstances. Are these statutory duties appropriate as they stand?

Yes appropriate as they stand.

What arrangements do local authorities have in place to declare councillors' interests, and manage conflicts of interest that go beyond the statutory requirements? Are these satisfactory? If not, please say why.

Yes appropriate as they stand.

Whistleblowing

What arrangements are in place for whistleblowing, by the public, councillors, and officials? Are these satisfactory?

None in place at present. Anonymity to be promised and upheld

Improving standards

What steps could *local authorities* take to improve local government ethical standards?

Bring back Standards Board Committees

What steps could *central government* take to improve local government ethical standards?

Bring back Standards Board Committees

Intimidation of local councillors

What is the nature, scale, and extent of intimidation towards local councillors?

Use of social media as a means of anonymous intimidation

What measures could be put in place to prevent and address this intimidation?

Social media companies to work with local government to reduce levels of anonymous intimidation.

Review of Local Government Ethical Standards: Stakeholder Consultation

Submission from **Annie Child, City Clerk, Salisbury City Council**. Responding as an **individual**. Worked in local government since 2003. Current council since 2009, also experience as Clerk to small parish councils.

Response to Consultation questions

Are the existing structures, processes and practices in place working to ensure high standards of conduct by local councillors? *No*

If not, please say why – *No effective sanctions for proven poor conduct and behaviour. Structures, processes and practices are not widely known by our councillors. There is no requirement for them to know, as they do know that if they are breached there are no consequences for them*

What, if any, are the most significant gaps in the current ethical standards regime for local government? *Lack of effective sanctions, too reliant of members 'consenting' to behave appropriately*

Codes of conduct

Are local authority adopted codes of conduct for councillors clear and easily understood? *There are clear and can be understood if they are seen, but lack teeth*

Do the codes cover an appropriate range of behaviours? *Not really; not specific enough around behaviour, i.e. rudeness, bullying etc. Not principles to shown as model behaviours*

What examples of good practice, including induction processes, exist? *Hampshire ALC have members training charter – if all members were trained it may help. Councillors need to understand what their role is, where their limits lie and how to conduct themselves appropriately. NALC Good Councillor guide is a start but not all council members of NALC and not all councillors will have seen this document.*

A local authority has a statutory duty to ensure that its adopted code of conduct for councillors is consistent with the Seven Principles of Public Life and that it includes appropriate provision (as decided by the local authority) for registering and declaring councillors' interests. Are these requirements appropriate as they stand? *Yes if you have decent members with integrity but there are too brief on the specifics of how this behaviour is modelled for those without these character traits.*

Investigations and decisions on allegations

Are allegations of councillor misconduct investigated and decided fairly and with due process? *Yes in Wiltshire if reported, but I haven't bothered to report councillors because the lack of sanctions makes the process both pointless and painful*

What processes do local authorities have in place for investigating and deciding upon allegations? Do these processes meet requirements for due process? Should any additional safeguards be put in place to ensure due process?

Is the current requirement that the views of an Independent Person must be sought and taken into account before deciding on an allegation sufficient to ensure the objectivity and fairness of the decision process? Should this requirement be strengthened? If so, how?

Monitoring Officers are often involved in the process of investigating and deciding upon code breaches. Could Monitoring Officers be subject to conflicts of interest or undue pressure when doing so? How could Monitoring Officers be protected from this risk?

I have not responded to these questions as I have limited direct experience of this

Sanctions

Are existing sanctions for councillor misconduct sufficient? *No*

What sanctions do local authorities use when councillors are found to have breached the code of conduct? *None that I can see!*

Are these sanctions sufficient to deter breaches and, where relevant, to enforce compliance? *NO and no*

Should local authorities be given the ability to use additional sanctions? *YES* If so, what should these be? *Suspension from council activity, public reprimands and apologies, mandatory training, private apologies, removal from committees and the Council, published outcomes from investigations on easy to read websites. Currently I could be disciplined for being rude to member but a member can be rude to me without consequence*

Declaring interests and conflicts of interest

Are existing arrangements to declare councillors' interests and manage conflicts of interest satisfactory? *YES if councillors comply.*

A local councillor is under a legal duty to register any pecuniary interests (or those of their spouse or partner), and cannot participate in discussion or votes that engage a disclosable pecuniary interest, nor take any further steps in relation to that matter, although local authorities can grant dispensations under certain circumstances. Are these statutory duties appropriate as they stand? *YES*

What arrangements do local authorities have in place to declare councillors' interests, and manage conflicts of interest that go beyond the statutory requirements? *I encourage councillors, when asked, to declare interests where the public could perceive that these interests would change their decision making process*

Are these satisfactory? *Yes but only if the councillor complies.*

Whistleblowing

What arrangements are in place for whistleblowing, by the public, councillors, and officials? *SCC has a whistleblowing policy in place Are these satisfactory? The policy is fine – the lack of sanction which can be applied to councillors means that there may be little point an officer whistleblowing about a councillor as there will be no effective consequence, and all the ‘risk’ is on the officer raising the issue.*

Improving standards

What steps could *local authorities* take to improve local government ethical standards? *Better member training, better chairmanship at meeting, better group leadership where councillors with poor conduct are disciplined by their own group, improved Become a Councillor campaign to attract better candidates, support training of clerks*

What steps could *central government* take to improve local government ethical standards? *Revise the code of conduct requirements – be more specific about unacceptable behaviour (like MPs’ new code of conduct!), introduce effective sanctions for poor councillors. Government needs to work closely with Society of Local Council Clerks (SLCC) and National Association of Local Councils (NALC)*

Intimidation of local councillors

What is the nature, scale, and extent of intimidation towards local councillors? *I am not aware of this in Salisbury*

What measures could be put in place to prevent and address this intimidation?

| |
|-------------------|
| Annie Child, PSLC |
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SUBMISSION 13

Dear Sir/Madam,

I would make the following submissions to your considerations based on the real life situations I have found as below. they relate to my recent long term experience as a parish clerk.

1. there are no effective sanctions.
2. the untrained members of parish councils are self-policing part timers so can easily fall into error and be deceived or both and there is no effective and timely policing mechanism.

Situation one.

A councillor acting in council absentmindedly understated the full funds she wanted the parish council to apply for from their district council for her pet project so, without reference to the council or the clerk, she (unlawfully) intercepted the proper bid by introducing herself to the appropriate officer at the District Council and influenced the properly filed authorised bid to get what she had really wanted. The officer at district level apparently did not appreciate she was not acting in any official capacity and naively treated her as representing the parish council so ignored the proper bid and delivered what the councillor wanted. When this behaviour was reported to the Monitoring Officer she denied any ability to act on the 'offence'.

Situation 2

A clerk who was finance officer unexpectedly resigned and was replaced by a volunteer councillor as an emergency solution. This councillor had a track record of deceit and odd thinking. She altered the way the finances were reported because the members including herself did not understand the previous method of reporting and, in so doing, omitted to include a significant account held by the council in her new finance report. She was replaced as clerk by a new inexperienced person on a probationary basis but managed to get herself appointed as supervisor of the probationer.

The failure to reveal the existence of the previously hidden account continued, despite advice from the retired clerk to the new clerk, since it appeared the probationer was not prepared to go against her supervisor.

When the retired clerk discretely sought to persuade the council to report its accounts properly and fully, council continued to insist it was obeying its own standing orders when in fact it was not. Thus one might infer the existence of the unreported account had been forgotten and the council members did not know their own standing orders. It subsequently came to light that a councillor had, on his own initiative, expropriated into the parish accounts monies held by the council on behalf of others. These actions were not minuted nor properly recorded in the finance report since the new clerk probably did not understand the implications and there is no-one to help her - there is no internal auditor, the previous one having declined to continue. The situation should be resolved by the annual audit but once again the system is self-policing and vulnerable to mischief since there is the risk of the expropriated funds being spent before the 'mistake' is resolved. The retired clerk is the only one who knows what is going on.(why "untrained" & "part time" above are relevant.)

Yours faithfully,

Malcolm McBeath

SUBMISSION 14

Are the existing structures, processes and practices in place working to ensure high standards of conduct by local councillors? If not, please say why.

There is no compulsory training required. And there are no real sanctions to stop them doing exactly what they want. The monitoring officer has very few teeth.

What, if any, are the most significant gaps in the current ethical standards regime for local government? *Lack of training and lack of sanctions.*

Codes of conduct

Are local authority adopted codes of conduct for councillors clear and easily understood? Do the codes cover an appropriate range of behaviours? What examples of good practice, including induction processes, exist? *Yes they are easily understood. There is no standard induction in local Parish Councils other than to hand out leaflets.*

A local authority has a statutory duty to ensure that its adopted code of conduct for councillors is consistent with the Seven Principles of Public Life and that it includes appropriate provision (as decided by the local authority) for registering and declaring councillors' interests. Are these requirements appropriate as they stand? If not, please say why. *Yes they are adequate.*

Investigations and decisions on allegations

Are allegations of councillor misconduct investigated and decided fairly and with due process? What processes do local authorities have in place for investigating and deciding upon allegations? Do these processes meet requirements for due process? Should any additional safeguards be put in place to ensure due process? *Smaller authorities will defer to the Local Authority so I have no comment to make.*

Is the current requirement that the views of an Independent Person must be sought and taken into account before deciding on an allegation sufficient to ensure the objectivity and fairness of the decision process? Should this requirement be strengthened? If so, how? *I'm not really sure how this works.*

Monitoring Officers are often involved in the process of investigating and deciding upon code breaches. Could Monitoring Officers be subject to conflicts of interest or undue pressure when doing so? How could Monitoring Officers be protected from this risk? *Unless they are being investigated themselves or they are investigating a friend or relative, I don't see how there can be a conflict. If that was the case, then they should ask someone else to investigate.*

Sanctions

Are existing sanctions for councillor misconduct sufficient? ***What sanctions!!***

What sanctions do local authorities use when councillors are found to have breached the code of conduct? Are these sanctions sufficient to deter breaches and, where relevant, to enforce compliance? *They can to censure the Member or to remove that Member from a council committee. Since it doesn't seem to stop certain Councillors from behaving badly, they obviously aren't enough.*

Should local authorities be given the ability to use additional sanctions? If so, what should these be? *Removal from office, or a harder penalty, such as a public apology?*

Declaring interests and conflicts of interest

Are existing arrangements to declare councillors' interests and manage conflicts of interest satisfactory? If not please say why. A local councillor is under a legal duty to register any pecuniary interests (or those of their spouse or partner), and cannot participate in discussion or votes that engage a disclosable pecuniary interest, nor take any further steps in relation to that matter, although local authorities can grant dispensations under certain circumstances. Are these statutory duties appropriate as they stand? *Well no one checks it, but since there it is the Councillor who suffers any consequence, I think it's sufficient.*

What arrangements do local authorities have in place to declare councillors' interests, and manage conflicts of interest that go beyond the statutory requirements? Are these satisfactory? If not, please say why. *Don't know*

Whistleblowing

What arrangements are in place for whistleblowing, by the public, councillors, and officials? Are these satisfactory? *Personally I would direct to the MO.*

Improving standards

What steps could *local authorities* take to improve local government ethical standards? *I don't think it works that way round, unfortunately. Lying to government, or the public should be punishable.*

What steps could *central government* take to improve local government ethical standards? *Give them strict standards with penalties. Standardise codes of practice and codes of conduct along with other documents.*

Intimidation of local councillors

What is the nature, scale, and extent of intimidation towards local councillors? *Members of the public have unrealistic expectations of what local Councillors can achieve, and in the new digital age, are likely to insult them on social media.*

What measures could be put in place to prevent and address this intimidation? *Unfortunately unless social media cracks down on this, it is a question of Councillors suing individuals for slander/libel as appropriate.*

In addition to the above, Clerks are often bullied by Councillors. There must be action on this and NALC/SLCC are looking hard at this. It would be good if government would listen and act on their results.

SUBMISSION 15

Dear Sir, Madam.

I have completed your survey from the Comity of Standards into a revue of local ethical standards.

I am very glad this is being discussed as i have had a terr ble experiece serving on Selling Parish council due to work place bullying & harassment.

- a. The existing structures do not work at all. They do not work because there are no structures to ensure high standards of conduct.
- b. There is no clear line of communication if those down the ranks experience a problem. There is nowhere to take a complaint.
- c. The code of conduct does not say clearly what behaviours should be expected from councillors or what consequences will be given if broken.
- d. The Seven Principles of Public life are good standards but have very little to do with a Parish council as largely ignored.
- e. No allegations of councillor misconduct are investigated or dealt with fairly.
- i. The local authority has no process for investigating allegations. A safeguard for individuals who are experiencing workplace bullying & harassment must be made. A clear line for complaints to be taken is needed.
- ii. N/A
- iii. Monitoring Officers need to be given some backbone & clout. What is the point of them watching terrible behaviour if unable to do anything about it?
- f. no
 - i. There are sanctions for councillors if they go bankrupt, take a br be or do not turn up for 6 months. There are no sanctions for dreadful behaviour as the law of bringing a council into disrepute was taken away.
 - ii. The law of bringing a council into disrepute should be brought back & workers rights be introduced to the voluntary sector of local government. You can not expect anyone to work with zero workers rights, seems archaic. Bullying & harassment is rife in local government, you must give the affected a place to bring a complaint. The only way to remove yourself from bullying is to resign, hardly fare but if the bullying is giving you health & emotional problems is your only option.
- g. yes
- h. yes
 - ii. satisfactory
- h. There are no arrangements in place for whistle blowing. No one is interested in a complaint. A Parish Councillor has no boss therefore no one liable for the treatment they receive. Only place to whistle blow is the newspapers to warn future well meaning villagers that if you are bullied on a parish Council you have no protection.
- i. Bring back the law of bringing a council into disrepute & give voluntary workers somewhere to go with a complaint of harassment & bullying.
- j. Central government needs to change legislation so those working in the voluntary sector of local government have the same workers rights as those in the paid sector.
- k. from the public or councillors? I have been verbally & physically attacked by both.
- i. tougher sanctions for offenders.

Thank you for taking time to look into this problem. I strongly feel these issues let down the whole system.

Westminster has addressed it's abuse, harassment & bullying problems they should offer the same protection to it's voluntary workers further down the chain.

I along with other members of my parish council & clerks we have been severely affected by bullying.

With nowhere to take a complaint apart from the police with a private harassment complaint it leaves the whole sector open to abuse.

I am devastated that my experience of serving on a parish council has been such a bad one, i hope in future policies may change to protect Councillors from abuse.

The current rules rely on the public being of sound mind to be a parish councillor, there is no way of removing a councillor that causes trouble or is not of sound mind. Unless you take a br be, go bankrupt or not go to meetings you can not be removed as a parish councillor.. This surely must change.

Kind regards

Mrs Tanya Gibson

Selling Parish Council.

Dear Dr Martin

Following on from my initial input, I am happy to assist your Committee's work by providing examples of whatever sort of poor ethical standards that you believe could be useful. However, I'm not too sure what sort of examples you are looking for and seek some clarification (I've read the terms of reference).

In my dysfunctional parish council, the autocratic chair is the clerk's father and there are 2-4 other weak and inept councillors. The parish is effectively ruled by one corrupt and self-serving family. Each member has dire 'ethical standards' and this leads, collectively and directly, to maladministration of the council - as a body. The two matters are inextricably linked. It's not just a Code of Conduct issue (eg the Nolan principles), but a lack of probity, integrity and bad governance in everything they do, or don't do - but should.

However, the output from this Committee must be that accountability of members is vastly improved and clarified for electors.

I wish to make the following suggestions, which are intended to refer to the members of 10,000 or so parish councils in the UK;

Regulation Authority

Many roles or positions of trust have their own 'Regulatory Authority' (eg the Solicitor's Regulation Authority). Such a body should have the power to investigate allegations of malpractice by individuals and to enforce appropriate sanctions. This must include, for the most serious cases, the ability to 'bar or strike off' individual council members.

I suggest that a similar Regulatory Authority should be created for all members of local councils, including employees such as clerks. The list of applicable persons could be copied, quite easily, from the records already held by the Monitoring Officer, eg on the 'Declaration of Interest' forms. I am aware that Localism disbanded 'The Standards Board for England' - this was not a step forward.

Monitoring Officer

The role and responsibilities of the Monitoring Officer (MO) are currently so restricted and vague that the position is almost useless. Currently, the MO can only investigate individual councillors when they may have breached their Code of Conduct. Any wily councillor who is corrupt can easily distance himself by claiming that whatever wrongdoing took place was actually a decision or act of the council - as a body. In this scenario, the MO is powerless to act. In my experience, MO's distort every point in order to dismiss a complaint, before it even reaches a Standards Hearing Panel. The whole procedure is a mess. MO's appear unaccountable.

Elections

The current position is that many parish councils have not held elections for several decades and the members consist entirely of self-appointed and co-opted cliques.

I suggest that a council must hold elections at least once every decade and that the maximum term of office should be two terms (i.e. 8 years).

Clerks

This is a vital role. Currently, almost anyone can be appointed clerk, regardless of competence or independence.

I suggest that a clerk must not be related or closely connected (similar to the caveats already prescribed for disclosing pecuniary interests).

Precept

Currently, parish councils can increase their precept tax income without any limits - whatsoever. It could go up a million per cent and still remain lawful.

I suggest that any proposed increases above government limits or twice RPI should be subject to a referendum of electors.

Governance

The current position is that Governance is a somewhat vague term, open to vast interpretation and without any real guidance for those struggling to demonstrate when it may be breached. I suggest that guidelines be produced, perhaps stating the following. Governance is described as acting with probity and integrity - or *ethically*. Examples of unacceptable governance include; identifying electors who contribute correspondence to councils in public records, publishing propaganda in the minutes (ie details known to be untrue with the intent to mislead the public), wilful and persistent disregard for Laws, Codes and Regulations, the clerk being obstructive and antagonistic, a refusal to acknowledge or publish the 'inconvenient truths' or indeed everything not involving finance. These are examples of dire '*ethical standards*'.

DCLG

I have letters from the DCLG Minister claiming that existing measures are adequate (re ethical standards). The Minister is wrong. They're NOT.

I suggest that the DCLG team must be advised that current methods of accountability are not adequate and that real and clear changes are needed. Continuing 'in denial' is getting us nowhere and, consequently, democracy has often failed at parish level.

Auditor

The external auditor role is such that they appear very reluctant to exercise their powers and bring the mess (which they accept is occurring) to a close. Ethical standards are so bad here that serious and detailed Objections to false assertions on the council's Annual Return have been made and verified for three years, but members just lie about, censor and ignore the audit output and remedial recommendations.

I suggest that your role should be to form policies to ensure that members can be held to account for such skulduggery and wilful malpractice.

Forums and Websites

There are a number of most useful websites where electors can raise concerns, swap advice and have a good whinge. It is clear that a picture of consensus forms quite quickly and this offers a substantiated view of both what is wrong with local democracy and, importantly, what should be done to improve matters. I suggest that the Committee be aware of websites such as CPALG and note the content.

I would like the Secretariat to forward this email to the committee members. Perhaps you could let me know how often the committee meet and let me have

their feedback to this response. I'm sure there will be points to clarify or perhaps supporting evidence may be required.

I very much look forward to reading the committee's feedback to my response.

Thank you,

Gerry Woodhouse

SUBMISSION 17

In spring of 2014 Beyton Parish Council illegally released 15 Embden domestic geese on to the village green at Beyton. Many of the parishioners did not agree with the release but the then chairman of the parish council was unwilling to hear their views without being rude and intransigent so one of the parishioners decided to film proceedings starting in August 2014, as soon filming became legal. The majority of the council immediately resigned their positions.

After several incidents it was decided that because the green is surrounded by 3 busy roads the geese should be protected by a warning of Duck!/? signs together with speed camera signs. There are no speed cameras in Beyton. This was done without any consultation or permission of Suffolk County Council highways department who told the parish council to remove the signs immediately as they were illegal. The signs cost the parishioners of Beyton several hundred pounds.

Some of the parishioners were so incensed by the continuing rudeness to the member of the public who was legally filming the meetings and the misuse of public funds that they decided to complain to the County Council legal department citing the Suffolk Local Code of Conduct. Complaints about the chairman and vice chairman were met with a sympathetic reply but apart from "naming and shaming" the two councillors and writing to them there was nothing else the Senior Solicitor and Deputy Monitoring Officer could do.

The Secretary of State for Communities and Local Government, Eric Pickles was also written to but redirected any complaint back to the Monitoring Officer at Suffolk County Council.

Sanctions against Parish Councils are long overdue. Councillors are allowed to sit on the council for years or even decades and unless there is an election, can be co-opted by friends and relations already in situ.

Parish councillors should have a time limit applied whereby they can only serve for a specified term before having to stand for election.

Monitoring Officers should have the right to remove councillors who have exceeded their statutory powers.

I hope the above example will be taken into consideration when the consultation is undertaken.

Diane Hobbs

SUBMISSION 18

I wish to comment on your 'Local Government ethical standards'.

I am a Parish Councillor in Devon and we have one councillor within our group who is rude and obtrusive and has been bullying residents over his planning applications. He also has made a nuisance of himself with many other parishioners with constant phone calls and visits, so much so that the police have been called on many occasions.

I am embarrassed to be on the same council as him but yet there seems no easy way to reprimand or even get him off the council.

I am thinking of resigning and so is one other and that is not right.

We need clear and easy methodology to debate behaviour and then remove the offender if necessary. Never mind his rights. He is making most people's lives here a misery!

Phil Allen. Councillor for Germansweek.

CONSULTATION RESPONSE – LOCAL GOVERNMENT ETHICAL STANDARDS

I am the Town Clerk at a small Town Council and am responding in a personal capacity. I have asked my members to respond separately. My reason for responding to this consultation is based on a recent personal experience of the code in practice.

- a. Whilst I believe the code itself is good and adequately reflects the way members should behave, including registering their various interests, there are no sanctions available to the monitoring officer should they be found that they have broken the code.
- b. As above
- c. There are some issues relating to members family members which some members feel inappropriate but to date no one has refused to complete a form in my council
- d. There are no issues here as far as I can tell
- e. i. The previous system of using a monitoring officer to investigate alleged misconduct was helpful in that parish councils had some advice to fall back on. Currently each parish council is expected to try to solve issues relating to the code “in house”. In the case of a dual hatted member this becomes difficult. Additionally there would appear to be no right of appeal by the councillor or their accuser if either does not agree with the decision made.
ii. Generally this works.
iii. Yes they could but in our District the investigating officer is not the monitoring officer and the final decision is made by a Standards Committee made up of lay members and councillors, which in my opinion offers some safeguards.
- f. There are no real sanctions unless a councillor fails to declare an interest. Bullying, unreasonable behaviour to another councillor or a staff member has no sanction at all.
- i. There are none unless the breach is for the above reason. The sanction certainly does not deter breaches – they often feel they can behave in any way they please with impunity
ii. Yes – these could be suspension, fines, publicity of breach
- g. i. Yes
ii. Agenda items are sufficiently detailed that members are aware if they need to declare an interest. To date one member has needed to leave the room for a discussion, most interests are not pecuniary. Members can ask for dispensation if necessary although to date this option have never been used in my council.

h. We have a whistleblowing policy and staff and/or members may go to the Mayor or Deputy Mayor or the CEO of the District Council. This has been used once by a member of staff and a full investigation took place.

i. Better training of councillors in how to behave to each other and to staff.

j. Fund training and provide examples of acceptable and unacceptable behaviour.

k. Residents in my town are relatively pleased with the way town councillors act and work hard to improve their neighbourhood although I have seen some unpleasantness on Facebook which is unnecessary. There is a bigger issue of the intimidation of the front line staff in the office (particularly on Facebook) and it is not uncommon for a visitor to be asked to leave and come back when calmer. There is an even bigger, but more subtle, problem with councillors believing they can bully their Clerk into doing additional work and/or calling into question the work they have already done. This tends to be done on a one to one basis and whilst the Clerk will always help members as much as they can, on occasion the line is crossed. I would like to state that this is by far the minority of councillors but when it happens it is extremely difficult and stressful with an on going effect on health.

This consultation submission is sent on behalf of **North Hertfordshire District Council's Standards Committee** (meeting 20 February 2018). Responses are provided below the Committee's questions.

- a. Are the existing structures, processes and practices in place working to ensure high standards of conduct by local councillors? If not, please say why.**

The Committee felt that a national Code of Conduct should be re-introduced, which could be easily interpreted, as there appeared to be significant variances between the plethora of local Codes. Similarly, a national overseeing body (akin to the now defunct Standards Board for England) should also be established.

- b. What, if any, are the most significant gaps in the current ethical standards regime for local government?**

Members felt that the most significant gap was between the sanctions available should a breach of the Code be found following a hearing and the ultimate criminal sanction. In clearly identified situations there needed to be firmer sanctions which would be visible to complainants and Members who were the subject of those complaints.

- c. Are local authority adopted codes of conduct for councillors clear and easily understood? Do the codes cover an appropriate range of behaviours? What examples of good practice, including induction processes, exist?**

The Committee considered the NHDC Code to be clear, but that what it was based on was less clear. The multiplicity of local authority codes often confused issues, especially if a councillor was a member of different tier authorities. Even if a national Code proved impossible, then perhaps County wide Codes could be agreed to ease this confusion.

- d. **A local authority has a statutory duty to ensure that its adopted code of conduct for councillors is consistent with the Seven Principles of Public Life and that it includes appropriate provision (as decided by the local authority) for registering and declaring councillors' interests. Are these requirements appropriate as they stand? If not, please say why.**

The Committee felt that the requirements were appropriate, although it was pointed out that the onus was on the Authority to maintain a register of interests and for Members to declare them.

- e. **Are allegations of councillor misconduct investigated and decided fairly and with due process?**

i.

- i **What processes do local authorities have in place for investigating and deciding upon allegations? Do these processes meet requirements for due process? Should any additional safeguards be put in place to ensure due process?**

The current published NHDC procedures and processes were considered to be robust.

- ii **Is the current requirement that the views of an Independent Person must be sought and taken into account before deciding on an allegation sufficient to ensure the objectivity and fairness of the decision process? Should this requirement be strengthened? If so, how?**

The current requirement provided for sufficient objectivity and fairness. There was a perceived conflict in a situation where the Member (the subject of the complaint) could consult with the Independent Person at the same time as the Independent Person was also advising the Authority during the course of a complaint, but it was felt that the Reserve Independent Person (or vice versa should he/she be advising the Authority) could fulfil this role in future.

- iii **Monitoring Officers are often involved in the process of investigating and deciding upon code breaches. Could Monitoring Officers be subject to conflicts of interest or undue pressure when doing so? How could Monitoring Officers be protected from this risk?**

It was felt that Monitoring Officers could be subject to conflicts of interest or undue pressure in the process of investigating Code breaches, although it was acknowledged that Deputy Monitoring Officers or Monitoring Officers from other Authorities could be utilised to undertake investigations in such circumstances.

f. Are existing sanctions for councillor misconduct sufficient?

ii.

i What sanctions do local authorities use when councillors are found to have breached the code of conduct? Are these sanctions sufficient to deter breaches and, where relevant, to enforce compliance?

The sanctions were set out in the NHDC Standards Complaints Handling Procedure. These were felt to be insufficient; see also answer to Question b above.

ii Should local authorities be given the ability to use additional sanctions? If so, what should these be?

At least the ability for Standards Committee's to suspend Members found in breach of the Code should be added to the list of possible sanctions.

g. Are existing arrangements to declare councillors' interests and manage conflicts of interest satisfactory? If not please say why.

iii.

i A local councillor is under a legal duty to register any pecuniary interests (or those of their spouse or partner), and cannot participate in discussion or votes that engage a disclosable pecuniary interest, nor take any further steps in relation to that matter, although local authorities can grant dispensations under certain circumstances. Are these statutory duties appropriate as they stand?

The Committee was content with the current arrangements, although NHDC had not been complacent and had reviewed its Code and other arrangements regularly, and the local arrangements would include (from May) a register with more than just the statutory minimum of pecuniary interests.

ii What arrangements do local authorities have in place to declare councillors' interests, and manage conflicts of interest that go beyond the statutory requirements? Are these satisfactory? If not, please say why

Generally satisfactory, although it was felt that some form of overarching statement should be formulated to make it explicit to the public that elected councillors were not permitted to make money from public office, nor were they permitted to use their positions for personal gain.

h. What arrangements are in place for whistleblowing, by the public, councillors, and officials? Are these satisfactory?

The Council had a satisfactory Whistleblowing Policy and arrangements. Any concerns raised were also summarised (with any actions) through its Annual Governance Statement. It was, however, pointed out that the public would not be expected to use the Whistleblowing Policy as this was an internal policy for use of Council officers, contractors employed by the Council and Members. The mechanism for whistleblowing in respect of the public was covered by a Council's complaints policy.

i. What steps could local authorities take to improve local government ethical standards?

No steps to improve ethical standards were mentioned, other than responding to consultations (such as this and the recent DCLG one) and trusting that changes would be made.

j. What steps could central government take to improve local government ethical standards?

See answer to Question a.

k. What is the nature, scale, and extent of intimidation towards local councillors? What measures could be put in place to prevent and address this intimidation?

The increasing use of Social Media (especially closed groups) allowed the public to intimidate Members and post offensive material with apparent impunity. Perhaps the Crown

Prosecution Service should be looking more closely at this issue, with a view to prosecuting some of the more extreme cases.

Yours sincerely,

Jeanette Thompson
(Acting) Corporate Legal Manager & Monitoring Officer



This consultation response is sent on behalf of North Hertfordshire District Council's **Acting Monitoring Officer**. Responses are provided below the Committee's questions.

a. Are the existing structures, processes and practices in place working to ensure high standards of conduct by local councillors? If not, please say why.

The main problem I have experienced as Monitoring Officer/ Deputy Monitoring Officer and Acting Monitoring Officer (in two areas since the introduction of the 'new' ethical regime) is the lack of consistency across Codes, processes and dealings with the Police.

In District Council areas, as Monitoring Officer, you have oversight of both District and Parish Council complaints (so for those two areas around 400/ 350 Councillors). Each Council can now have their own version of the Code (meeting the bare minimum provisions under the Localism Act 2011 'the Act'). It makes life difficult for Councillors who are 'twin' or 'triple' hatters (i.e. Parish & District Councillors, or Parish, District & County Councillors at the same time), having to abide by different Codes, and potentially inconsistent in the advice you can provide on each different version of a Code. The Monitoring Officer makes recommendations on a District Code in such circumstances, but it is a matter for individual Parishes to decide what approach to take.

A mandatory Code in England and guidance would be the best approach – to mirror that of Wales.

b. What, if any, are the most significant gaps in the current ethical standards regime for local government?

Lack of mandatory national code, national guidance and effective sanctions.

c. Are local authority adopted codes of conduct for councillors clear and easily understood? Do the codes cover an appropriate range of behaviours? What examples of good practice, including induction processes, exist?

A wide variety of Codes were adopted by Councils in England in 2012, following the changes, as indicated. Some, such as the NALC Code for Parishes, is very basic. Equally, the DCLG proposal circulated at the time was too simplistic. Whilst it may appear to be preferable to have a simple Code, the dilemma (or minefield) comes with the provisions either being too encompassing or not encompassing enough.

The best approach was to try when the new regime came into place, to have the same or similar Code at County/ District & Parish level. However, the adoption was/ is a matter for a Membership of that Council, who then had or have the option to introduce their local variations; subsequently, when the Codes have been reviewed (as most will have been by now), they will again have been updated generally in a different fashion.

Member training/ induction is best provided where you have 'all-in/ all-out' elections every 4 years. Many Council's do not have these arrangements in place (these will be retirement by 3rds). Parish Councils rarely have contested elections and most are co-opted / stand unopposed. It then means that individual training/ induction sessions are offered, but may not be taken up by Councillors – and as there is no requirement for them to attend training (unless part of a locally adopted Code), take up can and often is low.

d. A local authority has a statutory duty to ensure that its adopted code of conduct for councillors is consistent with the Seven Principles of Public Life and that it includes appropriate provision (as decided by the local authority) for registering and declaring councillors' interests. Are these requirements appropriate as they stand? If not, please say why.

The Act & The Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012 set out one compulsory area of interests for a Councillor and his/her spouse (or someone living in a spousal relationship) to register with a Monitoring Officer and declare at meetings where relevant. These do not cover things such as gifts & hospitality however, (which have a pecuniary value), or so they are not all encompassing.

The Act states that the Code should include these and interests other than pecuniary ones (s 28(2)). Despite the Regulations & DCLG guidance, there is still dispute regarding what would be a Disclosable Pecuniary Interests – for example in situations where the interest is the subject of the meeting or affected by the decision – such as in planning applications. This can make declaration of interests problematic.

Some Councils have adopted 'local' non-pecuniary interests, however, despite the Localism Act 2011 some have not, so that means in theory that a Councillor can still be involved in a meeting where a family member's property/ land/ job/ contract etc. are affected without a requirement in place for a Councillor to declare this at a relevant meeting.

The simple answer is a mandatory Code for England and national guidance.

e. Are allegations of councillor misconduct investigated and decided fairly and with due process?

i.

i What processes do local authorities have in place for investigating and deciding upon allegations? Do these processes meet requirements for due process? Should any additional safeguards be put in place to ensure due process?

The current published NHDC procedures and processes are up to date and as robust as they can be within the current statutory framework.

ii Is the current requirement that the views of an Independent Person must be sought and taken into account before deciding on an allegation sufficient to ensure the objectivity and fairness of the decision process? Should this requirement be strengthened? If so, how?

The question does not quite reflect the statutory provisions under the Act.

The view may be sought on an allegation, but must be sought once the decision has been taken to investigate.

Custom and practice here at NHDC means that the Independent Person is involved from the start on complaints and their views sought on the complaint and whether to investigate/ or take alternative action/ or no action.

iii Monitoring Officers are often involved in the process of investigating and deciding upon code breaches. Could Monitoring Officers be subject to conflicts of interest or undue pressure when doing so? How could Monitoring Officers be protected from this risk?

During my time as a Deputy Monitoring Officer and Monitoring Officer (since 2005), I have had to deal with complaints regarding senior politicians in three different Councils. This is a statutory officer role – which provides a degree of protection, but nevertheless places the officer in a difficult and seemingly confrontational / adversarial position in such situations.

There can be conflicts of interest (for example having advised a Councillor on an issue and then a complaint is received). However, this can be covered by recusing oneself from further involvement in the matter by allocating this to a Deputy Monitoring Officer (either internally or externally to the organisation).

f. Are existing sanctions for councillor misconduct sufficient?

ii.

i What sanctions do local authorities use when councillors are found to have breached the code of conduct? Are these sanctions sufficient to deter breaches and, where relevant, to enforce compliance?

The sanctions are those locally adopted. NHDC has the following:

- Publish its findings in respect of the Member's conduct (e.g. in a local newspaper in print or on-line or both).
- Report its findings to Council (or the Parish Council) for information;
- Report its findings and recommend to Council (or the Parish Council) that the Member be issued with a formal censure or be reprimanded;
- Recommend to the Member's Group Leader (or in the case of un-grouped Members, recommend to Council or to Committees)

that the Member be removed from any or all Committees or Sub-Committees of the Council;

- Recommend to the Leader of the Council that the Member be removed from the Cabinet, or removed from particular Executive Member responsibilities;
- Instruct the Monitoring Officer to arrange (or recommend that the Parish Council should arrange) training for the Member;
- Recommend to Council (or the Parish Council) that the Member be removed from all outside appointments to which s/he has been appointed or nominated by the authority;
- Recommend to Council (or 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 be withdrawn;
- Recommend to Council (or the Parish Council) that the Member be excluded from the Council's Offices or other premises, with the exception of meeting rooms as necessary for attending Council, Committee and Sub-Committee meetings, or
- No further action.

They do not act as a deterrent in difficult cases. There is no power to suspend. In the past where training has been recommended and the Councillor does not attend, there is no further action other than again referring a matter back to Standards Committee and (where possible) considering other action (as detailed above).

ii Should local authorities be given the ability to use additional sanctions? If so, what should these be?

Yes, potentially suspension.

g. Are existing arrangements to declare councillors' interests and manage conflicts of interest satisfactory? If not please say why.

iii.

i A local councillor is under a legal duty to register any pecuniary interests (or those of their spouse or partner), and cannot participate in discussion or votes that engage a disclosable pecuniary interest, nor take any further steps in relation to that matter, although local authorities can grant

dispensations under certain circumstances. Are these statutory duties appropriate as they stand?

No for the reasons set out in d above.

ii What arrangements do local authorities have in place to declare councillors' interests, and manage conflicts of interest that go beyond the statutory requirements? Are these satisfactory? If not, please say why

These vary. NHDC has the Code with Disclosable Pecuniary Interests and 'local' Declarable Interests. The latter 'local' interests cover things such as:

- well-being or financial standing of anything that falls outside of the Disclosable Pecuniary Interests for the Councillor, family, employer or body that the Councillor has a close association with – more than it affects those inhabitants of the ward or (if wider) administrative area affected by the decision.
- Gifts & Hospitality over £50 in the last 6 year made to them as a Councillor;
- A body in which the Councillor is a member or in a position of general control or management.

The Council has a Councillor Gifts & Hospitality Policy covering the process and acceptability of gifts & hospitality. As from May 2018 these will be on the same declaration form / Register of Interests as for Disclosable Pecuniary Interests.

The Council also has an Organisational Conflicts of Interest Policy – that covers the practical side of situations where Councillors (and officers) need operational / ethical walls between what one side of the Council does and another (for example a Council decision to develop a site and the regulatory application for planning permission from an officer/ or at Planning Committee).

h. What arrangements are in place for whistleblowing, by the public, councillors, and officials? Are these satisfactory?

The District Council has a Whistleblowing Policy, Guidance to Managers and procedures in place to deal with whistleblowing by employees, Councillors and agency workers. This is not supposed to be a Policy for the general public, who can use normal complaints procedures to bring this to a Council's attention.

A summary of anonymised concerns / any recommendations will be reported through the statutory Annual Governance Statement process (which has to be approved by a Committee or Full Council), reviewed by the external auditors and published on the Council's website. This is satisfactory.

i. What steps could local authorities take to improve local government ethical standards?

See response b above.

j. What steps could central government take to improve local government ethical standards?

See response b above.

k. What is the nature, scale, and extent of intimidation towards local councillors? What measures could be put in place to prevent and address this intimidation?

The expansion of social media has led to increased criticism and allegations being levied and repeated in these forums. Unsure what can change this or mitigate the situation, given this is now part of normal private and public life.

Jeanette Thompson
(Acting) Corporate Legal Manager & Monitoring Officer



Firstly the Government was right previously to abolish the previous Standards regime, it was interfering with democracy and encouraged frivolous vexatious and tit for tat complaints. Monitoring Officers and the Standards board saw themselves as Judge Jury and executioner with huge powers over councillors resulting in many high court cases.

The legal case I quote in full on page 77 of my book (attached) demonstrates how the Standards Board and Monitoring Officers were riding rough shod over councillors' rights to free speech and the enhanced protection of the ECHR Article 10 (1) and (2).

Legal Case High Court: Queen (Calver) v Adjudication Panel for Wales 3.5.2012

That had to stop and so it did.

The only failing now is the level of sanction.

The worst any Monitoring Officer can impose is public humiliation by publicising any upheld complaint and referring the issue back to the member's council, to if it agrees, remove the Councillor from any position of authority i.e. Chairmanship, Vice Chairmanship and or from Committees, Sub Committees and so forth.

In serious cases, i.e. in cases short of criminal (personal pecuniary interests already being a personal offence), we need a sanctions regime, free from part political interference.

The sanctions missing are the ability to:

1. Stop a councillors allowance
2. Suspend a councillor for a fixed period
3. Disqualify a councillor

But we cannot allow the Monitoring Officer these powers, nor reinstate the Standards Board who effectively allowed and or encouraged a lot of the frivolous vexatious and tit for tit complaints and subsequent high court cases (a whole new industry!).

We need a regulatory framework that clearly and simply defines the circumstances of 1, 2, 3 above.

The grounds, which would justify the circumstances where a councillor can have his allowance stopped i.e. non attendance at meetings of the council for a period of 3 months instead of 6 months disqualification (bear in mind councillors who are ill can apply for a leave of absence under Section 85 of the LGA 1972), but otherwise their allowance should stop after 3 months rather than wait for 6 months for automatic disqualification.

The grounds, which would justify automatic **suspension** and for what period for the nature of the offence and the automatic period of suspension, should automatically include stopping of allowances. A self-explanatory list that does not lend itself to appeals and High Court Challenges.

An example would be:

A councillor is abusive and threatening to a councillor, official or member of the public, and refuses to apologise or undergo retraining, whose rights are not protected by Case Law and in particular enhanced free speech protection of Article 10 (1&2) of the EHCR, should be suspended for 6 months and receive no allowances (the 6 months would then automatically disqualify them).

They could always re stand in a by election! In which they were responsible by their behaviour, in which case they would have to explain their behaviour which caused a by election and the cost they caused to the Council Tax payer, that is a democratic safeguard. Magistrates Court is best for this, with the Monitoring Officer acting as prosecutor. Natural Justice, thus less likelihood of appeals plus public justice. A councillor who has to defend his or herself in open court will think twice before challenging a decision against them when faced with public scrutiny, likewise a Monitoring Officer will not want to be shown up for failing to examine case law and High Court judgements.

Disqualification

Short of the Criminal sanction that already applies re Pecuniary Interests, it requires specific circumstances that are not anti democratic but which are short of the Criminal one for Interest, again clearly defined. This is something that once defined, should be referred to a Magistrates Court by the Monitoring Officer after due process, which then covers Natural Justice, and reduces chances of time wasting appeals or High Court reviews.

The Councillors constituent Council cannot be allowed to pass sentence since many councils are dominated by a political grouping so Natural Justice would in most cases be absent. Nor the Monitoring Officer who are the prosecutors not Judge and Jury who should present the case to the Magistrates. Natural Justice must not be able to be invoked so offences and sanctions must be clearly defined that stand out and are obvious to most if not all.

So what the Consultation exercise has to do is:

The Monitoring Officers are keen to explain on their websites "there is no right of appeal" yet the High Court is littered with cases of Councillors winning appeals because the Monitoring Officers were negligent in doing their legal homework.

Determine what would justify:

- Stopping a councillors allowance and for how long.
- Suspension and stopping any allowance for the period how long and for what conduct failure
- Disqualification, which should automatically start from day one thus has to be very very serious to prevent appeals to the High Court clogging up the system and delaying tactics
- Offences justifying actions must be clear and well defined

Councillor Arun M Chandran

RESPONSE OF TONBRIDGE & MALLING BOROUGH COUNCIL TO CONSULTATION

This response is submitted by Tonbridge & Malling Borough Council, having been approved by the Joint Standards Committee on 5 March 2018. The Borough Council is a 'relevant authority' for the purposes of Part 1 of the Localism Act, and therefore is subject to the statutory framework pertaining to local government standards.

1. Are the existing structures, processes and practices in place working to ensure high standards of conduct by local councillors? If not, please say why.

1.1 *Save for the significant issue of sanctions (see paragraph 6 below), the existing processes generally work well. Our experience has been that the vast majority of councillors wish to achieve high standards of conduct in the discharge of their democratic duties and will therefore have very little (if any) interaction with the standards process over and above the registration and declaration of interests. The ability to filter out groundless complaints at an early stage works well, but the existing processes are however weakened by the absence of meaningful sanctions for those found to be in breach of their Code(s).*

2. What, if any, are the most significant gaps in the current ethical standards regime for local government?

2.1 *The absence of meaningful sanctions is a fundamental weakness of the existing arrangements. Please see paragraph 6 below.*

Codes of conduct

3. Are local authority adopted codes of conduct for councillors clear and easily understood? Do the codes cover an appropriate range of behaviours? What examples of good practice, including induction processes, exist?

3.1 *Broadly speaking, we believe that Councillors understand the requirements of the Code(s) applicable to them. However, we would wish to make the following points:-*

- *There is a potential difficulty for dual/ twin hatted Members, who may be subject to 2 or 3 different Codes and may therefore inadvertently breach one of those Codes by confusing the requirements applicable to them. The removal of the single national code has led to inconsistencies between codes, which is not ultimately helpful to Members, nor to members of the public.*

- *The wording of the statutory provisions relating to Disclosable Pecuniary Interests (DPIs) could be improved so as to clarify when a*

Councillor will have a DPI 'in' a matter being voted on or discussed at a meeting.

3.2 *We are one of the few local authority areas in the Country that operate a Joint Standards Committee between the Borough Council and all 27 Parish/ Town Councils within the administrative area. We believe this is an example of good practice that facilitates the promotion of high standards of conduct.*

4. **A local authority has a statutory duty to ensure that its adopted code of conduct for councillors is consistent with the Seven Principles of Public Life and that it includes appropriate provision (as decided by the local authority) for registering and declaring councillors' interests. Are these requirements appropriate as they stand? If not, please say why.**

4.1 *Yes. The requirements allow sufficient flexibility for local authorities to decide what matters should be addressed within their adopted Code.*

Investigations and decisions on allegations

5. **Are allegations of councillor misconduct investigated and decided fairly and with due process?**

5.1 **What processes do local authorities have in place for investigating and deciding upon allegations? Do these processes meet requirements for due process? Should any additional safeguards be put in place to ensure due process?**

5.1.1 *The Borough Council has adopted detailed arrangements for handling standards complaints. It is considered that these processes operate well. In particular, the arrangements allow for complaints to be dealt with more quickly than before, particularly in relation to the initial assessment process.*

5.1.2 *Under the existing standards arrangements i.e. those adopted under the Localism Act 2011, the Borough Council has received 29 complaints. Of these:-*

*18 have resulted in no further action;
7 have been assessed as suitable for informal resolution (in 2 cases the Subject Members rejected the proposed informal resolution ie. Training);
1 was investigated with no breach found; and
3 were considered by a Hearing Panel*

19 of the complaints were made against Parish Councillors, 7 against Borough Councillors and 3 against dual-hatted Members in both their Borough & Parish capacities.

5.2 Is the current requirement that the views of an Independent Person must be sought and taken into account before deciding on an allegation sufficient to ensure the objectivity and fairness of the decision process? Should this requirement be strengthened? If so, how?

5.2.1 *The role of the Independent Person(s) (IP) is an important element of the current process, although there is potential for some Members and the public to misunderstand the role. The input of the IP is important throughout the process of dealing with a complaint against a Member, not just when the complaint is considered by a Panel following an investigation. In our adopted arrangements, the IP is consulted by the Monitoring Officer (MO) as part of the initial assessment process, and again when an investigation report is considered by the MO with a view to determining whether a Hearing Panel should be convened. Whilst the 2011 Act provides a discretionary power to Local Authorities to seek the views of the IP in circumstances other than as set out above, the integrity of the process could be improved by strengthening the mandatory grounds for consulting the IP.*

5.2.2 *There is potential for a conflict to arise for the IP, should they be consulted by a Member against whom a complaint has been made. Having given their views to that Member, or alternatively be lobbied by that Member, the IP may then feel conflicted in giving their views to a Hearing Panel as required by S28(7)(a) of the Localism Act 2011. We have found that the only way to address this is to (a) appoint 2 IPs and (b) allocate 1 IP to discharge the duties in s28(7)(a) of the 2011 Act and the other to discharge (if required) those duties set out in s28(7)(b) of the 2011 Act.*

5.3 Monitoring Officers are often involved in the process of investigating and deciding upon code breaches. Could Monitoring Officers be subject to conflicts of interest or undue pressure when doing so? How could Monitoring Officers be protected from this risk?

5.3.1 *There are undoubted pressures upon MOs in handling complaints against Councillors at their own authority. These pressures exist irrespective of whether the MO handles the investigation against a Member, but will be increased when an allegation proceeds to investigation. The absence of meaningful sanctions has only increased the likelihood of MO being placed under pressure, or facing unwarranted criticism from Members during an investigation (see response to paragraph 6 below).*

Sanctions

6 Are existing sanctions for councillor misconduct sufficient?

- 6.1 *No. The absence of meaningful sanctions is a fundamental weakness of the existing arrangements.*
- 6.2 *Whilst a Councillor who fails to meet the statutory obligations relating to DPLs may be subject to criminal proceedings, very few prosecutions have actually resulted.*
- 6.3 *In respect of other misconduct by Councillor, the removal of the powers previously open to local authorities to suspend a Councillor and the broader sanctions open to Standards for England has removed the teeth of the standards regime, particularly in relation to repeat offenders. This undermines public confidence in the standards regime, particularly in the eyes of complainants who may be left with the belief that a Councillor found guilty of a breach has 'got away with it'.*
- 6.4 *An associated issue that arises is that of costs. Investigations in relation to alleged breaches of the code can be expensive, particularly where there is a need to appoint external investigators. In relation to repeat offenders, the inability to impose meaningful sanctions can lead to further poor conduct, and the further costs associated with complaints resulting from this conduct.*
- 7 What sanctions do local authorities use when councillors are found to have breached the code of conduct? Are these sanctions sufficient to deter breaches and, where relevant, to enforce compliance?**
- 7.1 *The Borough Council has set out a range of possible sanctions within its adopted arrangements. The sanctions open to a Hearing Panel include*
- issuing a formal censure;*
 - training;*
 - Recommending to the Subject Member's Group Leader or Parish Council, or in the case of a ungrouped Subject Member, to the Borough/ Parish Council that they be removed from committees or sub-committees of the Council*
 - Sending a formal letter to the Subject Member;*
 - Recommending to the Borough/ Parish Council to issue a press release or other form of publicity*
 - Publishing its findings in respect of the Subject Member's conduct in such manner as the Panel considers appropriate*
- 7.2 *It is not considered that these are sufficient to deter breaches or to enforce compliance. In respect of the latter, the only means of dealing with non-compliance with a positive obligation on a Councillor e.g. to undergo training, is by way of a further complaint under the Code. Given the available sanctions, the threat of a further complaint is unlikely to deter errant Councillors in these circumstances.*
- 7.3 *Furthermore, in so far as complaints about Parish Councillors are concerned, there is no requirement for Parish Councils to accept any recommendations*

made to them by the Borough Council Hearing Panel on sanctions to be imposed upon one of their Members who has been found to be in breach of the Code. This can weaken public confidence in the system, particularly in situations where the offending Member has substantial influence at Parish level.

8 Should local authorities be given the ability to use additional sanctions? If so, what should these be?

- 8.1 *Yes. The removal of the power previously open to local authorities to suspend a Councillor has removed the teeth of the Borough Council to address the worst cases of poor conduct. It is suggested that this power is re-imposed.*

Declaring interests and conflicts of interest

9 Are existing arrangements to declare councillors' interests and manage conflicts of interest satisfactory? If not please say why.

- 9.1 *The existing arrangements to declare interests are satisfactory.*

10 A local councillor is under a legal duty to register any pecuniary interests (or those of their spouse or partner), and cannot participate in discussion or votes that engage a disclosable pecuniary interest, nor take any further steps in relation to that matter, although local authorities can grant dispensations under certain circumstances. Are these statutory duties appropriate as they stand?

- 10.1 *In so far as they relate to financial interests, the statutory duties applicable to DPIs are appropriate. However, the requirement for Councillors to disclose interests of their spouse or partner has caused some concern, particularly at Parish level.*

11 What arrangements do local authorities have in place to declare councillors' interests, and manage conflicts of interest that go beyond the statutory requirements? Are these satisfactory? If not, please say why.

- 11.1 *The Borough Council has adopted a second category of interest, known as an Other Significant Interest (OSI) to deal with non-financial interests. This second category has also been adopted by many other districts and parishes within Kent.*

- 11.2 *OSIs are similar in many respects to the previous 'prejudicial' interest applicable under the national code, and are therefore familiar to many Councillors. The operation of the OSI category has not caused any issues.*

Whistleblowing

12 What arrangements are in place for whistleblowing, by the public, councillors, and officials? Are these satisfactory?

12.1 *The Borough Council has an adopted policy on whistleblowing, which applies to the public, councillors and officers. It is not considered that any changes are required to these arrangements.*

Improving standards

13 What steps could local authorities take to improve local government ethical standards?

13.1 *The removal of the requirement to establish a formal Standards Committee has in our view weakened the status of the standards regime. It is suggested that local authorities should nevertheless establish such a Committee.*

14 What steps could central government take to improve local government ethical standards?

14.1 *As set out above, the most fundamental weakness of the existing regime is the absence of meaningful sanctions. It is considered that this should be addressed.*

Intimidation of local councillors

15 What is the nature, scale, and extent of intimidation towards local councillors? What measures could be put in place to prevent and address this intimidation?

15.1 *We are not aware of any concerns being raised by local councillors in relation to intimidation.*

Review of Local Government Ethical Standards
Committee on Standards in Public Life
GC:07
1 Horse Guards Road
London
SW1A 2HQ



8th March 2018

Dear Panel

Reference: Ethical Standards Review

At last night's Full Council meeting Councillors unanimously agreed that it is essential that councillors are held accountable for their actions.

They also felt that the current Code of Conduct for councillors is adequate in describing areas of concern but what the system lacks is 'teeth'.

If there are no consequences to actions there is no accountability for individual councillors and the system can be viewed as inept.

Councillors here felt that there must be sanctions and that they might include:

- Removal of Chairmanships
- Removal of Party Whip
- Loss of allowances for described periods
- Loss of Office
- Permanent Exclusion from Office

As the CEO of this council and 3 others prior to this, I have regularly witnessed bullying of new councillors and decisions based on malice against another councillor and not on the needs of local residents.

I know councils across the country would welcome the use of sanctions to reduce the level of bad behaviour often exhibited in chambers and at public events.

S Nash

**The Committee on Standards in Public Life Review of Local Government
Ethical Standards: Stakeholder Consultation**

Introduction

My name is Dr. Paul Feild Solicitor. I have practised in local government for 27 years as a solicitor of a London Borough.

I hold a Doctorate in Business Administration and in 2015 published my doctoral thesis on the working of the Localism Act 2011 standards regime¹. During my period I have dealt with most of my authority's complaints against elected members including investigation report drafting and presentation. I have also assisted other authorities as deputy Monitoring Officer. I write for the online Local Government Lawyer on governance issues.

My observations follow:

a. Are the existing structures, processes and practices in place working to ensure high standards of conduct by local councillors? If not, please say why.

There is no prescribed model, but my research in 2013-5 revealed the use of a Standards Committee or Audit and Standards Committee is a widespread practice, yet it is a reactive structure at heart. It is likely that many are a residue of the former required statutory Standards Committee rather than by design. While the Localism Act establishes a duty to promote standards in terms of behaviour, the formalities in terms of organisational structure are driven by the legal requirement to deal with complaints. While researching my thesis I contacted the membership of the Public Law Partnership and compiled a table (see appendix A). What is clear is how much of the complaints are member verses member rather than the Nolan Committees seven standards.

My opinion from the research identified a key weakness is the lack of systematic overview, review and double loop learning. That is to say, now the Standards Board is no more there is no monitoring to see how the new standards regime is faring. Furthermore, because we are looking at those matter which form complaints it is driven by those issues and matters which come into the open. If a matter is never subject to a complaint, then it may never appear on the radar. In addition, the very tool of publicity to shame the badly-behaved member is rarely used if at all, because of the concern of reputational management. Understandably the thinking goes along the line we don't want one bad apple to spoil the barrel in the publics eyes.

b. What, if any, are the most significant gaps in the current ethical standards regime for local government?

¹ How does localism for standards work in practice? The practitioner's view of local standards post Localism Act 2011 published 2015 – I have attached and extract of the conclusion chapter as Appendix B

The biggest challenge is lack of published research so one tends to want to generalise from personal professional experience. But there is a clear picture that the current regime has been difficult in dealing with errant Council leaders and I give two examples of [REDACTED] (Tower Hamlets) and [REDACTED] Essex County Council).

In both cases the Councils themselves proved to be incapable of reigning in poor conduct. It was the intervention by the Secretary of State [REDACTED] followed by an Election court that halted his tenure. Not the Localism Act or the Head of Paid Service or their Monitoring Officers [REDACTED] it was prosecution for his House of Lords expenses.

One is left with the conclusion that charismatic powerful leaders of councils may flout the localism standards regime because there is no independent body such as the Standards Board that can intervene and give some perspective. Instead there's only the authority where other officers and members may be intimidated, complicit or party to misdeeds so nothing gets done. In the case of [REDACTED] he regularly took officers with him for meals and other activities and signed off his own credit card account (see appendix c).

Put bluntly, Chief Executives and Monitoring Officers are likely to be set on a path of self-immolation if they try to reign in the very person who will be performance managing them, notwithstanding their superficial statutory protection against dismissal. There is also the reputational aspect to consider, the 'we don't wash our dirty laundry in public approach'. What affect will there be on partnerships and inward investments. Not surprising then if there is a problem, there is a temptation to treat it as 'nothing to see let's move on'. This is true for the officers too; their next role needs a clean sheet. Clashing with leaders is not good.

Furthermore, a fundamental weakness is the narrowness of the Nolan Standards of Public Life in what is considered to be standards. The range ought to be widened to include behaviour issues such as *negligence of statutory duty*. For example, in the Casey Report² the leadership and Cabinet of Rotherham BC was found to have fundamentally failed in its duties to safeguard young people – where did the ethical standards regime impact? Not to be negligent and avoiding incompetence should be standards too. A more recent example is that of Kensington and Chelsea Council and Grenfell Tower. Has there been a breakdown of Nolan standards, if for example there was cost cutting putting lives in jeopardy, we will have to see the published report in due course.

Codes of conduct

² Casey, L. CB (2015) *Report of Inspection of Rotherham Metropolitan Borough Council*, House of Commons

- c. Are local authority adopted codes of conduct for councillors clear and easily understood? Do the codes cover an appropriate range of behaviours? What examples of good practice, including induction processes, exist?**

To reiterate the codes are too narrow. They don't address poor performance. It simply is not good enough to define standards solely in terms of the Nolan headings.

There needs to be a method of assessing incompetent and chaotic leadership and if necessary remedy it without applying the best value regime alone. It simply is not fair on the electorate of say Tower Hamlets LBC that they had to pay the £1,000,000 plus cost of PWC's investigation. As it was their terms of reference were restricted. There is a need for a new body being perhaps a HM Inspectorate of Local Government?

Why should people have to wait four years to remove failing council leadership by voting for alternative candidates, as what damage they could do in that period to the community by presiding over poor service standards.

- d. A local authority has a statutory duty to ensure that its adopted code of conduct for councillors is consistent with the Seven Principles of Public Life and that it includes appropriate provision (as decided by the local authority) for registering and declaring councillors' interests. Are these requirements appropriate as they stand? If not, please say why.**

As mentioned above, it would be my contention that levels of competency and a reasonable degree of stewardship including the duty to seek guidance should also be part of the Code.

To re-iterate in Rotherham the failing was not a lack of compliance with Nolan, it was an inability to carry out the responsibilities of a cabinet³. For example, ability to act competently is expected by the Pensions Regulator of pension trustees. No one is obliged to be an elected member indeed the reward in terms of payment for an elected mayor is a reasonable payment.

Investigations and decisions on allegations

- e. Are allegations of councillor misconduct investigated and decided fairly and with due process?**
- i. What processes do local authorities have in place for investigating and deciding upon allegations? Do these processes meet requirements for due process? Should any additional safeguards be put in place to ensure due process?**

³ Overall inspectors have not been impressed with the calibre and grip of leading Members. We have reluctantly concluded they cannot be left on their own to lead the Council out of its current responsibilities (Casey 2015, p.74)

This varies from authority to authority. My research with District Councils indicated that no one was able to identify just how many Codes of Conduct were in existence with the parish councils under their wings, though the procedure would be the same. Not satisfactory.

Furthermore, what of the Councils who operate 1/3 elections, should a fresh code be introduced every year except for the fallow year? Otherwise some members have had a say and others not. Is that fair? I would comment that the key weakness is no requirement to dispose of complaints within a reasonable set time. It is not unheard of for matters to drag on for many months and I'm sure colleagues will know of matters taking years.

ii. Is the current requirement that the views of an Independent Person must be sought and taken into account before deciding on an allegation sufficient to ensure the objectivity and fairness of the decision process? Should this requirement be strengthened? If so, how?

This is a welcome provision, but there is no requirement for qualification or training and in any event, there is the challenge of numbers needed and conflicts of interest. As the member is entitled to consult an Independent Person⁴ it means there is a need for a minimum of two and really it means three in case of sickness or need to avoid pre judgment if the matter goes to a panel. I would consider that training ought to be mandatory. My thesis considered this issue and observed (Feild, 2015, p 239):

There is little guidance on the Independent Person role other than the legislation and some Ministerial observations on a by-the-way basis. The legislation forbids a person who had served with the principal authority or parish council as a member or officer in the last five years, but nothing to stop them resigning and becoming an elected party politician. As the Secretary of State has now determined that Independent Persons will sit on panels to determine staffing matters the need for greater clarity for the role is pressing.

iii. Monitoring Officers are often involved in the process of investigating and deciding upon code breaches. Could Monitoring Officers be subject to conflicts of interest or undue pressure when doing so? How could Monitoring Officers (MO's) be protected from this risk?

During my Doctorate research I spoke to a number of MO's. Their role is held at different level different levels in their organisations. During the interviews I carried out a very senior practitioner observed to me that being a MO was the undoing of local government practitioner careers. I refer to the PWC report on Tower Hamlets where the issue of permanence of staff was clearly an issue. They are less effective.⁵ The Secretary of state observed:

⁴

⁵ PricewaterhouseCoopers LLP (2014) Best Value Inspection of London Borough of Tower Hamlets 16 October 2014

Mr Pickles: The council's core governance arrangements have centred on the three statutory officers: the Head of Paid Service, the Chief Financial Officer, and the Monitoring Officer. The council has failed to make permanent appointments to those key positions. Currently, all three posts are held by interim appointments. PwC concludes that the governance arrangements do not appear capable of preventing or responding to the succession of failures by the mayoral administration. Executive power is unchecked and executive power has been misused.

Hansard, 4 November 2014 Column 663

I wholeheartedly agree with Sir Eric. In other words, while there are supposed to be protections for the so to speak probity officers of the Head of Paid Service and the Monitoring Officer, if their role is on a temporary basis it can simply be terminated with notice.

In my personal opinion it was a mistake to prevent the Chief Executive from holding the role of MO. In my authority when it was possible it worked well. The problem with the head of legal which is the natural appointment is that many are not chief officers being second or even third tier roles. In addition some authorities share services and while the appointment is a full council decision, it does not prevent the same person being MO for two authorities, inevitably diluting their time and attention span.

Sanctions

- f. Are existing sanctions for councillor misconduct sufficient?**
 - i. What sanctions do local authorities use when councillors are found to have breached the code of conduct? Are these sanctions sufficient to deter breaches and, where relevant, to enforce compliance?**
 - ii. Should local authorities be given the ability to use additional sanctions? If so, what should these be?**

There is a fundamental problem here. The Localism Act does not provide for a right of appeal. Realistically the sanctions available are more about reputation. Clive Sheldon QC advised on the sanctions options.

The dilemma is as soon as you were you have tougher sanctions then natural justice would demand (and rightly so) a right of appeal. But to where within the authority or another body? With austerity it's not going to happen. My key concern is what if members decide they don't like a minority member and the majority party gang up against them wrongly find them guilty and recommend disqualification? Standards Committees are subject to political balance. This is why it would have to be an external body. I considered this aspect in the thesis:

In summary it appeared from the collective opinion of the interviewees that they considered that the sanction regime was inadequate and there was a need for stronger sanctions. However, if there were stronger sanctions then there would be a stronger perhaps irresistible case for greater formalism including rights of appeal to a national body and that would be contrary to localism.

(Feild 2015, p.201)

Again, I find myself agreeing with Sir Eric Pickles about the need to have a flourish local press, who will report the good and bad goings on.

Declaring interests and conflicts of interest

- g. Are existing arrangements to declare councillors' interests and manage conflicts of interest satisfactory? If not please say why.**
- i. A local councillor is under a legal duty to register any pecuniary interests (or those of their spouse or partner), and cannot participate in discussion or votes that engage a disclosable pecuniary interest, nor take any further steps in relation to that matter, although local authorities can grant dispensations under certain circumstances. Are these statutory duties appropriate as they stand?**

I am not aware of any flaw in the arrangements. I think the balance is right. My concern is gifts and hospitality. It cannot be right for a person exercising a quasi-judicial / administrative function to take hospitality from a developer⁶. Of course, a Cabinet Member for regeneration can meet with developers but not the Chair of a Planning Committee.

- ii. What arrangements do local authorities have in place to declare councillors' interests, and manage conflicts of interest that go beyond the statutory requirements? Are these satisfactory? If not, please say why.**

My concern is less about members and more about officers. The more there is a delegation of authority the more risk there is of networks and cronyism. It is time that the senior management were subject to the same rules including publishing of their interests.

Whistleblowing

- h. What arrangements are in place for whistleblowing, by the public, councillors, and officials? Are these satisfactory?**

I have worked on whistleblowing matters for some years. They have always related to the actions of officers rather than Members. My governance colleagues have always taken the matter very seriously.

Some years ago, I wrote a dissertation of Whistleblowing in the NHS. The research was not confidence building. Whistle-blowers suffered. In 2014 Sir Robert Francis produced an excellent report and the Government in my opinion responded well. However, the observations of Francis do apply equally well. In the Tower Hamlets best value intervention, it was observed that people were reserved in coming forward to the Commissioners because

⁶ See recent news story about Westminster Council member reporting himself.

speaking to them was not a protected disclosure. Furthermore, in the Tower Hamlets case a sympathiser to ██████████ working for the BBC actively informed on whistle-blowers identities.

There needs to be engineered a body which whistleblowers can safely report to if there is a problem with their senior management team both professional and the politicians. Finally, the Tower Hamlets management attitude which was principally non-cooperative with PWC and the commissioners seemed to be about denial that the governance was amiss⁷.

Improving standards

i. What steps could *local authorities* take to improve local government ethical standards?

In my Theses it was proposed that there should be a lead member for standards, in the same way as there is a children's champion. It should be the leader of the Council.

My research observed (Feild, 2015.p239):

Locating the section 27(1) responsibility

This responsibility needs to be set out in a functions and responsibilities regulation made under the Local Government Act 2000. The evidence from the research was that many authorities had simply placed the responsibility with their now non-statutory standards committee or its successor. Yet the evidence was that there needs to be leadership from the council leader and the chief officers together with full council. There is very little legislation directly affecting the council leader but it is not unknown to place special responsibility on an elected member; indeed the Children Act 2004 section 19 establishes a 'lead member for children's services'. It would seem right to place a similar responsibility on the council leader to be lead member for the promotion and maintenance of high standards of conduct.

Because of the need for buy-in and acceptance the Code of Conduct should be subject to a mandatory review according to the electoral cycle. So, if there is a three year and fallow arrangement the incoming members should have the opportunity to consider and re-shape the Code.

j. What steps could *central government* take to improve local government ethical standards?

Introduce a Local Government Performance Inspectorate. It's terms of reference would be such as capable of Local Government Act 1999 best value inspections and new roles of being able to accept protected disclosures and to intervene if the Secretary of State was concerned at a failure of governance to prepare a report. I say this because the two big

⁷ "the failure of the Authority to provide information on a timely basis, or at all, in relation to a number of important requests made by the Inspection team." (PWC, 2014 p.7)

interventions of PWC (Tower Hamlets) and Louise Casey (Rotherham) were very different and while effective they were expensive.

Intimidation of local councillors

k. What is the nature, scale, and extent of intimidation towards local councillors?

i. What measures could be put in place to prevent and address this intimidation?

I have encountered this in two forms. Firstly resident(s) who have as it were an obsession with a problem which they perceive as being due to a Councillor. The second being vexatious complaints. Vexatious complaints have made up the majority of complaints against Members and the research carried by me certainly supports this observation. At my authority we introduce complaints handling rules to manage complaints and strike out vexatious complaints at an early stage. I consider that this is not really an issue of standards rather maintaining public confidence in the electoral system.

I hope these observations are of interest and I would be willing to assist further if called upon.

Dr. Paul Feild LLB, LLM, BA, MA, MBA, DBA (DipLG Law Soc)

Monday 12th March 208

Review of Local Government Ethical Standards: Stakeholder Consultation

Dear Sir,

I wish to make the following comments to your Committee. These comments are based upon my experience as a Parish Clerk in Lincolnshire and Leicestershire. As you will be aware the vast majority of councils take the form of small parish councils and in this situation the Clerk has a key role in advising councillors of the correct and accepted procedures. It is the default position that when there is a disagreement of an interpretation between the Clerk and Councillors, then unless there is a clear reason not to do so, the Clerk's advice is followed. It is now the case that even in small (parish) councils the Clerk will have undergone some degree of professional training such as CILCA so that the Clerk's advice is well usually founded.

However, you will know from elsewhere (e.g. the representations to your Committee from SLCC) that this difference of opinion often leads to a difficult situation for the Clerk. Bullying often ensues. In most cases the Clerk resigns.

In my own case I had a situation where a Council did not follow accepted practice in co-opting (several) new councillors. My complaints led to the Council instructing a solicitor to begin a case of libel against me, an action that a parish council cannot take. Courtesy of help from PCAW and the Public Interest Disclosure Act this charge was seen off and subsequently the entire new set of councillors resigned after a vote of no confidence at an Annual Parish Meeting attended by 150 parishioners!!

In all of this the Monitoring Officer at the District Council showed a complete disinterest and a lack of knowledge of accepted procedure despite much encouragement from both myself and the many parishioners who had become concerned at events.

Therefore, my advice is as follows. In most cases standards of conduct as determined by a Code of Conduct based on the Nolan seven principles is well founded and needs little change.

The position and independence of Clerk needs strengthening. Monitoring Officers seem to have an inconsistent view of that role. Some Councils seem to take the role very seriously e.g. Cumbria but many others less so.

The Monitoring Officer should not be appointed in the same council as those councils which are to be monitored. This would overcome the problems that often arise with a conflict of interest when councillors and council officials are known to each other, often over a long period of time. Probably there is a case to look at the functioning of the previous Standards Board.

Yours faithfully,

A solid black rectangular box used to redact the signature of Terry Brown.

Terry Brown

My response specifically relates to one council (Dartford Borough Council) and specifically members behaviour under the Code of Conduct. I am a parish clerk working for a parish council within the named borough and in the last 3 months have submitted a complaint about a borough member.

Following the paragraphs on the consultation briefing: Recommendations are in bold type

- a. Dartford Borough Council publishes the Code of Members' Conduct, along with a complaints procedure on their website consisting of a reasonably detailed procedure to be followed in the investigation of complaints, together with a flow chart showing how complaints are dealt with. The Code of Conduct as published is reasonably clear.
- b. The Code gives adequate pointers to behavioural standards, however there is a complete lack of any appropriate sanctions.
- c. The code is easily understood, training is given for newly elected members but it is not compulsory.
- d. All these procedures are in place.
- e. I reported an allegation of misconduct and expected the procedures as published, to be followed. This has not been the case. The Monitoring Officer (MO) appears not to know the procedure, has not adhered to the timescales as published and has even declared there are no timescales. There is provision for the Independent Person to be consulted at the beginning of the complaints procedure but this was not done. There is also no information as to WHO the Independent Person is. Why not? If the member complained about knows who it is why shouldn't the complainant? The Corporate Complaints Officer (who should be contacted if procedures aren't followed) also happens to be the Deputy Monitoring Officer-surely this is a conflict of interest. **The Corporate Complaints Officer should not be either the Deputy Monitoring Officer nor connected to them in any way.** The response received did indeed confirm what timescales should have been followed. Despite this the Monitoring Officer still maintains there is no timescale to follow. I have absolutely no faith in the impartiality of the Monitoring Officer's position. They are employed by the very people they are judging and there is certainly scope for internal pressure from elected members. In fact the MO has repeated the phrase 'I have known the member (being complained about) for many many years' as if that somehow negates any possible wrongdoing. **Complaints should be investigated by a MO from another council, as in other walks of public life (police forces for example), this would relieve the MO of any internal pressures.**
- f. There do not appear to be any relevant sanctions for councillor misconduct. Although it is not made clear in the case of this council, it appears that the main sanction is to be referred to the lead member for the political party represented. How can that possibly generate any sensible sanction when it would be in the interest of the political party NOT to have to sanction their own members? It is left to the lead member to devise some sort of punishment which opens itself up to abuse of the system. What happens if the member does not represent a political party is unclear.
- g. Councillors' interest declarations appear to follow correct procedure.
- h. Unknown
- i. **Local authorities should consider a system whereby complaints under the Code of Conduct are investigated by another authority not connected to the member involved. This would provide impartiality and fairness.**
- j. **Central Government should remove any procedure whereby sanctions are allowed to be determined through a political party.**
- k. Unknown

Kathryn Gale

SUBMISSION 30

I write with regard to the above consultation. I am concerned that council members have to publicly declare not just their own interests but those of their spouse or partner. There is increasing emphasis on an individual's right to privacy and the protection of their personal data (e.g. the GDPR). Standing as a councillor is a personal decision. The councillor or prospective councillor may or may not have the support of the spouse or partner in this endeavour.

In my opinion requiring the publication of the personal information of someone other than a council member is an unnecessary imposition and discourages people from becoming involved in local government.

Regards,

Shaun Cullimore
Clerk to Swindon Parish Council, Cheltenham, Gloucestershire
Website swindonparish.org.uk

Submission by David Prince CBE CPFA

1. This is a personal submission. In almost 40 years in and around local government I have served as director of finance and administration and as chief executive in two county councils. In the former Audit Commission I was chief executive of District Audit (providing 70% of all local government's external audit) and a managing director with responsibilities for local government comprehensive performance review. As chief executive of the former Standards Board for England I gave evidence to the Committee on Standards in Public Life's Tenth Report and oversaw the implementation of the legislative changes made following that Report. Subsequently I was a member of the Committee. As an independent member of a former police authority I was subject to a code of conduct, which matched the local authority code in all essentials.

Introduction

2. The Committee's Inquiry is timely and should provide a fresh impetus to achieving high standards. There have been major changes in the governance environment and risk profiles of local government, which in themselves justify a review and commensurate strengthening of standards. In the words of Clive Betts MP (which I have highlighted in two places) in his Preface to the de Montfort University and *Municipal Journal* report (July 2017) *The Voice of the Councillor*:

*"People expect a great deal from their councillors, and rightly so. The public want their councillors to ensure good public services and provide a decent area to live in; they want councillors to build strong and cohesive communities; **the public want their councillors to operate to high standards of behaviour** and to be accessible, visible, responsible and responsive to public demands. **Above all the public want their councillors to provide good and effective local governance.** Not only do councillors face demands from the public they also face demands from the government and from a wide range of other public service providers (sic) with whom they must interact to ensure that the decisions others make reflect the needs and priorities of local people".*

Questions a, b, e(ii) and f - Existing structures, processes, gaps, independent persons, sanctions

3. Previous reforms and legislative changes have focussed too narrowly on codes and mechanics and have paid insufficient attention to making high standards integral to the overall governance of councils, and to public expectations of high standards. My observation throughout the chequered history of local government standards is that the vital political motivational leadership, which is central to high standards in any organisation, has generally been absent, within councils and nationally. Instead, there has been too much inward-looking focus on the drafting of, and micro-technical detail in, the *wording* of the various codes, reinforced by a very legalistic (and sometimes pedantic or oppressive) interpretation of *compliance or minimum compliance*, and far too little regard to the active embedding of the standards and their underlying values and principles. Thus, all too often, the code is seen as a set of restrictive rules. It is not seen as underpinning a healthy culture which is actively

espoused and modelled by leading members, and within which day to business should be conducted; nor is it generally enforced and monitored at all levels to ensure public expectations are being met. Worse, members themselves have sometimes used the code as a political weapon or gag.

4. I respectfully draw the Committee's attention to the findings of the *Casey Review: A review into opportunity and integration* conducted by Dame Louise Casey DBE CB, published in December 2016. In that it dealt with the role of local authorities and other agencies within some of the most deprived and vulnerable communities, yet found the gaps, lack of robustness and void listed in the extracts below, it has, I believe, direct relevance to the consultation questions above:

11.19. Under the current system, there is very little recourse to address inappropriate behaviour by councillors; even where this is seen to be damaging or divisive. Councillor conduct is largely self-regulated, with local authorities producing their own codes of conduct (based on the broad Nolan Principles of Public Life), with no external checks on quality or compliance. An "independent person" must be involved in creating the code, and resolving related disputes – but there are no external checks on how "independent" this person is (only stipulation in legislation that they should not be an employee of, or related to an employee of the council).

11.20. There are processes for registering complaints, and pressure can be applied to councillors to change their behaviour. However, such processes are far from robust:

- Private individuals can raise complaints with the council's internal Monitoring Officer; though in several authorities this involves their identity being revealed to the subject of the complaint, as a matter of course, in all but exceptional circumstances.*
- Should this internal complaints system prove unsatisfactory, concerns can be raised with the Local Government Ombudsman, who can investigate, with full powers to obtain information and documents. Their findings and recommendations will be published, but they have no powers to require the council in question to accept them.*
- Political parties can put pressure on councillors to step down, can remove them from committees and can expel them from the party. They do not, however, have the power to force a resignation from the council.*

11.21. Ultimately, there are very few points at which a councillor can be removed from their post. These are:

- via the ballot box (every 4 years);*
- if they receive a custodial sentence for three months or more within the UK;*
- if they become employed by the local authority or its contracted services; and*
- if they become bankrupt*

.....

11.26. Both statutory inspection and intervention and Senior External Reviews are used rarely and only in extreme circumstances; they are a very public intrusion into local democracy. But that leaves a void between what can feel like ineffective action

locally on serious misconduct, and exceptional intervention in cases of widespread and serious failure.

5. To these points I would add the following, specifically on **Question f - Sanctions:**

6. That “*void*” extends across almost all the spectrum of misconduct.

7. Press reports show continuing instances of bullying, insulting, offensive and inappropriate behaviour towards fellow members, public and officers. Even when action is taken, in the worst cases, the limited sanctions that can be imposed are ignored or even seen as a ‘badge of honour’ by recalcitrant members or those who have no (longer) any political group affiliations. Inspectors’ and auditors’ reports have historically shown how, if unchecked at the outset, a corrosive and demoralizing culture can quickly take hold. While politics will always have a degree of rough and tumble, and elected members are representative of their communities and not professional managers, their behaviour (particularly towards staff) should not be at odds with that of the modern workplace where systems of redress are available, sanctions imposed and reputational risk to the brand is given high priority. Also, local residents nowadays receive important services from, and participate in, bodies other than local government - for example boards of school governors, housing trusts and the charitable sector where multi-million pound decisions are generally taken in an ethos of good governance. In such bodies there is an expectation of personal respect, which strongly contrasts with what goes on at many parish and town councils and some principal councils, and there are national codes and regulatory oversight.

8. In particular, there is evidence in local government of behaviour that creates a hostile environment for female councillors and female officers (particularly junior staff).

9. May I highlight the findings of the recent Report *Does Local Government work for Women?- Final Report of the Local Government Commission (July 2017)* by the Fawcett Society:

“There is a harmful culture in some parts of local government politics which urgently needs to be addressed. Decades of male over-representation has led to an environment where sexual language is tolerated, and viewed as part of the to-and-fro of political life. Comments from male councillors which would not be out of place in the 1970s are still heard in our town halls”. (Page 40).

“Throughout our commission we heard further stories which highlight the nature of the sexism women experience, and adding to the picture that Fawcett’s previous work has found.” (Page 40).

.....

“Our survey clearly showed that some councils have a real problem with sexual language - beginning with political parties where 38% of women councillors told us it

had been a barrier for them, and spreading into the council chamber where a third said that they had experienced sexist comments from other councillors. For 10 per cent of women in both environments, this had escalated to sexual harassment". (Page 41).

10. Noting the abolition of Standards for England with the mandatory code of conduct and the power of suspension the Report comments:

"This means that there is a patchwork of different approaches to sexist or otherwise discriminatory behaviour by councillors, and no guarantee that a code of conduct will make any difference to sex discrimination, or other kinds of discrimination. Local standards committees, if councils choose to have them, do not have the power to suspend councillors. In addition, there is no higher authority for a person complaining about a councillor to appeal to". (Page 41).

"Many of the local government officers who we engaged with through the Commission described woeful experiences of sexist behaviour, both from other officers and, in many cases, from male councillors. Younger women officers in particular repeatedly raised being belittled by male councillors, often publicly and without any challenge from others who were present.....The same sexist culture that holds back women councillors is unsurprisingly a day-to-day issue for many women who work as council officers". (Page 54)

11. There continue to be many examples of such bullying and inappropriate behaviour in local councils (parish and town councils). Here, since they are often working one-to-one with the chair, parish clerks can be in as vulnerable and unsupported position as MPs' researchers and other Parliamentary staff (where, as shown below, all parties have agreed that more rigorous procedures will be introduced). It is difficult or impossible for clerks to make complaints in such close working proximity, and they do not have the peer support of colleagues as in a larger authority.

12. There needs, therefore, to be a more robust sliding scale of sanctions, ranging from mandatory published apologies, exclusion from meetings with loss of allowances, suspension or recall (though this would need to be aligned with any arrangements brought in for MPs and police and crime commissioners).

13. There is a danger of sanctions being 'weaponised' for political purposes by political groups against party rebels or opposition members. *The Voice of the Councillor* puts it as follows in relation even to ordinary business:

"The party group is the councillor's natural habitat and is the mechanism through which control of the council is established and maintained. Majority group councillors see their legitimacy in running the council as stemming from membership of the ruling group, rather than the council itself. But the group system, the employment of a group whip, the secrecy of its deliberations and decision-making, and the expectations of loyalty – rule driven or culturally driven – place the group above the electorally legitimised council meeting.

There was no sign from majority group councillors that their loyalty to the group, the cohesion they demonstrate in public and the reduction of the space for free and

open public debate caused by the group system, was in anyway seriously challenged – except on a few occasions”. (Page 23).

14. For this reason alone there is a need for the introduction of some more robust external structure within which local cases are handled to ensure fair process, and through which the public can be better assured that breaches receive effective, proportionate sanctions. While sanctions should be underpinned by new legislation, much could be achieved by concerted voluntary action if the political will were there, as below:

- ~ Independent persons recruited regionally or nationally by local authorities working in collaboration and to a common job and person specification;
- ~ Independent persons chairing standards tribunals (could be introduced as a collective national action to mirror the practices of most other professions, (and aligned with, if not mirroring, Parliament’s inclusion of an independent presence on the Committee of Standards and Privileges).
- ~ A majority of independent members on standards tribunals (could be voluntarily implemented)
- ~ Standards tribunals rostered regionally but including a home council representative - to assist independence (could be implemented voluntarily)

15. But a statutorily backed tariff of available sanctions remains essential to improvements.

16. I note that Louise Casey and the Fawcett Society comment on the self-regulatory nature of local standards in England. I therefore urge the Committee to consider the different experiences and outcomes of Wales and Scotland, where a statutory external element was retained which both promotes high standards and oversees cases. The Committee itself has previously expressed views on the importance of external input – both to the then Secretary of State when the current arrangements were enacted and, more generally, in its Fourteenth Report: *Standards Matter: “..history shows self-regulation often to be ineffective without some form of external involvement. It is essential that someone is able to hold up a mirror to those in public office to remind them of the standards to which they should aspire”* (Page 7).

17. In 2000 local government could justifiably complain of being far more closely regulated (indeed over-regulated) compared to MPs. Now it is anomalous in being the only self-regulated sector operating in the public domain. In order to promote public trust and confidence Parliament has meanwhile legislated widely around conduct and complaints handling across the professions, NHS and the police. These changes have generally increased the independent element into processes and made external regulatory oversight more rigorous.

18. MPs are examining tighter protections and regulation against allegations of harassment and inappropriate personal behaviour. The Prime Minister has said (6 November 2017):

“It simply has a lasting impact on people and we need to do more to stop these abuses of power. I’m sorry that we have seen these abuses of power, too many taking place over too many years. The fact they’ve taken place here at our seat of democracy should be a matter of shame for us all”

19. Local authorities are, for most people, their first-line contact with democracy. The Committee will need to consider whether too many abuses have taken place there over too long, and how far the public should expect a consistency of approach for all their elected representatives.

Questions c and d - Codes of Conduct and Questions I and j – Improving standards

20. *Standards Matter* quotes a focus group participant: *Codes of Conduct are necessary like policies and procedures... but to carry them out you need effective motivational leadership*". (Page 8)

21. The overriding financial pressures and need to balance budgets could mean undue pressures being brought to bear on financial reporting and monitoring, particularly at election times, and on the further erosion of internal checks and balances. The introduction of elected mayors and 'strong' leaders and cabinet governance models were designed to streamline decision-making and accountability, but have also led to less scrutiny and challenge as policies are developed and implemented. The varying effectiveness of scrutiny and scrutiny committees is examined in *The Voice of the Councillor*. An opposition member is quoted: *"There is no real scrutiny of the cabinet as most of the time the committee chairs just protect the executive and its members. They [O&S chairs and vice-chairs] see their role as making sure the cabinet have it easy and most of them seem to think if they make it easy for the cabinet they might get promoted to it (affiliation unknown)." (Page 20).*

22. A particular risk area is the concentration around fewer people of political power, influence and money in major decisions such as city and town centre redevelopment, where sophisticated and well-resourced international investors are seeking financial returns on a global basis. While such schemes and partnerships can provide considerable mutual benefit it is essential that all financial and indirect interests are fully and properly declared and that perceptions, such as around hospitality, are carefully considered and managed. The public are traditionally sceptical in such matters and local press scrutiny is much reduced. To maintain public trust, the code provisions around interests and the transparency of adherence to them need to be strengthened to guard against corruptibility.

23. I believe that it would be preferable to have a single, comprehensive, national code, applicable at all tiers, so that the public, irrespective of where they live, have a clear and consistent picture of what to expect of their councillors in any forum, can see more clearly where their representative is coming from, and what interests s/he has. Ideally, a more robust code should be collectively agreed by local government. But if that is not possible it should be legislated. The approach is consistent with the single conduct codes applicable to MPs, police officers, judiciary, NHS boards and civil servants; and there is a single statutory code of audit for local government.

24. I believe in particular that within such a code there should be a revision of the current minimal provisions for declaration of interests so that these cover family members, business associates and membership of closed organisations. I believe that this would better live out the Public Life Principles of Integrity, Objectivity and Openness.

25. The Local Government Association should proactively lead this as the start of a concerted initiative to actively demonstrate the importance it attaches to standards, both within councils and for the 'brand' as a whole. It would be a visible commitment by the Association, its constituent leaders and member councils of the Principle of Leadership.

Question e (iii) ~ Monitoring Officers (MOs)

26. I hope the Committee will look more holistically than the question as posed. Any evidence of conflict of interest, which the Committee will no doubt receive from the front line, is in my view, symptomatic of the need to reconsider and re-specify the MO role, in conjunction with the Local Government Association and local government professional bodies.

27. The considerable changes in local governance (elected mayors, strong leaders, plethora of partnership bodies, joint ventures and outsourcing, sharing of chief executives and functions across councils) have not been matched by appropriate changes in the historic statutory officer structure, nor typically have standards arrangements been 'hard wired' into these changes. This leaves an uncertain and reactive climate when things go wrong.

28. Originally conceived in the 1980s as a procedural brake on so-called "loony councils" and initially discharged by a board level chief legal officer, the MO role has had added a variety of standards functions over a period that has coincided with reductions in and outsourcing of resources, and down grading of status.

29. The role now includes an inconsistent range of responsibilities at varying levels in the structure. While prescription is undesirable, and local flexibility important, MOs do need sufficient "clout" and "top cover" to be listened to, as well as political sensitivities plus proactive decision making, influencing and shaping skills to command the respect of leaders and members generally.

30. To be effective the role needs the full support of the other two members of the statutory triumvirate of chief executive and chief financial officer. In practice, and in the teeth of the problems councils now face, this backing is often lacking and the role becomes difficult, or even impossible to fulfill. In trying to promote and uphold the mechanics and processes of standards, the MO is left exposed and vulnerable in career terms. They risk being cast as in opposition to the political imperatives of strong and determined leaders whose role (and political fortunes) centre on "cutting through it" and "getting things done".

31. The MO role should not be 'second order' or purely technocratic. As is happening in many charities, and already exists in many parts of the private sector, there is a case for a 'general counsel' role to proactively engage in policy formulation and implementation - and with the necessary authority and respect to ensure that, as the council's objectives are fulfilled, its values are followed and its procedures complied with, in a transparent, consistent and proportionate fashion.

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| <p>Sleaford Town Council: (Principal Authority North Kesteven District Council)</p> | |
| <p>Overview</p> <p>Nolan Principles: At the heart of this Consultation is the ability of Local Councils to observe and implement the Nolan Principles: They relate to: <u>Selflessness: Integrity: Objectivity: Accountability: Openness: Honesty: Leadership.</u> The Constitution of Sleaford Town Council (STC) is available on the STC web-site and identifies all the criteria required (and approved by the Auditor). However enforcing this depends on the level of control that is available within the law (through the monitoring systems that exist and can be implemented independently).</p> <p>Note: Councillors Disclosable Pecuniary and Personal Interest statements are maintained by the Principal Authority and displayed on its web-site. Other issues are covered below. Chapters 3, 8 and 10 of the STC Constitution are particularly relevant to the answers below. Freedom to record meetings (film/tweet etc.) are observed and supported. And this also applies to the Principal Authority.</p> | |
| <p>Comment: (additional to above)</p> <p><i>To optimise the working of Local Government: conflicts between competing objectives of the participants have to be minimised. Political Party pressures may influence Councillor decisions and corresponding aims at District and County level. These include:</i></p> <p>(a) <i>Differing Political Party allegiances exist at Town and District (and County). A greater significance arises at District/County level due to allocation of places on Committees for the dominant groups. This is perceived as affecting decision making at the Town Council (and hence adherence to the Nolan Principles).</i></p> <p>(b) <i>The Planning Authority provides some services through bespoke 3rd Party agreements and may represent a conflict of interest for Officers and the dominant Councillor group.</i></p> <p>(c) <i>There is perceived frustration at the failure of the Statutory Consultee status as a means of supporting informed local opinion. Added to this: there is apparent uncertainty, of Councillors who are also District Councillors, in addressing Planning Applications at both levels. Often they abstain so their position will not be compromised.</i></p> <p>(d) <i>At STC a perceived inability of all Councillors to be treated as equal as required by NOLAN (e.g. "Management of Clerk" may deflect preference and power towards those Councillors managing (and their political allegiances)) including Chair of Council. See below.</i></p> <p>(e) <i>Rules and procedures for addressing and rectifying Councillor complaints are unclear.</i></p> <p>(f) <i>A level playing field has to be seen to be established: to ensure that both the Town Council and the smaller "Parish" Councils are given equal appreciation of Planning issues.</i></p> | |

Replies

- l. Are the existing structures, processes and practices in place working to ensure high standards of conduct by local councillors? If not, please say why.
- m. What, if any, are the most significant gaps in the current ethical standards regime for local government?

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| <p>The Town Council has developed a "Constitution": the legal status of this is unclear.</p> | <p>Issues There is a perceived conflict of loyalties (or obligations) when issues in planning are considered by</p> |
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| <p>Note: (Training Of Councillors is ad-hoc). For those Charing Committees, and the Mayor/Chairman of Full Council, training may need to be made compulsory before nomination.)</p> | <p>those who are both District and Town Councillors. Pecuniary interests are treated correctly.</p> |
| <p>Note: Planning Applications may involve declaration of Pecuniary: Prejudicial Interests are treated differently by Councillors which may affect voting by being discreetly threatening. Potential confusion amongst Councillors, who are both District and Town, may exist. (The scope for comment by a "consultee" Town Council and the Principal (planning authority) are different but not necessarily understood. Their TOR for comment may be unclear (even by the Monitoring Officer) – hence they often offer no comment at the Statutory Consultee phase – in order not to be seen to be compromising their position at the District Planning phase). The Party Political affiliation of Councillors (which has added importance at District level and may inhibit adherence to the Nolan Principles).</p> | <p>Issues: Prejudicial Whether or not a Councillor with correctly defined Prejudicial interests should leave the room temporarily is obscure. Dispensation policy is ad-hoc. (This is often acerbated by the complexity of some applications which may involve many "parties".</p> |

Codes of conduct

- n. Are local authority adopted codes of conduct for councillors clear and easily understood? Do the codes cover an appropriate range of behaviours? What examples of good practice, including induction processes, exist?
- o. A local authority has a statutory duty to ensure that its adopted code of conduct for councillors is consistent with the Seven Principles of Public Life and that it includes appropriate provision (as decided by the local authority) for registering and declaring councillors' interests. Are these requirements appropriate as they stand? If not, please say why.

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| <p>A code of Conduct exists within the Town Council constitution. Training should be mandatory.</p> | <p>Issues: Penalties are difficult to implement but those untrained should not hold high office (e.g. chair of committees or Mayoral)</p> |
| <p>Note: The Nolan Principles are within the Town Council constitution.</p> | <p>Issue: All procedures and behaviour should (and predominantly do) emanate from this although the Principles themselves may be "abstract" to a degree.</p> |

Investigations and decisions on allegations

- p. Are allegations of councillor misconduct investigated and decided fairly and with due process?
 - i. What processes do local authorities have in place for investigating and deciding upon allegations? Do these processes meet requirements for due process? Should any additional safeguards be put in place to ensure due process?

- ii. Is the current requirement that the views of an Independent Person must be sought and taken into account before deciding on an allegation sufficient to ensure the objectivity and fairness of the decision process? Should this requirement be strengthened? If so, how?
- iii. Monitoring Officers are often involved in the process of investigating and deciding upon code breaches. Could Monitoring Officers be subject to conflicts of interest or undue pressure when doing so? How could Monitoring Officers be protected from this risk?

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| <p>Processes of Investigation: <i>Note: These processes are unclear. The monitoring officer is one part of call. LALC may be another. (Ombudsman?)</i></p> | <p>Issues <i>And could be construed as biased (due to personal and political allegiances for example)</i></p> |
| <p>Monitoring Officers <i>Note: often have more than one "hat"! The Principal Authority may also be a "provider" of services as well as Planning Authority.</i></p> | <p>Issues <i>The confusion is between one ethic (District/ Principal Authority) and the Town Council and other vested interests (builders etc).</i> <i>Sub-Issue: It can also be argued that the "Clerk/Proper Officer" should not solely be judged on performance by Councillors alone. (See Chapter 8 STC Constitution Para 3). Similarly the Monitoring Officer may require a reporting line independently of just the Principal Authority.</i></p> |

Sanctions

- q. Are existing sanctions for councillor misconduct sufficient?
 What sanctions do local authorities use when councillors are found to have breached the code of conduct? Are these sanctions sufficient to deter breaches and, where relevant, to enforce compliance?
 Should local authorities be given the ability to use additional sanctions? If so, what should these be?

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| <p>Sanctions: <i>Note: Other than breach of pecuniary interests it is difficult to adopt a practice that cannot be usurped by Political or other factions</i></p> | <p>Issues: <i>Prior to 2011/12 many Councillors were subject to a type of intimidation by being reported several times only for the Standards adjudication platform to throw it out based on no evidence.</i></p> |
| <p>Compliance with Standards <i>Note: (Social Media behaviour is difficult to monitor).</i> <i>General Note: Councillors should be subject to the law as other citizens and where appropriate discipline should be kept out of the hands of the Standards/Monitoring Officer control regime. (The annual (and ongoing) return of Interests by Councillors may need to include defined Social Media usage and define that they are "Councillors".)</i></p> | <p>Issues: <i>The most effective control measure is for all meeting to be recorded (e.g. audio) so that all behaviour can be checked. Out of meeting behaviour (e.g. through Social Media) needs separate standards of behaviour and compliance with the law. A means of monitoring this has to be addressed.</i></p> |

Declaring interests and conflicts of interest

- r. Are existing arrangements to declare councillors’ interests and manage conflicts of interest satisfactory? If not please say why.
 - i. A local councillor is under a legal duty to register any pecuniary interests (or those of their spouse or partner), and cannot participate in discussion or votes that engage a “disclosable” pecuniary interest, nor take any further steps in relation to that matter, although local authorities can grant dispensations under certain circumstances. Are these statutory duties appropriate as they stand?
 - ii. What arrangements do local authorities have in place to declare councillors’ interests, and manage conflicts of interest that go beyond the statutory requirements? Are these satisfactory? If not, please say why.

| | |
|--|--|
| Note: <i>Disclosure: Difficult to check in a complex business environment.</i> | Issues: <i>These may only materialise in specific planning cases.</i> |
| Note: <i>Dispensations: Not always correctly defined.</i> | Issues: <i>For pecuniary only(?)</i> . |
| Note: <i>Declarations of interest are correctly done.</i> | Issue; <i>(This ought to be broadened to include Social Media interests)</i> |

Whistle-blowing

- s. What arrangements are in place for whistle-blowing, by the public, councillors, and officials? Are these satisfactory?

| | |
|---|---|
| Note: Unclear. Not tested. Is Included in the Constitution | Issues: No practical examples to hand as far as I am aware. |
|---|---|

Improving standards

- t. What steps could *local authorities* take to improve local government ethical standards?
- u. What steps could *central government* take to improve local government ethical standards?

| | |
|---|--|
| Steps to take: <i>Local Authorities</i> | Issues: <i>Councillors: should they register which Social Media sites are used. The Monitoring Officer: should they also have an independent line of authority or declared Interests so that they cannot arbitrate when there is a conflict of interest (this should not occur under existing laws but it is unclear).</i> |
|---|--|

| | |
|--|--|
| | <i>Proper Officer: see below.</i> |
| Steps to take: <i>Central Government</i> | Issues: <i>Separate out the management of the Proper Officer so that a Second reporting officer is identified. Can role of Ombudsman be extended to help the monitoring process?</i> |

Intimidation of local councillors

- v. What is the nature, scale, and extent of intimidation towards local councillors?
 - i. What measures could be put in place to prevent and address this intimidation?
 - ii.

| | |
|---|--|
| <p>Note:</p> <p>1. For individual Councillors this is unclear: what criteria can be used in relation to all the Equality Laws at our disposal against the need to avoid laws being misused for personal and/or political gain etc.</p> <p>2. Extra Comment: Individual Councillors have to be able to notify when they feel discriminated against and advised of the legal position.</p> | <p>Issue:</p> <p>Personally I have complained to Council and referred them to the Code of Conduct.</p> <p>No action was taken or commented on: maybe a separate forum should be used.</p> |
|---|--|

Summary: the main issues are detailed above. In many areas however cooperation between Councillors and authorities is beneficially positive. It is a minority (often small in number but influential) that can cause maximum disruption

SUBMISSION 33

Dear Sirs,

I am responding to the above review on behalf of Warboys Parish Council in Cambridgeshire.

The Parish Council regards the system introduced by the Localism Act 2011 to be an improvement on the previous arrangements under the Local Government Act 2000. However the legislation could have been drafted more clearly and is not easy to interpret. The principle issues are the lack of clarity with regard to interests other than disclosable pecuniary interests and the lack of effective sanctions for failure to comply with an authority's code of conduct.

While no particular problems have been encountered at Warboys, it is clear from personal experience of other local councils and speaking to council clerks elsewhere that there remain some authorities where poor behaviour by some councillors is almost endemic and the 7 principles of public life listed in section 28 of the Act of 2011 are being regularly flouted by some councillors.

With regard to the specific questions posed in the consultation paper, the Parish Council would respond as follows –

General – Questions (a) and (b)

In general, the current arrangements work reasonably well and are proportionate. However with 80,000 parish councillors in England, it is inevitable that there will be some individuals who fail to comply with the legislation and the codes of conduct of their respective authorities. While sanctions are effective in the case of offences listed in the Act in respect of disclosable pecuniary interests, there is no effective sanction against a councillor who fails to comply with a code of conduct.

Questions (c) and (d)

It is considered that the present arrangements are satisfactory.

Investigations and Decisions on Allegations – Question (e)

As there has never been a complaint about the behaviour of a councillor or breach of the code of conduct in Warboys either under the present or previous ethical formats, it is difficult to comment on the effectiveness of the present arrangements. With the present cut backs in principal authorities, it is unlikely that monitoring officers would be able to deal with any increase in complaints.

The Council is unable therefore to comment on this question.

Sanctions – Question (f)

The sanctions available to authorities are extremely limited and ineffective in the case of a recalcitrant councillor. Parish councils should be able to determine their own sanctions, having regard to the recommendations of a monitoring officer. These could include banning a councillor from entering council premises other than for the purpose of a meeting of the council, banning a councillor from contacting officers of the council, withdrawing e-mail accounts, removing the chairmanship or vice-chairmanship of a committee.

In the case of a failure to comply with a sanction, it should be possible for action to be taken through the courts to remove a councillor or chairman from office.

Declaring Interests and Conflicts of Interest – Question (g)

The present arrangements whereby dispensations can be granted by parish councils themselves are a great improvement on the previous requirement under the Local Government Act 2000 whereby application had to be

made to the principal authority's standards committee. In a parish council, especially the many smaller councils, individual councillors will be well known and often members of local societies and organisations. Their involvement in those organisations can bring valuable information to light when matters are being discussed and they should not be disadvantaged by being an elected councillor compared with a member of the public.

Whistleblowing – Question (h)

The Parish Council has no comment on this question.

Improving Standards – Questions (i) and (j)

Further substantial modification is unnecessary after two fundamental changes in 2000 and 2011. However more effective sanctions are required in the event of a councillor having been found not to have complied with an authority's code of conduct.

Intimidation of Local Councillors – Question (k)

Councillors in Warboys have not experienced any intimidation from members of the public, although they are aware that there is a growing trend for this to happen in the public sector. The Parish Council has no comment on this question.

I hope that the Committee will find the Parish Council's comments helpful.

Regards,

Roy Reeves,

Clerk to Warboys Parish Council,

SUBMISSION 34

Dear Sir/Madam,

Witney Town Council wishes to make the following response to the consultation:

Witney Town Council sees no reason to change the current system of monitoring ethical standards on public life. However, if a standards board was brought back, to should be non-political ans independent.

Kind regards

Nicky Cayley

SUBMISSION 35

Hi I would like to comment about the code of conduct

- 1.I think the whole process of reporting someone about there code of conduct takes far to long and a faster process needs to take place.
- 2.When a person has been reported and been found to be in the wrong a slap on the wrist is no good.
3. When a person is in the wrong, stiffer penalties should be implemented.
4. A code of conduct should be implemented for lazy councillors. Some councillors only join for the kudos
- 5.When a person has been asked to resign should be changed and forced to resign
- 6.The six month right to miss meetings should be changed to three or four month.
- 7.All councillor courses should be made mandatory once in office.
- 8.Chairman courses should be mandatory for potential chairmen.
- 9.On higher level councillors should not attend somewhere just to receive monies if they do not need to go.

Regards

Councillor Terry Dagnall

Mayor of Withernsea

SUBMISSION 36

Dear Sirs,

I think it should be made possible for obstreperous, rude, disrespectful, truculent parish councillors of ill will to be voted off Parish Councils by a simple majority vote of the other councillors. It's not possible to know what people are going to be like as councillors over time, in a short, one-off interview and disruptive people can find their way onto Parish Councils, adding to the stress and burden of the other councillors. At present, it seems the only way to get rid of such councillors is via a time-consuming and costly tribunal process, if (primarily) financial misconduct has been committed, which is very rare. Parish Councils may benefit if the ways and means of removing 'rotten apple' variety councillors were expanded and simplified (namely by a majority vote of the other councillors).

Yours faithfully,
LR Howes

Dear sirs,

Response to: Local government ethical standards: stakeholder consultation

At its recent meeting, the Standards Committee at Northampton Borough Council, approved its response to the Local government ethical standards: stakeholder consultation as detailed below:

a. Are the existing structures, processes and practices in place working to ensure high standards of conduct by local councillors? If not, please say why.

There good processes and procedures in place at NBC; Councillors are trained, briefed and aware of the code of conduct and any relevant Legislation to adhere to

b. What, if any, are the most significant gaps in the current ethical standards regime for local government?

None

c. Are local authority adopted codes of conduct for councillors clear and easily understood? Do the codes cover an appropriate range of behaviours? What examples of good practice, including induction processes, exist?

Yes at Northampton, the code of conduct is adopted, and it is very clear and easy for Councillors to understand. It clearly covers a range of behaviours. A full induction process is held after Councillors are elected, returning Councillors are encouraged to attend the training session on Ethical Government which is externally delivered by experts. The Standards Committee has its own Training Strategy too which centres around ethical governance – the Strategy is for all Members, not just members of the Standards Committee.

A local authority has a statutory duty to ensure that its adopted code of conduct for councillors is consistent with the Seven Principles of Public Life and that it includes appropriate provision (as decided by the local authority) for registering and declaring councillors' interests. Are these requirements appropriate as they stand? If not, please say why.

The Nolan Seven Principles of Public Life:

- Selflessness:
- Integrity:
- Objectivity:
- Accountability
- Openness:
- Honesty:

· Leadership:

These requirements are appropriate

Are allegations of councillor misconduct investigated and decided fairly and with due process?

i. What processes do local authorities have in place for investigating and deciding upon allegations? Do these processes meet requirements for due process? Should any additional safeguards be put in place to ensure due process?

Northampton has an adopted Arrangements process that it adheres to which do meet due process

ii. Is the current requirement that the views of an Independent Person must be sought and taken into account before deciding on an allegation sufficient to ensure the objectivity and fairness of the decision process? Should this requirement be strengthened? If so, how?

A great benefit of the Localism Act was the introduction of Independent Persons. NBC has two Independent Persons. The Independent Persons are consulted on appropriately at Northampton and ensures the objectivity and fairness of the decision making process. There is no need to strengthen

iii. Monitoring Officers are often involved in the process of investigating and deciding upon code breaches. Could Monitoring Officers be subject to conflicts of interest or undue pressure when doing so? How could Monitoring Officers be protected from this risk?

Very rarely there is a conflict of interest for the Monitoring Officer, but if the Monitoring Officer is involved in the issue that is subject to complaint, they could be conflicted and therefore alternative investigation is used, i.e. the Monitoring Officer's representative.

Are existing sanctions for councillor misconduct sufficient?

i. What sanctions do local authorities use when councillors are found to have breached the code of conduct? Are these sanctions sufficient to deter breaches and, where relevant, to enforce compliance?

Current sanctions include apologies and training. These are relevant. Councillors abide by the sanctions.

Should local authorities be given the ability to use additional sanctions? If so, what should these be? No, the current system works very well

Are existing arrangements to declare councillors' interests and manage conflicts of interest satisfactory? If not please say why.

The arrangements are satisfactory but the need to provide guidance and training when Councillors are first elected is imperative.

ii. A local councillor is under a legal duty to register any pecuniary interests (or those of their spouse or partner), and cannot participate in discussion or votes that engage a disclosable pecuniary interest, nor take any further steps in relation to that matter, although local authorities can grant dispensations under certain circumstances. Are these statutory duties appropriate as they stand?

The arrangements are satisfactory but the need to provide guidance and training when Councillors are first elected is imperative.

iii. What arrangements do local authorities have in place to declare councillors' interests, and manage conflicts of interest that go beyond the statutory requirements? Are these satisfactory? If not, please say why.

The arrangements are satisfactory but the need to provide guidance and training when Councillors are first elected is imperative.

What arrangements are in place for whistleblowing, by the public, councillors, and officials? Are these satisfactory

The Authority has recently adopted a new whistleblowing policy, manned by external organisation. The effectiveness of the Policy will be monitored by the Standards Committee

What steps could *local authorities* take to improve local government ethical standards?

The standards are currently adequate but the need for training at the appropriate time is key

What steps could *central government* take to improve local government ethical standards?

The standards are currently adequate

What is the nature, scale, and extent of intimidation towards local councillors?

i. What measures could be put in place to prevent and address this intimidation?

Councillors are subjected to intimidation on occasions; the issue is personal to the Councillor. Often there will be the need to involve the Police or the Monitoring Officer depending upon the nature, scale and extent of the intimidation. There are Laws in place to assist the Councillor should they be subjected to intimidation.

Best wishes,

Tracy Tiff

Review of Local Government Ethical Standards: Stakeholder Consultation

This submission is made by the Solicitor and Monitoring Officer on behalf of the Lake District National Park Authority (LDNPA), a National Park Authority established by the Environment Act 1995.

The LDNPA has 20 members: 5 appointed by Cumbria County Council, 2 appointed by South Lakeland District Council, 1 appointed by Allerdale Borough Council, 1 by Eden District Council and 1 by Copeland Borough Council, 5 members appointed for parish councils/parish meetings within the Lake District National Park and 5 appointed by the Secretary of State. The LDNPA has appointed 2 Independent Persons.

As set out in the Environment Act 1995, the Lake District National Park Authority's statutory purposes are:

- To conserve and enhance the natural beauty, wildlife and cultural heritage of the Lake District National Park; and
- To promote opportunities for the understanding and enjoyment of the special qualities of the National Park by the public.

It also has a duty in pursuing those purposes:

- To seek to foster the economic and social well-being of local communities within the National Park by working closely with the agencies and local authorities responsible for these matters, but without incurring significant expenditure.

Since the introduction of the new Code of Conduct in accordance with the Localism Act 2011, the LDNPA has noted a dramatic increase in the number of complaints being made against members. In the last year, the LDNPA has received double the number of complaints received in the previous 10 years. Fewer than half of the complaints made have been upheld and only one was referred to the Local Government Ombudsman. The processes adopted by the LDNPA have been reviewed and refined during this period. This submission is made to inform the consultation of those matters raised as concerns by members of the LDNPA, the Monitoring Officer and the Independent Persons during the course of dealing with complaints. Comments are stated in blue ink below each question.

Consultation questions

The Committee invites responses to the following consultation questions.

- a. Are the existing structures, processes and practices in place working to ensure high standards of conduct by local councillors? If not, please say why.
Many local councillors consider the new legislation and Code of Conduct to be a relaxation of the requirements to declare interests. Initial confusion over the changes to the Code of Conduct have not improved with members still declaring interests as they would have declared them under the former regime. Members of the public feel that local councillors should declare interests where those interests are not covered by the Code of Conduct but rather fall under the principles of bias and predetermination which are rather more subjective in the eyes of the general public.
- b. What, if any, are the most significant gaps in the current ethical standards regime for local government?

Where complaints have been investigated against members, the main complaint is a lack of sanction against the offending party permitting offenders to “get away with” their behaviour.

Codes of conduct

- c. Are local authority adopted codes of conduct for councillors clear and easily understood? Do the codes cover an appropriate range of behaviours? What examples of good practice, including induction processes, exist?
- d. A local authority has a statutory duty to ensure that its adopted code of conduct for councillors is consistent with the Seven Principles of Public Life and that it includes appropriate provision (as decided by the local authority) for registering and declaring councillors’ interests. Are these requirements appropriate as they stand? If not, please say why.

Where local councillors are members of different Local Authorities it is entirely possible for the Codes of Conduct to differ between them. This causes difficulties for dual-hatted members as they are unclear as to which Code of Conduct applies to them depending on the body they are sitting. A countrywide code for all local councillors of whichever organisation they are members would make understanding clearer. To resolve this issue, Cumbrian local authorities and National Park Authority adopted the same Code of Conduct at the outset although Cumbria County Council now has its own Code.

Investigations and decisions on allegations

- e. Are allegations of councillor misconduct investigated and decided fairly and with due process?
 - i. What processes do local authorities have in place for investigating and deciding upon allegations? Do these processes meet requirements for due process? Should any additional safeguards be put in place to ensure due process?
 - ii. Is the current requirement that the views of an Independent Person must be sought and taken into account before deciding on an allegation sufficient to ensure the objectivity and fairness of the decision process? Should this requirement be strengthened? If so, how?
 - iii. Monitoring Officers are often involved in the process of investigating and deciding upon code breaches. Could Monitoring Officers be subject to conflicts of interest or undue pressure when doing so? How could Monitoring Officers be protected from this risk?

Most complaints are investigated by the Monitoring Officer in the first instance, with provision for the Monitoring Officer to review the complaint and refer to a panel of three members for a full hearing, make a finding that the complaint is unfounded or make a finding against a local councillor and impose sanctions. These decisions are subject to a review by a panel of three members upon request of either the complainant or the local councillor and further appeal to the Local Government Ombudsman.

Where many complaints are made, the time resource required to deal with such matters is often out of proportion to the severity of the alleged behaviour. Members

are often uncomfortable in dealing with complaints made against their peers and can be perceived as being biased by the complainant if they do not agree with the complainant's point of view.

Concerns have also been raised that hearings of misconduct are not automatically heard as in private under Schedule 12A of the Local Government Act 1972 as used to be the case under the previous standards regime.

Sanctions

- f. Are existing sanctions for councillor misconduct sufficient?
- i. What sanctions do local authorities use when councillors are found to have breached the code of conduct? Are these sanctions sufficient to deter breaches and, where relevant, to enforce compliance?
 - ii. Should local authorities be given the ability to use additional sanctions? If so, what should these be?

Sanctions are not considered to “have teeth” and do not act as a deterrent to future bad behaviour. Local councillors have indicated that they would like to be able to suspend a councillor where this is considered appropriate or prevent them from taking part in certain committees.

Currently the only sanctions used against local councillors involve training, an apology to be given to the complainant or reporting to the local councillors appointing body.

Declaring interests and conflicts of interest

- g. Are existing arrangements to declare councillors' interests and manage conflicts of interest satisfactory? If not please say why.
- i. A local councillor is under a legal duty to register any pecuniary interests (or those of their spouse or partner), and cannot participate in discussion or votes that engage a disclosable pecuniary interest, nor take any further steps in relation to that matter, although local authorities can grant dispensations under certain circumstances. Are these statutory duties appropriate as they stand?
 - ii. What arrangements do local authorities have in place to declare councillors' interests, and manage conflicts of interest that go beyond the statutory requirements? Are these satisfactory? If not, please say why.

No comment.

Whistleblowing

- h. What arrangements are in place for whistleblowing, by the public, councillors, and officials? Are these satisfactory?

No comment.

Improving standards

- i. What steps could *local authorities* take to improve local government ethical standards?

- j. What steps could *central government* take to improve local government ethical standards?
No comment.

Intimidation of local councillors

- k. What is the nature, scale, and extent of intimidation towards local councillors?
i. What measures could be put in place to prevent and address this intimidation?

Members of the public have been known to threaten to report Local Councillors to the police if their behaviour is considered to be inappropriate rather than a complaint being made to the Local Authority. They have also threatened legal action against individual councillors. This can be extremely distressing to some councillors and I am aware that a couple of the local councillors sitting on the LDNPA are taking medication for stress to help them to deal with the demands of the role. Others have indicated that if certain serial complainants continue to make complaints they will resign from their position. Measures could be put in place similar to those for dealing with frivolous and vexatious complaints to prevent complaints being made by a complainant against a local councillor on multiple occasions.

SUBMISSION 40

Please consider the following points in the response to the review questions:

- a. Existing structures should be reviewed

Declaration of Interest forms need to be rewritten in clear and precise easy to understand language

- b. Acceptance of Office Forms should include the Code of Conduct – councillors signing their acceptance and compliance.

- c. Code of conduct should be written in clear language.

- d.

- e. Lines of complaint need to be set out clearly with time scales and clear feedback as in employment law.

- f. Sanctions if the code of conduct is breached and a complaint is upheld need to be clarified. And included with the code of conduct.

- g. Many councillors do not fully understand the requirements on a declaration of interest form

- h.

- i. Both local authorities and central government need to keep in mind that parish councillors work on a voluntary basis and come from all walks of life.

Small parishes often have difficulty in finding people who want to become councillors. Regulations need to be concise and easy to understand, apply and remember.

Free training should be available for councillors and clerks.

Sandra Morrison
Clerk to the Parish
Thwing & Octon Parish Council



SUBMISSION 42

Dear Sir,

On behalf of the Parish Council I am asked to forward the following comments relating to the review of local government ethical standards:

Whilst being the lower tier of government Members consider that we are a well run Council however, this may not always be the case with local Councils.

It is important that the standards board exists to assist all.

The Parish Council offer their support for the review being undertaken,

Regards

Jane

Jane Bowd

Parish Clerk

Holywell-cum-Needingworth Parish Council

SUBMISSION 43

Review of Ethical Standards in Local Government

Ingestre with Tixall Parish Council would like to make the following comments:

In a small community such as ours we would not want to put any more difficulties to deter people from putting themselves forward as potential candidates for election as Councillors. We have enough difficulty in finding candidates as it is.

It is important that Councillors conduct themselves fairly, legally and impartially with respect to their role as local representatives.

One of the problem areas is with regard to declaring their interests. Currently the register is kept by our District Council. We have a shorter, more user friendly version on our own website, see attached, which is more useful as it makes everyone aware of any conflict of interests.

Dr Anne Andrews (Parish Clerk & Councillor Ingestre with Tixall PC)

SUBMISSION 44

Dear Sirs

I am writing to respond to your consultation about Local Government ethical standards.

I am the Monitoring Officer of South Ribble borough Council (the council). I am responding on behalf of the council and in particular on behalf of our Standards Committee who met to discuss this consultation at its meeting on the 15th of March.

I will set out your questions below with our response to it.

CONSULTATION QUESTIONS

a. *Are the existing structures, processes and practices in place working to ensure high standards of conduct by local councillors? If not, please say why.*

The council believes that the existing structures, processes and practices are not working to ensure high standards of conduct by local councillors. The principal reason for this is the absence of any effective sanctions – I will comment further on this in due course.

b. *What, if any, are the most significant gaps in the current ethical standards regime for local government?*

As is referred to in the answer above the principal gap in the regime relates to the absence of any effective sanctions.

Codes of conduct

c. *Are local authority adopted codes of conduct for councillors clear and easily understood? Do the codes cover an appropriate range of behaviours? What examples of good practice, including induction processes, exist?*

The council is happy with the code of conduct that it has in place. This was subject to a review in 2017 when our councillors concluded that our Code remained fit for purpose. At the same time we issued a new guide to how the Code operated.

d. *A local authority has a statutory duty to ensure that its adopted code of conduct for councillors is consistent with the Seven Principles of Public Life and that it includes appropriate provision (as decided by the local authority) for registering and declaring councillors' interests. Are these requirements appropriate as they stand? If not, please say why.*

The council's code is entirely consistent with the Seven Principles of Public Life. The Principles are indeed set out in our Code.

Investigations and decisions on allegations

e. *Are allegations of councillor misconduct investigated and decided fairly and with due process?*

i. *What processes do local authorities have in place for investigating and deciding upon allegations? Do these processes meet requirements for due process? Should any additional safeguards be put in place to ensure due process?* **The council is happy with the procedures that it has in place. Our Investigation and Hearing Procedure sets out in detail the policies we pursue. This document was subject to a thorough review in 2017. Most complaints are subject to an initial assessment by the Monitoring Officer and one of our two Independent Persons. In cases of particular complexity or sensitivity we call a Panel of three members. In appropriate cases an investigation can be ordered. This could lead to a full standards hearing before the full Standards committee.**

ii. *Is the current requirement that the views of an Independent Person must be sought and taken into account before deciding on an allegation sufficient to ensure the objectivity and fairness of the decision process? Should this requirement be strengthened? If so, how?* **We always involve an Independent Person when considering our complaints. We believe that these arrangements do work well and do help to ensure fairness and objectivity. We have recently strengthened our arrangements by appointing a second Independent Person. Our Independent Persons are also always invited to our standards committee meetings when we are discussing policy and procedure changes – they are not just involved in the consideration of complaints.**

iii. *Monitoring Officers are often involved in the process of investigating and deciding upon code breaches. Could Monitoring Officers be subject to conflicts of interest or undue pressure when doing so? How could Monitoring Officers be protected from this risk? In cases of any conflict of interest (or perceived conflict of interest) then the Deputy Monitoring Officer would replace the Monitoring Officer in dealing with that particular complaint.*

Sanctions

f. *Are existing sanctions for councillor misconduct sufficient?*

i. *What sanctions do local authorities use when councillors are found to have breached the code of conduct? Are these sanctions sufficient to deter breaches and, where relevant, to enforce compliance?*

ii. *Should local authorities be given the ability to use additional sanctions? If so, what should these be?*

I will answer both questions under f together. The absence of any effective sanctions is the main concern that the council has. At the moment we request apologies, suggest training, and request clarification statements. We also have the ability to request Group Leaders that certain councillors be taken off certain committees. We also have the ability to censure. However, we consider that we need stronger sanctions. In appropriate cases we should be able to suspend members for misconduct. In an earlier standards regime councils had the ability to suspend for up to three months. At the very least we need something similar to this.

Declaring interests and conflicts of interest

g. Are existing arrangements to declare councillors' interests and manage conflicts of interest satisfactory? If not please say why.

i. A local councillor is under a legal duty to register any pecuniary interests (or those of their spouse or partner), and cannot participate in discussion or votes that engage a disclosable pecuniary interest, nor take any further steps in relation to that matter, although local authorities can grant dispensations under certain circumstances. Are these statutory duties appropriate as they stand?

ii. What arrangements do local authorities have in place to declare councillors' interests, and manage conflicts of interest that go beyond the statutory requirements? Are these satisfactory? If not, please say why.

I will answer both questions under g together. Our Code is very clear on the issue of interests. Members generally speaking are very comfortable and very aware of the rules. Our Code goes beyond the statutory pecuniary interests as we have retained much of the old model Code that relates to personal and prejudicial interests. Generally speaking our arrangements work well.

Whistleblowing

h. What arrangements are in place for whistleblowing, by the public, councillors, and officials? Are these satisfactory?

The council has a whistleblowing policy which is in place. This is in the process of being amended and updated. A report will be going to our Governance committee in April to finalise this document. We are endeavouring to emphasise that the policy is for the benefit of the public and councillors as well as employees of course. In due course training will be provided on this.

Improving standards

i. What steps could local authorities take to improve local government ethical standards?

Clearly local authorities can improve standards by providing regular training to councillors and staff on ethical standards. We have also recently introduced a new and detailed Member/Officer protocol.

j. What steps could central government take to improve local government ethical standards?

Provide local authorities with the ability to impose more punitive sanctions on councillors for misconduct.

Intimidation of local councillors

k. What is the nature, scale, and extent of intimidation towards local councillors?

i. What measures could be put in place to prevent and address this intimidation?

I will answer both questions under K together. Instances of intimidation of councillors are rare. When it happens it tends to be verbal intimidation at certain difficult public meetings. In part such incidents are viewed as arising out of the role of a councillor. In appropriate circumstances (where a councillor is feeling threatened) we will remove some of their personal details from our website. One form of intimidation that has occurred in this council is through the inappropriate use of social media by members of the public or indeed

by certain councillors. This can be difficult to deal with. In 2017 we introduced a protocol for councillors on the use of social media.

I hope this response is of some assistance.

Kind regards

Dave

Dave Whelan

Legal Services Manager/Interim Monitoring Officer

South Ribble Borough Council

SUBMISSION 45

12th March 2018

Dear Lord Brew,

Local Government Ethical Standards

The Standards and Conduct Committee of Leeds City Council (which I chair) met last week to consider our Annual Report to full Council. Amongst the papers for discussion we considered the consultation issued by your committee into Local Government Ethical Standards.

In Leeds we benefit from high standards of conduct and behaviour from both the principal authority's elected and co-opted members and of those from Town and Parish Councils in the Leeds Metropolitan area.

My committee and I would be grateful if as part of your work your committee could take into account the following:

- That local government is directly represented when you are undertaking the analysis of responses to your consultation on Local Government Ethical Standards. I would be happy to assist and bring a local practitioner's input to your deliberations.
- That your committee consider recommending the removal of the requirement for local elected members to be required to publically register their home address. There appears to be a growing trend to victimise local elected members and there appears no reason for local elected members to be treated any differently from MPs in this regard.
- That your committee consider a parallel requirement for local government to that contained in the Ministerial Code to prohibit former Councillors with direct knowledge and insight of decisions within a local authority from lobbying the authority of which they were a member for a period of two years.

I hope these suggestions can be taken forward by your committee.

Yours sincerely

A black rectangular box redacting the signature of Councillor Elizabeth Nash.

Councillor Elizabeth Nash
Chair of Standards and Conduct Committee.

SUBMISSION 46

Sheringham Town Councillor. I am making this submission because I am very unhappy about the way in which a Code of Conduct complaint I made about the behaviour of a fellow councillor was dealt with.

1. I am a Town Councillor. At a meeting of our Town Council in November 2017, whilst members of the public were present, a fellow Councillor, Councillor X, made totally untrue, uncalled for, misleading and inappropriate comments about other councillors. I felt that to challenge this statement whilst members of the public were present, was in danger of bringing the Council into disrepute. I decided therefore to bring the matter up, under a point of order, once there were no members of the press and public present in the Council Chamber.

2. As soon as there were no members of the press and public in the Council Chamber, I raised a point of order. I stated that I was dismayed at the underhand, extremely critical and highly disputable remarks, made in public by Councillor X, unfairly and unreasonably criticizing fellow Councillors, who had no opportunity to respond, without risking further damage to the good standing of the Council. I considered this was contrary to the Council's Code of Conduct, in that he was not, as stated in the terms of the Code:

- *Valuing my colleagues and staff and engaging with them in an appropriate manner and one that underpins the mutual respect between us that is essential to good local government.*
- *Always treating people with respect, including the organisations and public I engage with and those I work alongside.*

I added that I felt he needed to consider apologising to members of the Council.

3. Councillor X immediately jumped to his feet and began shouting. Aggressively pointing in turn at Councillor Y and myself, he ranted: 'That man there and that man there are incompetent and are not fit to be councillors'. He went on to accuse myself and Councillor Y of being the ones who needed to apologise, because of the appalling way we had acted against the Mayor, treating him with a total lack of respect. This again was untrue, a distortion of the facts. At this point, the Town Clerk said

she was adjourning the meeting. I considered no good would come of responding to what I considered to be such atrocious behaviour.

4. A few days later I lodged a Code of Conduct complaint against Councillor X with the local District Council Monitoring Officer. In addition to relating the above, I stated I was confident that, in relation to the matter, I had acted appropriately, decently and in order. I had paid due regard to Standing Orders, and adhered to the process set out therein. Everything I have said and did had been respectful and not vindictive. I also stated that there were at least six other members of the council, who would be willing to confirm my version of events (giving their contact details).

5. In January 2018, I received a Decision Notice in regard to my Code of Conduct complaint, stating that no action would be taken. In response to my version of events, it was stated that Councillor X had made a counter Code of Conduct Complaint against me, details of which were given. It appeared that this counter allegation was taken into account before a decision was made concerning my complaint. I consider this matter was improperly dealt with, as I was not given a formal copy of Councillor X's complaint, nor given the opportunity to respond, as set out in complaint procedure.

6. The counter allegation Councillor X had made, was shot through with spurious inaccuracies, misrepresentations and distortions. Indeed, I considered his statement was defamatory, in some instances. Clearly, this counter allegation had been treated as a Code of Conduct complaint against me and I was not given the opportunity to respond to it, in accordance with the Code of Conduct Complaint Procedure.

7. The notice stated it was not possible to appeal against this decision. Although I was very reluctant to do anything to jeopardise the good name of our Town Council, I believed this was a travesty of justice, and determined to investigate all avenues of redress.

8. In my response to the Monitoring Officer, I said that I was not vindictive by nature but in this case I felt that I had been slighted. Whilst I could have lived with that, to simply ignore this injustice would be immoral. On reading through the papers, my initial action was to tender my resignation as a councillor, because I felt so let down by proceedings and extremely hurt that my complaint was being dismissed, without being thoroughly investigated.

9. On reflection, I felt Councillor X's comments and behaviour did not 'fall within the definition of legitimate political expression', and such needed to be robustly contested. I believed my version of events, could have been verified by **at least** six fellow councillors, and that my complaint was not 'inconsequential, trivial or vexatious'. Failure to take into account the evidence which my fellow councillors would have given, was in my opinion not using 'best evidence', as mentioned in the Code of Conduct and the seven principles of public life.

10. I also believe the way this matter was dealt with gives carte blanche for people to behave with impunity. As such it goes against the spirit of the local District Council's Code of Conduct. I do not accept that anyone should have to tolerate being addressed in the way Councillor Y and myself were addressed by Councillor X on that occasion.

11. I also consider that the manner in which the complaint was dealt with contravenes the seven principles of public life which apply to anyone who works as a public office-holder. This includes people who are elected or appointed to public office, nationally and locally, and all people appointed to work in local government, especially in regard to:

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.

12. I consider it totally unfair and unjust that there is no avenue of appeal against the decision of the monitoring officer or the process by which the decision was arrived at. As things stand, an individual (the monitoring officer) can reach a decision,

without having investigated the matter thoroughly and not taken account of the evidence proffered. Further, when the process outlined has not been followed, this cannot be challenged.

13. I therefore decided to bring this matter to the attention of The Committee on Standards in Public Life's review of local government ethical standards. I suggest that, as a matter of urgency, a more robust and challengeable process is introduced for the investigation of complaints against the Code of Conduct of a local authority. There must be an independent appeal process. Without this, the Code of Conduct process is completely flawed.

14. In my opinion, the decision by the Monitoring Officer not to take any action against Councillor X had a detrimental effect on the standards of behaviour in our Council Meetings. Councillor X is a long-standing council member, who has an oppressive nature. He seems to believe his longevity gives him increased power and status with which he tries to dominate and intimidate fellow Council members. He uses standing orders (often through inaccurate interpretation) as means of browbeating others, bullying, belittling and disparaging, in order to get his own way.

15. Failure to take him to task in this matter, vindicated him behaving unacceptably and serves to simply reinforce his notion that he is above reproach or censure. This inaction will have a continuing, seriously detrimental effect on council proceedings and morale.

Peter John Farley

Dear Sirs

Ref: Review of Local Government Ethical Standards: Stakeholder Consultation

Bembridge Parish Council welcomes the stakeholder consultation and urges the Committee to lobby Government for the introduction of sanctions that the Localism Act removed, undermining the whole Parish & Town Council sector.

Questions

- a. Are the existing structures, processes and practices in place working to ensure high standards of conduct by local councillors? If not, please say why.

No because the policies and procedures in place are worthless without a sanction at the end of the process to enforce poor conduct, bad behaviour, undermining the whole sector.

- b. What, if any, are the most significant gaps in the current ethical standards regime for local government?

Enforceable sanctions and reasonable timescales for considering complaints and completing investigations.

Codes of conduct

- c. Are local authority adopted codes of conduct for councillors clear and easily understood? Do the codes cover an appropriate range of behaviours? What examples of good practice, including induction processes, exist?

More detail is required to limit the role of a Councillor who has a disclosable pecuniary interest.

- d. A local authority has a statutory duty to ensure that its adopted code of conduct for councillors is consistent with the Seven Principles of Public Life and that it includes appropriate provision (as decided by the local authority) for registering and declaring councillors' interests. Are these requirements appropriate as they stand? If not, please say why.

The duty is upon the Councillor to declare the interest. However the whole point is the public perception of a Councillors interest. Therefore there should be an additional process that allows a nominated interest to be investigated and agreed for inclusion on the register of interests or not; therefore protecting the Councillor and Council.

Investigations and decisions on allegations

- e. Are allegations of councillor misconduct investigated and decided fairly and with due process?

No there should be a more robust appeals process whereby a neighbouring authority would consider an appeal against a decision and not a Deputy Monitoring Officer whose line manager or superior has made the decision in the first instance. A reasonable timescale should be imposed to ensure timely conclusions to prevent further harassment opportunities by the complainant. Particularly with the modern misuse of social media.

- i. What processes do local authorities have in place for investigating and deciding upon allegations? Do these processes meet requirements for due process? Should any additional safeguards be put in place to ensure due process?

An independent appeals process is required that could be introduced utilising a neighbouring authorities Monitoring Officer and vice versa, with a reasonable timescale.

- ii. Is the current requirement that the views of an Independent Person must be sought and taken into account before deciding on an allegation sufficient to ensure the objectivity and fairness of the decision process? Should this requirement be strengthened? If so, how?

As above.

- iii. Monitoring Officers are often involved in the process of investigating and deciding upon code breaches. Could Monitoring Officers be subject to conflicts of interest or undue pressure when doing so? How could Monitoring Officers be protected from this risk?

Undue influence is placed upon Monitoring Officers by Councillors direct, undue and excessive contact. There needs to be a safeguard in place to ensure integrity and impartiality is maintained.

Sanctions

- f. Are existing sanctions for councillor misconduct sufficient?

No they are worthless and unenforceable.

- i. What sanctions do local authorities use when councillors are found to have breached the code of conduct? Are these sanctions sufficient to deter breaches and, where relevant, to enforce compliance?

An apology which cannot be enforced. There is no enforcement for non-compliance and there needs to be urgently.

- ii. Should local authorities be given the ability to use additional sanctions? If so, what should these be?

A disciplinary process with ultimate termination of office needs to be introduced for Councillors.

Declaring interests and conflicts of interest

- g. Are existing arrangements to declare councillors' interests and manage conflicts of interest satisfactory? If not please say why.

The duty is upon the Councillor to declare the interest. However the whole point is the public perception of a Councillors interest. Therefore there should be an additional process that allows a nominated interest to be investigated and agreed for inclusion on the register of interests or not; therefore protecting the Councillor and Council.

- h. A local councillor is under a legal duty to register any pecuniary interests (or those of their spouse or partner), and cannot participate in discussion or votes that engage a disclosable pecuniary interest, nor take any further steps in relation to that matter, although local authorities can grant dispensations under certain circumstances. Are these statutory duties appropriate as they stand?

No as there is no enforcement to back up the process.

- iii. What arrangements do local authorities have in place to declare councillors' interests, and manage conflicts of interest that go beyond the statutory requirements? Are these satisfactory? If not, please say why.

None. The requirement is upon the Parish Clerk to ensure Councillors have completed the register of interests and sent them into the Unitary Authority for publication.

Whistleblowing

- i. What arrangements are in place for whistleblowing, by the public, councillors, and officials? Are these satisfactory?

Unaware of the arrangements.

Improving standards

- i. What steps could *local authorities* take to improve local government ethical standards?

1. Introduce an additional process that allows a nominated interest to be investigated and agreed for inclusion on the register of interests or not; therefore protecting the Councillor and Council.

2. There needs to be a safeguard in place to ensure integrity and impartiality is maintained for the Monitoring Officer.

3. There should be a different process in place for appeals to be considered by Monitoring Officers in neighbouring or other authorities, with a reasonable timescale.

- j. What steps could *central government* take to improve local government ethical standards?

Introduce a disciplinary procedure for Councillor within legislation that is enforceable and ultimately can remove them from office.

Intimidation of local councillors

- k. What is the nature, scale, and extent of intimidation towards local councillors?

Social media has given the public a platform to unduly criticise Councils with no protection.

- i. What measures could be put in place to prevent and address this intimidation?

Social media providers should be able to remove posts and close down content and pages that persistently bring the Council into disrepute.

Yours sincerely



Emma Goldring
Clerk Bembridge Parish Council

CC HALC

SUBMISSION 48

Dear Sir/Madam

Hennock Parish Council reviewed whether the Code of Conduct is working for the Council at its March Parish Council meeting in relation to the review of ethical standards in Local Government. The Parish Council considered the following questions:

1) Is the Code of Conduct working for Hennock Parish Council? The Parish Council adopted the same code as Teignbridge District Council and the consensus is that the existing Code generally works well.

2) Should councillors leave the room when they have a pecuniary interest? All councillors felt that councillors should leave the room if they have a pecuniary interest as there is then no doubt that they have not been able to influence the decision of the Council and it also protects the individual councillor who has a pecuniary interest from any charges of inappropriate/illegal influence/advantage.

3) Do dispensations work? The Parish Council has used dispensations in a number of situations and it has found them to work because it ensures openness and transparency.

4) Should social media and emails be included in respect of interests? The Council felt that in principle social media and emails should have the same rules applied as if the writer was in a meeting but it wasn't sure how this would work in practice.

Kind regards

Helen Reynolds

SUBMISSION 49

Dear Sir/Madam,

I have been asked to forward the comments (set out below) of one of our long serving and experienced District Councillors:-

a. Are the existing structures, processes and practices in place working to ensure high standards of conduct by local councillors? If not, please say why.

No. Since the abolition of the standards board, the local practices and over representation of councillors on the local panels, mean that the system is already breached and flawed and open to local abuse and or genuine independent oversight.

b. What, if any, are the most significant gaps in the current ethical standards regime for local government?

Its independence.

Codes of conduct

c. Are local authority adopted codes of conduct for councillors clear and easily understood? Do the codes cover an appropriate range of behaviours? What examples of good practice, including induction processes, exist?

No the system, being local, and up for local interpretation, means that it is difficult to gain a credible and genuine view of appropriate standards. What may be good for one set of councillors locally will not be the same in another. Therefore the whole system is fractured and meaningless if trying to raise the standards across local government.

d. A local authority has a statutory duty to ensure that its adopted code of conduct for councillors is consistent with the Seven Principles of Public Life and that it includes appropriate provision (as decided by the local authority) for registering and declaring councillors' interests. Are these requirements appropriate as they stand? If not, please say why.

They are appropriate and understandable. But I am increasingly concerned about the level of consistency and the desire to have genuine high standards and that it is a lip service policy.

Investigations and decisions on allegations

e. Are allegations of councillor misconduct investigated and decided fairly and with due process?

I fear that they are not. The course of action of an investigation means that it is your peers that are reviewing your alleged transgression. If the member is popular with those on the panel, or holds a position of doling out patronage within the authority, the high risk is that the panel would overlook certain misdemeanours or reduce their relevance. The same goes in reverse. An unpopular or opposition member will likely find it more difficult to get a fair and unbiased hearing.

i. What processes do local authorities have in place for investigating and deciding upon allegations? Do these processes meet requirements for due process? Should any additional safeguards be put in place to ensure due process?

This question can only be answered if you return back to a national scheme or that a neutral authority were to carry out the investigation and offer any sanctions

ii. Is the current requirement that the views of an Independent Person must be sought and taken into account before deciding on an allegation sufficient to ensure the objectivity and fairness of the decision process? Should this requirement be strengthened? If so, how?

The role is frankly toothless. It has no weight and no voting rights. It should be strengthened considerably and perhaps be the chair!

iii. Monitoring Officers are often involved in the process of investigating and deciding upon code breaches. Could Monitoring Officers be subject to conflicts of interest or undue pressure when doing so? How could Monitoring Officers be protected from this risk?

This is an interesting area. With widespread budget cuts often MOs are increasingly from other local authorities or part time and or contracted in. Patronage of the majority party is therefore essential if the MO wishes to continue to be retained. If a complaint is made against the leader or one of their cabinet or friends, then there will be natural pressure to look for compromise and or reduction in sanction or even investigation. More so if the matter is a 'discussion with the chair of the committee and the MO' and then no meeting takes place.

Sanctions

f. Are existing sanctions for councillor misconduct sufficient?

i. What sanctions do local authorities use when councillors are found to have breached the code of conduct? Are these sanctions sufficient to deter breaches and, where relevant, to enforce compliance?

No. What we have in place in the moment is utterly pointless, toothless and time wasting. If the member has enough 'brass neck' they will brazen the issue out and walk away regardless and sanctionless in their and the public eye.

ii. Should local authorities be given the ability to use additional sanctions? If so, what should these be?

Yes. Right up to suspension and removal from office and or a financial penalty based on removing and element of their allowance or disbaring them for a period, from holding executive office.

Declaring interests and conflicts of interest

g. Are existing arrangements to declare councillors' interests and manage conflicts of interest satisfactory? If not please say why.

i. A local councillor is under a legal duty to register any pecuniary interests (or those of their spouse or partner), and cannot participate in discussion or votes that engage a disclosable pecuniary interest, nor take any further steps in relation to that matter, although local authorities can grant dispensations under certain circumstances. Are these statutory duties appropriate as they stand?

No and it's confusing, misinterpreted and applied to so many degrees that oftentimes members are confused and therefore the public must be!

ii. What arrangements do local authorities have in place to declare councillors' interests, and manage conflicts of interest that go beyond the statutory requirements? Are these satisfactory? If not, please say why.

There are waivers made available on certain topics, which should be used sparingly, but also, compulsory annual training should occur and if the member does not attend, that should be enough to warrant to suspension and removal from office and or a financial penalty based on removing and element of their allowance or disbaring them for a period, from holding executive office.

Whistleblowing

h. What arrangements are in place for whistleblowing, by the public, councillors, and officials? Are these satisfactory?

These are frankly available but toothless in their protection of whistle blowers. The policies I have seen do not give me comfort that should and officer or member 'whistle blow' that they would indeed be covered and safeguarded.

Improving standards

i. What steps could *local authorities* take to improve local government ethical standards?

The standards committee should be entirely independent of the local authority in every manner and compulsory annual training should occur for all members and if the member does not attend, that should be enough to warrant to suspension and removal from office and or a financial penalty based on removing and element of their allowance or disbaring them for a period, from holding executive office.

j. What steps could *central government* take to improve local government ethical standards?

Re-introduce the national standards board again.

Intimidation of local councillors

k. What is the nature, scale, and extent of intimidation towards local councillors?

Personally my experience is that intimidation by executive members is more widespread than is reported. The level of patronage by the leadership and or cabinet, means that there is a very real threat of financial and role loss if you don't toe the line. This means that intimidation is more subtle than someone turning up with a cudgel!

i. What measures could be put in place to prevent and address this intimidation?

You just can't answer this question in a straight forward manner as local government under a strong leader model, or with overt patronage for positions of leadership (chairs of committees or cabinet member posts). You have to remove the patronage risk and alter the structure of local government. And no government has the guts to do this. So we remain at risk and unchanged and therefore at more risk of public ridicule.

Best regards

Steven

Liberal Democrat Group Leader at Bucks County Council

SUBMISSION 50

Dear Sirs ,

Re: Submission by Mid Sussex District Council following consultation with the Standards Committee.

1. I am Tom Clark the Monitoring Officer at Mid Sussex District Council which also looks after 24 Parish Councils. The consultation document headed Review of Local Government Ethical Standards: Stakeholder Consultation was considered by the Council's Standards Committee on Monday the 12th March 2018. The following comments were made in response to the questions raised.
2. It was felt that the structures and processes at Mid Sussex were suitable given that in addition to disclosable pecuniary interests we had additional Code of Conduct disclosure requirements in line with those previously seen under the national code. Where Councils only comply with the disclosable pecuniary interest requirements and a Code of Conduct that does little more than adopt the Nolan principles, it was felt that the regime was too light touch to maintain public confidence.
3. A return to the national Code of Conduct would be preferable. This would mean the public would know that the Code of Conduct applying in one parish council is the same in another parish council. At the moment Code of Conduct matters in one parish council can be very different from Code of Conduct matters in a neighbouring parish council. It was debated whether the national code was applicable to all levels of local government but it was felt that as far as the public are concerned a councillor is a councillor whether at parish, district or county level. The sums of money involved at parish level are small but frequently these were of great local interest. Lying behind the Code of Conduct should be "respect" given that if respect was maintained by all parties involved in local government there should be few problems in terms of governance and declarations.
4. The Council has found the role of independent persons useful. It gives an external perspective on complaints and provides a degree of transparency and governance in the process. This is particularly important where the complainant is talking about a decision they don't like rather than a Code of Conduct matter against a particular councillor. It is important for the Monitoring Officer to be able to refer a matter of complaint to get such an independent view. At Mid Sussex the process formerly used by Standards for England has been maintained because it has been found to work. We have a Parish/Town Member on all Standards Sub-Committees. Conflicts for the Monitoring Officer are dealt with by having Deputy Monitoring Officers to deal with

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Solicitor & Head of Regulatory Services



some matters and the use of outside investigators or neighbouring Monitoring Officers for more high profile matters. Similarly members of other Standards Committees can be used if the complaint is against a prominent District Council member.

5. The Committee would like to see a range of sanctions. At the present time adverse publicity or a prosecution relating to a very specific disclosable pecuniary interest leaves a large gap in between. A power to suspend a Member was thought to be appropriate.
6. It was felt that with a broader Code of Conduct and a Declaration of Interest form to match, the expectations of the public would be satisfied as to what they would expect a councillor to declare. The minimum requirements currently available were thought to be inadequate. When parish councils have been formulating Neighbourhood Plans dispensations have been required to ensure members can be involved in the process. It was felt that there should be a requirement for such dispensations to be clearly published so that the public are not confused about how a Councillor with a prejudicial interest (usually as a result of having a home close to a proposed development site) can continue to work on the Neighbourhood Plan.
7. It was felt that any whistle blowing policy should be included in the national code so that the arrangements were clear.
8. It was felt that some people come into local government unaware of the requirements of the Code of Conduct. When publicising what a councillor is required to do it should be made clear the restrictions imposed by the Code of Conduct so that Members are not surprised by such restrictions if they get elected or appointed to a Council. This information should be given ahead of the nomination process.
9. Intimidation of local councillors through social media has become an increasing problem. The Committee were not clear how this could be resolved but were of the opinion that it would deter people who had much to offer from standing as councillors in the 2019 elections.

Yours faithfully,



Tom Clark
Solicitor & Head of Regulatory Services & Monitoring Officer.

SUBMISSION 51

Comments from Eckington Parish Council

Consultation Questions

- a. The existing structures, processes and practices in place are working.
- b. There are no gaps in the current ethical standards regime.
- c. Eckington Parish Council review all interests on a regular basis.
- d. The Seven Principles of Public Life are appropriate.
- e. (i) Eckington Parish Council refer all allegations of misconduct to the District Council.
- (ii) No changes re the Independent Person
- (iii) Yes Monitoring Officers could be subject to conflicts of interest. Perhaps the Monitoring Officer from a different authority could be used on these occasions.

- f. Existing sanctions for Councillor misconduct is not sufficient.
 - (i) Training is provided but there is no guarantee that this will be put into practise. The current sanctions imposed is not sufficient.
 - (ii) Additional sanctions to suspend individuals and issue fines to individuals should be an option.

- g. (i) Existing arrangements to declare and manage councillors' interests is satisfactory. Provided that they are reviewed regularly.
- (ii) Councillors who have declared an interest should leave the meeting when the item is discussed.

- h) arrangements in place for whistleblowing are satisfactory.
 - i) Sanctions to take place to improve local government ethical standards.

 - j) Central government could be more open and transparent to the public to improve local government ethical standards.

 - k) A clear line of responding and redress could be put in place to prevent and address intimidation.

Yours sincerely Roz Bullimore

Eckington Parish Clerk

Please note that not all questions will be relevant to all respondents and that submissions do not need to respond to every question. Respondents may wish to give evidence about only one local authority, several local authorities, or local government in England as a whole. Please do let us know whether your evidence is specific to one particular authority or is a more general comment on local government in England.

Whilst we understand submissions may be grounded in personal experience, please note that the review is not an opportunity to have specific grievances considered.

- a. Are the existing structures, processes and practices in place working to ensure high standards of conduct by local councillors? If not, please say why.
- b. What, if any, are the most significant gaps in the current ethical standards regime for local government?

Response from West Sussex County Council

West Sussex County Council comprises 70 members and operates the strong leader model. It requires all members to undertake DBS checks because members act as corporate parents. There are seven district and borough councils in the area.

Structures are determined locally, driven solely by the provisions of the primary legislation and its parameters. There is no longer a national body to oversee arrangements or provide guidance. The previous national Code of Member Conduct has been preferred in West Sussex over the simpler model code developed in 2012 as it provides more certainty and is considered clearer in defining expectations.

The Council's processes for receiving, considering, investigating and concluding complaints are well tried and tested and regarded as sound and effective. The Council does not usually receive many complaints about member conduct.

West Sussex County Council takes standards very seriously – including:

- **100% take-up of code of conduct training after the election, including for returning members as a refresher.**
- **Two independent persons in place as required.**
- **A Standards Committee, chaired by the Council Chairman, that is responsible for the promotion of high standards, including member interests, gifts and hospitality, member IT use, propriety for officers including anti-fraud etc.**
- **The Standards Committee also considers corporate complaints and use of the whistleblowing policy on a regular basis.**

The Council does not consider there to be gaps in the current regime.

Codes of conduct

- c. Are local authority adopted codes of conduct for councillors clear and easily understood? Do the codes cover an appropriate range of behaviours? What examples of good practice, including induction processes, exist?
- d. A local authority has a statutory duty to ensure that its adopted code of conduct for councillors is consistent with the Seven Principles of Public Life and that it includes appropriate provision (as decided by the local authority) for registering and declaring councillors' interests. Are these requirements appropriate as they stand? If not, please say why.

Response from West Sussex County Council

West Sussex County Council adopted a Code of Conduct in line with the former national code. It supports the use of the Seven Principles of Public Life and agrees that the code covers an appropriate range of behaviours. As mentioned above, 100% of members elected in May 2017 undertook Code of Conduct training with the Monitoring Officer or Deputy Monitoring Officer.

The benefit of a national code was that the code of conduct was uniform for members on more than one local authority. In a two-tier area like West Sussex, many members will at some point also be a member of a borough, district and/or parish council. This is a growing trend. While the codes are similar across West Sussex, there is scope for one member to have to keep track of three different codes, which risks inconsistency and confusion. West Sussex County Council strongly believes that a national unified code should be reintroduced.

Behaviours relating to on-line or social media communications provide a source of opportunities for perceived or actual misconduct. Induction of new members has emphasised the use of good practices in relation to social media.

Investigations and decisions on allegations

- e. Are allegations of councillor misconduct investigated and decided fairly and with due process?
 - i. What processes do local authorities have in place for investigating and deciding upon allegations? Do these processes meet requirements for due process? Should any additional safeguards be put in place to ensure due process?
 - ii. Is the current requirement that the views of an Independent Person must be sought and taken into account before deciding on an allegation sufficient to ensure the objectivity and fairness of the decision process? Should this requirement be strengthened? If so, how?
 - iii. Monitoring Officers are often involved in the process of investigating and deciding upon code breaches. Could Monitoring Officers be subject to conflicts

of interest or undue pressure when doing so? How could Monitoring Officers be protected from this risk?

Response from West Sussex County Council

Investigations are carried out by legal services officers and the findings are reported to a Sub-Committee of the Standards Committee, who then undertake a hearing. An independent person is consulted at each stage. It is not considered that this arrangement requires strengthening.

The established procedures are fair and follow due process, affording complainant and subject with access to assistance and advice from the Monitoring Officer or Investigating Officer, as well as one of the two independent persons for each side. Investigations are thorough and outcomes based on a full consideration of recorded evidence and reasons.

As a large authority, the Monitoring Officer has a legal team, so detailed investigations are usually delegated, so the Hearing Sub-Committee can be advised by the Monitoring Officer with less risk of conflicts of interest or undue pressure. Having a Deputy Monitoring Officer in place also guards against this risk.

The West Sussex Standards Committee is chaired by the Chairman of the Council, who has an apolitical role in ensuring fairness across the political spectrum of the County Council. This will help to reduce the risk of a member subject to a complaint being able to put a Monitoring Officer under undue pressure. This Council has no evidence of any attempted or actual pressure being placed on the Monitoring Officer or any other persons connected with the Code of Conduct regime.

Sanctions

- f. Are existing sanctions for councillor misconduct sufficient?
 - i. What sanctions do local authorities use when councillors are found to have breached the code of conduct? Are these sanctions sufficient to deter breaches and, where relevant, to enforce compliance?
 - ii. Should local authorities be given the ability to use additional sanctions? If so, what should these be?

Response from West Sussex County Council

Under the old national regime there was a wider range of sanctions available to the Standards Committee and at the most serious level, it was possible to suspend a member. Now, the strongest sanctions are public censure and limiting a member's access to certain resources. While they can be recommended for removed from certain roles this has to be with the cooperation of the group leader and full Council. This suggests a

limited set of options for more serious conduct and a reliance on party political/ group leader cooperation at a critical point if sanctions are to be effective.

WSCC strongly recommends that stronger sanctions are left to the Standards Committee and include the Suspension of member.

Declaring interests and conflicts of interest

- g. Are existing arrangements to declare councillors' interests and manage conflicts of interest satisfactory? If not please say why.
- i. A local councillor is under a legal duty to register any pecuniary interests (or those of their spouse or partner), and cannot participate in discussion or votes that engage a disclosable pecuniary interest, nor take any further steps in relation to that matter, although local authorities can grant dispensations under certain circumstances. Are these statutory duties appropriate as they stand?
 - ii. What arrangements do local authorities have in place to declare councillors' interests, and manage conflicts of interest that go beyond the statutory requirements? Are these satisfactory? If not, please say why.

Response from West Sussex County Council

A public register of interests is held on the County Council's website. As well as pecuniary interests, this includes a wide range of 'personal interests' in a similar manner to the former national code. This can give assurance that a fuller range of things that may influence each member are shown in the public domain.

At all of the Council's meetings and whenever individual decisions are made, the first item of the agenda or the decision record is to ask members to declare any relevant interests. This serves as a prompt for members. In advance of all public meetings of the County Council members are given the opportunity to declare interest in writing or seek advice.

The Standards Committee has issued a flowchart available online to all members, which goes through the implications of having different sorts of interests and the impact of them on decision-making.

These measures in place help to promote an effective, open culture of declaring interests. Very few complaints to the Standards Committee have involved a failure to declare or act on an interest.

The process relies upon the cooperation of members as individual members cannot be compelled to declare interests by a chairman or an officer. The County Council has however not experienced particular problems with any lack of cooperation as members tend to err on the side of caution in relation to such declarations.

Whistleblowing

- h. What arrangements are in place for whistleblowing, by the public, councillors, and officials? Are these satisfactory?

Response from West Sussex County Council

A whistleblowing policy is in place at West Sussex County Council. A summary of cases considered under the policy and the policy's general effectiveness are regularly reviewed by the Standards Committee. It is primarily available to officers and the employees of contractors. Members of the public are directed to the Council's complaints procedures or to the statutory officers for specific areas of complaint. Members are entitled to raise questions, either openly or confidentially of officers, including the senior leadership team and the Council has no experience of any member being unable to raise and pursue such concerns. Members are provided with contact details of all relevant officers to assist them in the discharge of their work.

Improving standards

- i. What steps could *local authorities* take to improve local government ethical standards?
j. What steps could *central government* take to improve local government ethical standards?

Response from West Sussex County Council

Social media is a fairly new means of communication and the West Sussex Standards Committee has considered a number of code of conduct complaints arising from comments made on social media. None since May 2017. The Council has issued guidance to all members about the use of social media and the need to abide by the code of conduct when using social media. This could be a useful approach for all authorities. Common issues and areas of good practice could be captured in guidance. More formal arrangements for exchanging experience and good practice between local authorities could be developed. Monitoring Officer forums and conferences provide a useful source of such information.

It is not felt that any particular central government action would be of assistance.

Intimidation of local councillors

- k. What is the nature, scale, and extent of intimidation towards local councillors?
 - i. What measures could be put in place to prevent and address this intimidation?
 - ii.

Response from West Sussex County Council

The County Council has a policy of keeping the personal contact details of members in the public domain but may take action to remove the details of individual members based on evidence of risk of or actual intimidation, based on conversations with the Monitoring Officer. Over the last few years there have been a small number of requests for removal that have been approved due to evidence of actual or perceived threats or risks of harm. To date this arrangement has provided some assurance. Reports to the police would be used in more serious instances or cases of persistent threat.

Advice on personal safety for councillors was circulated to all members of the County Council as part of their induction in May 2017. It is also published on the dedicated intranet page for our members, 'the Mine' and this includes a link to LGIU advice on personal safety for members.

Response from the Audit Committee, Suffolk County Council

The Audit Committee has responsibility for promoting and maintaining high standards of conduct amongst councillors, and for overseeing the Code of Conduct.

The following response was agreed by the Committee on 14 March 2018.

- a) *Are the existing structures, processes and practices in place working to ensure high standards of conduct by local councillors? If not, please say why.*

Response - Within Suffolk County Council there has not been a significant problem with councillors failing to display high standards of conduct. So it could be said that the arrangements in place since the Localism Act 2011 are working well. However, these have not been tested by persistent poor behaviour by an individual councillor, or a group of councillors. It might also be that complainants have decided not to pursue issues once they become aware of the lack of sanctions available if misconduct is proven.

- b) *What, if any, are the most significant gaps in the current ethical standards regime for local government?*

Response – The lack of available sanctions could lead to a loss of public confidence should there be a finding of a significant breach of the Code of Conduct. The inability of the arrangements to require a councillor to participate in any procedure, or act on the findings and recommendations of any report, are a weakness.

The focus on the disclosable pecuniary interests of the councillor and their spouse/partner creates uncertainty when matters being discussed at a meeting relate to other close family members or friends. While the Suffolk Code includes the Principles of Public Life, councillors are advised by officers with regard to possible bias, and generally councillors will err on the side of caution when declaring interests, the legislation could be more specific when addressing these matters.

Codes of conduct

- c) *Are local authority adopted codes of conduct for councillors clear and easily understood? Do the codes cover an appropriate range of behaviours? What examples of good practice, including induction processes, exist?*

Response – In Suffolk, all of the principal authorities and the vast majority of town and parish councils have adopted the same code of conduct, which is essentially the previous statutory code with the addition of the Principles of Public Life. The Code is generally understood, by councillors but needs further clarity with regard to interests that go beyond those of the councillor and their spouse/partner and what action should be taken when these occur.

For the public, the fact that the code of conduct is only applicable while a councillor is acting in their official capacity is a frustration. The reasons for this are sound but could be better explained. With the greater use of social media for example, it can be difficult to differentiate in what capacity a councillor is acting, even where “disclaimers” are included on accounts.

The Code of Conduct is discussed with all councillors before they sign their declaration of office. At Suffolk County Council there is also an extensive induction programme following the full elections.

- d) *A local authority has a statutory duty to ensure that its adopted code of conduct for councillors is consistent with the Seven Principles of Public Life and that it includes appropriate provision (as decided by the local authority) for registering and declaring councillors' interests. Are these requirements appropriate as they stand? If not, please say why.*

Response – As explained above, the current requirements for registration and declaration do not cover interests beyond those of the councillor and their spouse/partner. This needs to be addressed within the legislation.

Investigations and decisions on allegations

- e) *Are allegations of councillor misconduct investigated and decided fairly and with due process?*

Response – this has been the experience to date. However, the Committee is suggesting that any investigations where a breach of the Code is identified are considered by the Committee rather than a Hearings Panel made up of councillors from local district councils (see below). This will be considered by a Constitution Working Party of councillors in the near future, and any recommendations for change made to Council.

- i) *What processes do local authorities have in place for investigating and deciding upon allegations? Do these processes meet requirements for due process? Should any additional safeguards be put in place to ensure due process?*

Response – the Monitoring Officer carries out an initial assessment of the complaint, talking to both the complainant and the councillor concerned. The Monitoring Officer will then discuss proposed actions with the Independent Person before proceeding. Where local resolution is possible then this is progressed by the Monitoring Officer. If an investigation is required then an investigator is appointed. If a breach of the Code is found then the Independent Person is involved in agreeing a recommendation on sanctions to a Hearings Panel. The Panel reaches its decision based on reports – there is no questioning of those concerned, or verbal representations. The Hearings Panel is made up of councillors from local district councils who have agreed to operate this shared arrangement. In view of the limited sanctions available, this procedure is appropriate. If sanctions were more stringent then the opportunity for representations and a right of appeal may be required.

- ii) *Is the current requirement that the views of an Independent Person must be sought and taken into account before deciding on an allegation sufficient to ensure the objectivity and fairness of the decision process? Should this requirement be strengthened? If so, how?*

Response – This works well. The Council operates a pool of four Independent Persons with three district and borough councils in Suffolk. The Independent Persons offer sound advice and by operating a pool then any potential conflict of interest can be avoided, and absence does not lead to unnecessary delay.

- iii) *Monitoring Officers are often involved in the process of investigating and deciding upon code breaches. Could Monitoring Officers be subject to conflicts of interest or undue pressure when doing so? How could Monitoring Officers be protected from this risk?*

Response – The Council has two Deputy Monitoring Officers and so if there were a conflict of interest then this could be managed. Monitoring Officers already have employment protections through legislation and have to be resilient in a number of circumstances so additional measures are not required. The role of the Independent Person is important for the Monitoring Officer to be able to demonstrate that there has been advice sought from a third party.

Sanctions

- f) *Are existing sanctions for councillor misconduct sufficient?*
- i) *What sanctions do local authorities use when councillors are found to have breached the code of conduct? Are these sanctions sufficient to deter breaches and, where relevant, to enforce compliance?*
- ii) *Should local authorities be given the ability to use additional sanctions? If so, what should these be?*

Response – while there have been no significant breaches at the Council to date, the lack of sanctions is of concern. Currently, should a serious breach occur, then the co-operation of the political group may be required to apply any significant sanction such as removal from a post or withdrawal of committee membership. This could lead to a loss of public confidence.

When the legislation was introduced, the emphasis was on the public to be able to decide at the ballot box whether a councillor was suitable to continue. However, this would normally only occur every four years and so is not always relevant to the circumstances.

Local authorities should be able to use additional sanctions where breaches are proven. Beyond the local resolutions such as apologies and training, there should also be the ability to remove councillors from specific roles or to suspend them from office for a limited period of time. If there are no additional sanctions, then the lack of powers to enforce the existing measures should be addressed.

Declaring interests and conflicts of interest

- g) *Are existing arrangements to declare councillors' interests and manage conflicts of interest satisfactory? If not please say why.*
- i) *A local councillor is under a legal duty to register any pecuniary interests (or those of their spouse or partner), and cannot participate in discussion or votes that engage a disclosable pecuniary interest, nor take any further steps in relation to that matter, although local authorities can grant dispensations under certain circumstances. Are these statutory duties appropriate as they stand?*
- ii) *What arrangements do local authorities have in place to declare councillors' interests, and manage conflicts of interest that go beyond the statutory requirements? Are these satisfactory? If not, please say why.*

Response – the statutory duties are appropriate for as far as they go. As has been explained above, there are also instances where a councillor may have close family members or friends who have an interest in a matter. The requirement for selflessness within the Code does refer to this, but widening the legislation to cover these circumstances would be beneficial and improve public confidence. Councillors would also be clearer about what needed to be declared and in what circumstances.

The Council also has a requirement for registration of Local Non-Pecuniary Interests, which cover membership of outside organisations, clubs etc. These are then declared as appropriate, but councillors can remain in the room, participate in the debate and vote. These arrangements are satisfactory.

Whistleblowing

- h) *What arrangements are in place for whistleblowing, by the public, councillors, and officials? Are these satisfactory?*

Response – the Council has a Whistleblowing Policy that covers all stakeholders. A number of contacts are listed, including the Monitoring Officer. These arrangements are satisfactory.

Improving standards

- i) *What steps could local authorities take to improve local government ethical standards?*

Response – more training could always be made available, but there are limitations with councillor availability and the resources required to support this, either by officers or external providers.

- j) *What steps could central government take to improve local government ethical standards?*

Response – to update the legislation as explained within the earlier responses, ensuring that the standards regime can demonstrate to the public that this is important and that there are effective sanctions for those that behave badly. This is important to build confidence in all elected officials and those that work within the public sector.

Intimidation of local councillors

- k) *What is the nature, scale, and extent of intimidation towards local councillors?*
i) *What measures could be put in place to prevent and address this intimidation?*

Response – councillors may receive some robust responses from the public when changes to services are being proposed, but there isn't a record of significant intimidation. In extreme circumstances, vexatious complainants may have their access to the Council restricted to certain methods.

Please contact:

Tim Ryder, Monitoring Officer

SUBMISSION 54

I would like these comments registered.

Sanctions against Councillors.

I believe that the present sanctions which can be levelled at councillors are too lenient and do not act as a deterrent against bad behaviour against fellow members or the public in general.

I believe that if a members conduct is proved unacceptable they should be banned from the council for a period of time and all their allowances taken away.

Anthony Murray.

Anthony Murray Wooler Ward Councillor

Please note that not all questions will be relevant to all respondents and that submissions do not need to respond to every question. Respondents may wish to give evidence about only one local authority, several local authorities, or local government in England as a whole. Please do let us know whether your evidence is specific to one particular authority or is a more general comment on local government in England.

Whilst we understand submissions may be grounded in personal experience, please note that the review is not an opportunity to have specific grievances considered.

- a. Are the existing structures, processes and practices in place working to ensure high standards of conduct by local councillors? If not, please say why.

In general, we believe the various, processes and practices are helping to maintain high standards of conduct by local councillors. Our Standards Committee regularly reviews processes and practices and seeks to improve/learn from all complaints.

- b. What, if any, are the most significant gaps in the current ethical standards regime for local government?

No significant gaps have been identified.

Codes of conduct

- c. Are local authority adopted codes of conduct for councillors clear and easily understood? Do the codes cover an appropriate range of behaviours? What examples of good practice, including induction processes, exist?

By their nature, Codes of Conduct can be legalistic in their use of language which can detract from being easily understood. However, we have attempted to add guidance notes (for example, on “bullying”) to provide further information and help in comprehension.

Whilst the Seven Principles of Public Life are an important statement of expected behaviour and conduct, they can be sometimes difficult to interpret in terms of ascertaining whether a breach has occurred. For example, “honesty” can be a subjective term to evidence with regard to a Code of Conduct investigation.

- d. A local authority has a statutory duty to ensure that its adopted code of conduct for councillors is consistent with the Seven Principles of Public Life and that it includes appropriate provision (as decided by the local authority) for registering and declaring councillors' interests. Are these requirements appropriate as they stand? If not, please say why.

In general, we believe the current requirements are appropriate. We queried how the implementation of GDPR may impact (if at all) the requirement to register the interests of spouses/partners.

Investigations and decisions on allegations

- e. Are allegations of councillor misconduct investigated and decided fairly and with due process?
- i. What processes do local authorities have in place for investigating and deciding upon allegations? Do these processes meet requirements for due process? Should any additional safeguards be put in place to ensure due process?

Clear processes are in place including the use of trained and experienced investigators employed by the Council to investigate allegations where necessary. Decision making with regard to allegations is clearly set out and can involve a panel of Members to hear the allegations.

- ii. Is the current requirement that the views of an Independent Person must be sought and taken into account before deciding on an allegation sufficient to ensure the objectivity and fairness of the decision process? Should this requirement be strengthened? If so, how?

The Independent Person plays an important role in providing advice and views to the decision makers. We believe that, when providing advice to a Hearings Panel, the Independent Person should be able to express their opinion to the Panel in private without fear or favour.

- iii. Monitoring Officers are often involved in the process of investigating and deciding upon code breaches. Could Monitoring Officers be subject to conflicts of interest or undue pressure when doing so? How could Monitoring Officers be protected from this risk?

It is felt that sufficient safeguards are already in place to mitigate the risk of undue pressure/conflicts of interest.

Sanctions

- f. Are existing sanctions for councillor misconduct sufficient? **Yes**
- i. What sanctions do local authorities use when councillors are found to have breached the code of conduct? Are these sanctions sufficient to deter breaches and, where relevant, to enforce compliance?
 - ii. Should local authorities be given the ability to use additional sanctions? If so, what should these be?

Declaring interests and conflicts of interest

- g. Are existing arrangements to declare councillors' interests and manage conflicts of interest satisfactory? If not please say why.
- i. A local councillor is under a legal duty to register any pecuniary interests (or those of their spouse or partner), and cannot participate in discussion or votes that engage a disclosable pecuniary interest, nor take any further steps in relation to that matter, although local authorities can grant dispensations under certain circumstances. Are these statutory duties appropriate as they stand?

Yes
 - ii. What arrangements do local authorities have in place to declare councillors' interests, and manage conflicts of interest that go beyond the statutory requirements? Are these satisfactory? If not, please say why.

We do not have additional arrangements beyond the statutory requirements.

Whistleblowing

- h. What arrangements are in place for whistleblowing, by the public, councillors, and officials? Are these satisfactory?

A Whistleblowing Policy is in place, which is regularly reviewed by our Audit Committee. We publicise the policy on our Website and to our staff.

Improving standards

- i. What steps could *local authorities* take to improve local government ethical standards?
- j. What steps could *central government* take to improve local government ethical standards?

Intimidation of local councillors

- k. What is the nature, scale, and extent of intimidation towards local councillors?

Whilst we believe it remains relatively rare, as we do not monitor/report this, it is difficult to comment accurately on this question. On the occasions when matters have been reported by Councillors to the police, there has been sense that matters such as these are not taken as seriously as other crimes. However, we recognise that this may have changed in more recent times with the high profile cases concerning MPs and we welcome a higher level response from the police.

- i. What measures could be put in place to prevent and address this intimidation?
See above with regards to police responses and implementing a monitoring/reporting system within Councils.

I am a Cabinet Member at Oxfordshire County Council (OCC). These are my personal views.

I would like to comment on this section:

g. Are existing arrangements to declare councillors' interests and manage conflicts of interest satisfactory? If not please say why.

i. A local councillor is under a legal duty to register any pecuniary interests (or those of their spouse or partner), and cannot participate in discussion or votes that engage a disclosable pecuniary interest, nor take any further steps in relation to that matter, although local authorities can grant dispensations under certain circumstances. Are these statutory duties appropriate as they stand?

ii. What arrangements do local authorities have in place to declare councillors' interests, and manage conflicts of interest that go beyond the statutory requirements? Are these satisfactory? If not, please say why.

1. I fully support the council holding a record of interests, but have great concerns in the way detailed information is readily accessible on the OCC website to anybody with malicious intent. It makes councillors particularly vulnerable to identity theft, aside from other intimidation/security concerns.

2. My view is that councillors should be able to choose not to have their home address made public. At the moment, councillors who rent do not have to declare their home address, but those who own property do have to declare it under the 'Land' section even if they show OCC (County Hall) as their correspondence address elsewhere. Rather than a detailed address, the open record of land ownership should say, for example, 'A house in the Henley area'. This is how MPs deal with the matter.

3. What is even more questionable is that spouses/partners of councillors also have their private information made readily available. I am aware that many spouses/partners ask the following question: "*Why should I have my privacy and security compromised because **you** decided to be a councillor?*"

4. Here I feel that spouses/partners' interests should only have to be declared if they are part of a joint ownership/employment/income situation with the councillor. A spouse's own separate interests should remain private, if they so choose.

Regards
Cllr David Bartholomew

Cabinet Member for Finance & Communication

County Councillor for Sonning Common Division, comprising:

Binfield Heath; Bix & Assendon; Eye & Dunsden; Harpsden; Highmoor; Rotherfield Greys; Rotherfield Peppard; Shiplake; Sonning Common

Dear Sir / Madam

1. Your ongoing stakeholder consultation on the Review of Local Government Ethical Standards was considered by North Lincolnshire Council's Standards Committee at a meeting on 21 March 2018. The Standards Committee has wide-ranging Terms of Reference but, in summary, acts to promote, support and maintain the highest standards of conduct by all elected and co-opted members across North Lincolnshire, and ensuring that legal, robust governance arrangements are in place to deal with relevant complaints. As Chairman and on behalf of the committee, please find below our views, with commentary as appropriate. Throughout, our responses are in italics.
2. **Questions a. and b.** – (a) Are the existing structures, processes and practices in place working to ensure high standards of conduct by local councillors? If not, please say why. (b) What, if any, are the most significant gaps in the current ethical standards regime for local government?

The committee's general view is that, on balance, the current regime is fit for purpose. However, we believe that this would be enhanced if principal local authorities were bestowed a power to suspend councillors found to be in serious breach. Suspension of up to a period of three months was considered an appropriate 'upper' power for the most serious cases. We also believe that there should be a right of appeal to sanctions of suspension, although this right should have limitations. Furthermore, our view is that, if a sanction to suspend is appealed, any period of suspension should only commence upon completion of the appeals process. There should be no further right of appeal.

The committee believes that consideration should be given to the effectiveness and the application of sanctions for members who may not routinely live within the UK.

3. **Question c.** – are local authority adopted codes of conduct for councillors clear and easily understood? Do the codes cover an appropriate range of behaviours? What examples of good practice, including induction processes, exist?

The committee's view is that North Lincolnshire Council's Code of Conduct is widely seen as accessible, readily understandable and clearly drafted. The committee is not aware of any difficulties of interpretation as the behavioural provisions are based on the old statutory Code. Moreover, a good level of consistency across North Lincolnshire arises from the fact that the Code has been adopted by all Town and Parish Councils in our area. North Lincolnshire Council provides annual induction training to new clerks and members on an

annual basis, with an offer to supply ad hoc training where required. This approach has been very well received locally and there is clear evidence that this proactive approach has resulted in a reduction in formal complaints. We would urge others to adopt this approach.

4. **Question d.** - A local authority has a statutory duty to ensure that its adopted code of conduct for councillors is consistent with the Seven Principles of Public Life and that it includes appropriate provision (as decided by the local authority) for registering and declaring councillors' interests. Are these requirements appropriate as they stand? If not, please say why.

North Lincolnshire Council's Code of Conduct specifically refers to the Nolan Principles within its body, so members are clear of their application. Interest provisions appear well understood and widely applied, and are covered in depth at the annual training (see question c). In terms of Disclosable Pecuniary Interests the council built the statutory definition into our code so, again, members are left in no doubt what is required.

5. **Question e. (paragraphs i and ii)** - Are allegations of councillor misconduct investigated and decided fairly and with due process?
- i. What processes do local authorities have in place for investigating and deciding upon allegations? Do these processes meet requirements for due process? Should any additional safeguards be put in place to ensure due process?
 - ii. Is the current requirement that the views of an Independent Person must be sought and taken into account before deciding on an allegation sufficient to ensure the objectivity and fairness of the decision process? Should this requirement be strengthened? If so, how?

North Lincolnshire Council's procedures are available for the Committee on Standards in Public Life to access from our website. They provide a detailed explanation of the process to be followed. We enable the subject member to comment on a complaint made about them (with certain strict exceptions) and to provide a written response so that the complaint and response are considered at assessment stage. The previous statutory regime did not allow the subject member to comment and complaints were considered only on the basis of the complainant's view. The Independent Person is consulted on all complaints.

In North Lincolnshire, the introduction of a Mediation Scheme is considered a useful local initiative and is designed to encourage parties to resolve issues short of complaint, if possible. Decision records are issued on every assessment decision and are designed to provide a clear and transparent record of the basis on which an assessment decision was taken and the information considered, including the views of the Independent Person.

6. **Question e. (paragraph iii)**

- iii Monitoring Officers are often involved in the process of investigating and deciding upon code breaches. Could Monitoring Officers be subject to conflicts of interest or undue pressure when doing so? How could Monitoring Officers be protected from this risk?

North Lincolnshire Council operates with a tiered approach to assessment. Complaints against town and parish members are usually considered by the Monitoring Officer in consultation with the Independent Person. Complaints against North Lincolnshire Council members, including where they are acting in their capacity as town and parish members, are considered by an Assessment Panel of members of the Standards Committee, including input from an Independent Person. In both cases complaints are considered against published Assessment Criteria. The Independent Person also attends Hearing Panels.

Finally, the Monitoring Officer also has the ability to devolve their assessment role to the Deputy Monitoring Officer if required. These steps are useful measures to prevent the stated risks.

7. Question f. – Are existing sanctions for councillor misconduct sufficient?

- i. What sanctions do local authorities use when councillors are found to have breached the code of conduct? Are these sanctions sufficient to deter breaches and, where relevant, to enforce compliance?

On the whole, sanctions have secured compliance and acted as a sufficient deterrent/punishment locally, particularly the option of publication of findings in the media. Other options open to a Standards Hearing Panel in North Lincolnshire include:

- i. *Writing to a member over their conduct,*
- ii. *Recommend removal from committees/sub-committees, outside bodies or decision-making bodies,*
- iii. *Report findings to the respective council,*
- iv. *Recommend appropriate training, mediation or local resolution,*
- v. *Withdrawal of facilities (IT etc.) or withdrawal of access to council facilities outside of formal meetings,*

The fact that the principal council can only recommend certain sanctions be imposed by a town or parish council may be a useful area of review by the Committee on Standards in Public Life so as to give principal councils power to impose directly.

- ii. Should local authorities be given the ability to use additional sanctions? If so, what should these be?

The committee has set out our views in this area in our response to Questions a. and b., in particular, our belief that a power to suspend, with appropriate safeguards, should be introduced.

8. Question g. – Are existing arrangements to declare councillors' interests and manage conflicts of interest satisfactory? If not please say why.

- i. A local councillor is under a legal duty to register any pecuniary interests (or those of their spouse or partner), and cannot participate in discussion or votes that engage a disclosable pecuniary interest, nor take any further steps in relation to that matter, although local authorities can grant dispensations under certain circumstances. Are these statutory duties appropriate as they stand?
- ii. What arrangements do local authorities have in place to declare councillors' interests, and manage conflicts of interest that go beyond the statutory requirements? Are these satisfactory? If not, please say why.

The committee believes that local provisions are seen as reasonable and appropriate. North Lincolnshire Council has a clear process for dispensations. However, dispensations at Town and Parish Council level occasionally cause difficulty and this may be an area that could be reviewed, as to whether it should be the principal authority that should decide if dispensations are appropriate. North Lincolnshire Council also declares conflicts of interest in its decision reports.

9. Question h. – What arrangements are in place for whistleblowing, by the public, councillors, and officials? Are these satisfactory?

North Lincolnshire Council has a Whistleblowing Policy available on our website. The committee believe it is well-designed, comprehensive and accessible.

10. **Question i.** – What steps could local authorities take to improve local government ethical standards?

The committee has set out our views in this area in our response to Questions a. and b., in particular, our belief that a power to suspend, with appropriate safeguards, should be introduced.

11. **Question j.** - What steps could central government take to improve local government ethical standards?

The committee has no comment to make on this question.

12. **Question k.** - What is the nature, scale, and extent of intimidation towards local councillors?

- i. What measures could be put in place to prevent and address this intimidation?

The committee does not regard this as a particular issue within North Lincolnshire, but are naturally keen to minimise this risk. The committee also believes that consideration should be given about the possible application of safeguards by the police to prevent and investigate intimidation towards members, including via social media.

13. I trust the above is a useful summary of our views in response to your questions, and on behalf of our community. I look forward to hearing more about your work as it progresses, and considering the implications for our standards arrangements.

Many thanks

Yours sincerely



Cllr Neil Poole
Chairman – Standards Committee, North Lincolnshire Council.

Review of Local Government Ethical Standards: Stakeholder Consultation
Submission made by Lanner Parish Council.

(Submission sent by email to: public@public-standards.gov.uk)

The Committee on Standards in Public Life is undertaking a review of local government ethical standards.

Robust standards arrangements are needed to safeguard local democracy, maintain high standards of conduct, and to protect ethical practice in local government.

The following observations are made:

Council consider that there is a need to differentiate between the different levels of local government and consider whether the same standards of disclosure, conduct and sanctions should apply throughout. Perhaps standards should increase as the level of responsibility in decision making increases and/or the level of payment/allowances increase.

Safeguarding local democracy depends on so much more than the codification of standards. The most important thing is to create a framework in which participation in local government appeals to a large number of people of wide diversity and allows and encourages them to come forward for election. Council express concern that standards appear so draconian or intrusive into private life and free debate as to stifle participatory democracy.

Standards in local government cannot be divorced from standards in public life generally. There is a feeling that standards in higher government and public life should lead by example when it is clear that this has not been the case in recent times. We are persistently being shown examples of a complete disregard of ethical standards in parliament, the Church, banks, public companies, police, armed forces, sport and so many walks of life which are supposed to be exemplars of good citizenship. Maybe running a fine-tooth comb through the functioning of parish councils is not of paramount importance in these sleazy times – other than to act as a distraction from more important matters.

Consultation questions

The Committee invites responses to the following consultation questions.

Please note that not all questions will be relevant to all respondents and that submissions do not need to respond to every question. Respondents may wish to give evidence about only one local authority, several local authorities, or local government in England as a whole. Please do let us know whether your evidence is specific to one particular authority or is a more general comment on local government in England.

Whilst we understand submissions may be grounded in personal experience, please note that the review is not an opportunity to have specific grievances considered.

- a. Are the existing structures, processes and practices in place working to ensure high standards of conduct by local councillors? If not, please say why.
- It follows from the opening paragraphs that Council consider existing standards and practices relatively sufficient at this time. There are some standards though that merit some thought for future advice:
- In this world of “devolution” where functions and services are being handed down – in our case from Unitary Authority to parish council – if there is a divergence of codified standards, which standards should prevail? For example, where competitive tenders might be required.
 - We are seeing more and more that where a principal authority has a statutory duty, such duties are being ignored or abandoned where it is deemed financially expedient to do so. Parish councils are being effectively told: “You take up the cost of this duty or lose the service/asset.” Is this ethical/lawful and should there be remedies to communities to force the matter?
 - There appears to be little public accountability or facility for scrutiny of “arms-length” companies owned by local authorities (often on the grounds of “commercial sensitivity”.) Perhaps, for example, a code for the publication of accounts should be put in place to mirror those of public limited liability companies.
- b. What, if any, are the most significant gaps in the current ethical standards regime for local government?
- Council have not identified any “significant gaps”. There are inconsistencies in performance and councillor/officer relationships can seem variable – but these are not ethical consideration. One of the comforting aspects of ethics and standards is that they have a reasonable level of permanence. This reassures both those engaged in local government and in the community. To keep tinkering with standards suggests either lots of nasty things are going on behind closed doors or that our standards as a society are in a state of flux. Or, a third option, that change is being sought for change’s sake: every year, for example, changes are made by DEFRA, Soil Association and Red Tractor of their standards for farmers when the reality of their significance is either minimal or negative.

Codes of conduct

- c. Are local authority adopted codes of conduct for councillors clear and easily understood?
- Council consider, there is room to make the Code more user friendly either by simplifying language relating to pecuniary and non-pecuniary interests and dispensations or, more realistically, by providing an annexe showing a few worked examples.
- Do the codes cover an appropriate range of behaviours?
- Yes, except that we have separate provisos against bullying and against intimidation. Council think they are much of a muchness and the two sub-paragraphs could be merged.

What examples of good practice, including induction processes, exist?

Cornwall Council affords induction courses and we, as a parish council, will hold our own internal induction course when a new member is elected/co-opted.

- d. A local authority has a statutory duty to ensure that its adopted code of conduct for councillors is consistent with the Seven Principles of Public Life and that it includes appropriate provision (as decided by the local authority) for registering and declaring councillors' interests. Are these requirements appropriate as they stand? If not, please say why.

Council consider these seem wholly appropriate and adequate. Perhaps, membership of a political party should be recorded but where and how political party should be defined is not clear. Similarly, consideration could be given to CND, 38 Degrees, Greenpeace Momentum, PETA

Investigations and decisions on allegations

- e. Are allegations of councillor misconduct investigated and decided fairly and with due process?

- i. What processes do local authorities have in place for investigating and deciding upon allegations? Do these processes meet requirements for due process? Should any additional safeguards be put in place to ensure due process?

Council Standing Orders lays down procedures for various types of complaint and how they are to be dealt with internally. It does not detail how this should be done to ensure "due process" nor does it provide for any appeal process. Neither does it provide for a complaint against the whole council. However, the level of decision making exerted by a parish council is so limited as to make complaints requiring a formal hearing/appeal process seem rather excessive.

- ii. Is the current requirement that the views of an Independent Person must be sought and taken into account before deciding on an allegation sufficient to ensure the objectivity and fairness of the decision process? Should this requirement be strengthened? If so, how?

We do not mention referral to an Independent Person. How would an Independent Person be found or nominated? In consideration with other parish council shared responsibility was not progressed.

- iii. Monitoring Officers are often involved in the process of investigating and deciding upon code breaches. Could Monitoring Officers be subject to conflicts of interest or undue pressure when doing so? How could Monitoring Officers be protected from this risk?

Monitoring Officers can indeed (and possibly have) been subject to conflicts of interest/undue pressure. This has been a concern of Lanner in the past. The result is that we prefer to keep the MO at arm's length.

Sanctions

- f. Are existing sanctions for councillor misconduct sufficient?

- i. What sanctions do local authorities use when councillors are found to have breached the code of conduct? Are these sanctions sufficient to deter breaches and, where relevant, to enforce compliance?
Since we've never had a complaint or breach we can't really answer other than to say it is not the threat of sanctions that keep us in check but our dedication to the principles in the Code.
- ii. Should local authorities be given the ability to use additional sanctions? If so, what should these be?
This would seem wholly unnecessary given our experience.

Declaring interests and conflicts of interest

- g. Are existing arrangements to declare councillors' interests and manage conflicts of interest satisfactory? If not please say why.
 - i. A local councillor is under a legal duty to register any pecuniary interests (or those of their spouse or partner), and cannot participate in discussion or votes that engage a disclosable pecuniary interest, nor take any further steps in relation to that matter, although local authorities can grant dispensations under certain circumstances. Are these statutory duties appropriate as they stand?
See above.
 - ii. What arrangements do local authorities have in place to declare councillors' interests, and manage conflicts of interest that go beyond the statutory requirements? Are these satisfactory? If not, please say why.
See above.

Whistleblowing

- h. What arrangements are in place for whistleblowing, by the public, councillors, and officials? Are these satisfactory?
This question is not understood in the context of our council. There is a complaints procedure and that should, realistically, be sufficient.

Improving standards

- i. What steps could *local authorities* take to improve local government ethical standards?
None. Ethics don't seem to be a real problem.
- j. What steps could *central government* take to improve local government ethical standards?
Lead by example!

Intimidation of local councillors

- k. What is the nature, scale, and extent of intimidation towards local councillors?
 - i. What measures could be put in place to prevent and address this intimidation?
Perhaps this relates to the Momentum issue within the Labour Party and, indeed, any threat by a political party to remove support, membership or

deselect. If so, Council consider this is a matter between member and their political party. It is not for third party intervention.
Other circumstances where this might occur were not identified.

Response to the Committee on Standards in Public Life Review of Local Government Ethical Standards Stakeholder Consultation 29th January 2018 – 18th May 2018

1. Introduction

- 1.1 At a meeting of Winchcombe Town Council, hereafter referred to as the Council, held on Wednesday 4th April 2018, Council members resolved unanimously that we should respond to the Review of Local Government Ethical Standards Stakeholder Consultation. As Vice-Chair, I have been charged with documenting that response on behalf of the Council.

2. Overview

- 2.1 The Council considers that overall the existing structures, processes and practices in place are considered satisfactory and appear to be working, but is concerned that not enough emphasis or weight is given to mitigating circumstances. For example some Members have personal experience of a member of the public being overly threatening and aggressive, where the member of the public with their face inches from the Member's face threatened to "have you one" if the decision did fulfil their expectations. Where there are independent witnesses who are prepared to submit evidence of the event to the investigating Local Standards Committee then, under such circumstances, perhaps any complaint against a Member responding in a similar vein should be considered vexatious.
- 2.2 The Council is not aware of any significant gaps in the current ethical standards and is satisfied that the Code should continue to be based upon the seven core principles of public life – selflessness, integrity, objectivity, accountability, transparency, honesty and leadership.
- 2.3 The Disclosure of pecuniary and non-pecuniary interests is considered to be satisfactory but the Council understands that declaration by an individual Member is "down to the conscience of that Member". This Council believes that where there is knowledge of such an interest, then there should be opportunity for the Chair to remind the individual Member of their need to declare. When making a declaration, the individual Member retains the opportunity under "sensitive interests" to declare but not reveal the precise details.

3. Codes of Conduct

- 3.1 This Council is unaware of any difficulties. The Code of Conduct is published and forms part of the "New Councillor's welcome pack".

4. Investigations and decisions on allegations

- 4.1 This Council strongly supports the current requirement that evidence from any independent witness or witnesses must be sought and taken into account before deciding on an allegation. Evidence should be sought, not only to ensure objectivity and fairness of the decision process, but to decide if the complaint should be considered vexatious and therefore not upheld. There should be no automatic presumption that the complaint is valid.

5. Sanctions

- 5.1 This Council believes that overall the sanctions in place are sufficient, and that on the whole they do deter breaches of the code of conduct. The Council does not believe that there should be opportunity to use additional sanctions, but does believe in strengthening the powers to encourage the declaration of interests.

6. Declaring interests and conflicts of interest

- 6.1 The Council believes that the existing arrangements for declaration overall are satisfactory except that there needs to be an opportunity for the Chair to “encourage” declaration rather than merely leave it to the conscience of the individual Member.

7. Whistleblowing

- 7.1 The Council understands that there is no mechanism in place for elected Members to “whistleblow”, and believes that this omission should be investigated.

8. Improving standards

- 8.1 The Council has no opinion except to comment that there needs to be a balance between personal and public life.

9. Intimidation of local councillors

- 9.1 Intimidation towards Councillors can present itself in a multitude of ways and it is extremely difficult to prevent, however the Council believes that gathering and reviewing evidence from independent witnesses before making a decision on a complaint to the Standards Committee is absolutely essential.

Thank you for the opportunity to participate in the consultation.

Kevin Willett

Vice-Chair Winchcombe Town Council

**Review of Local Government Ethical Standards: Stakeholder Consultation –
Response from Chelmsford City Council Governance Committee**

1. **Introduction**

Chelmsford City Council's Governance Committee considered the consultation on Local Government Ethical Standards at its meeting on 14 March 2018. The Committee considered the questions posed by the consultation and its views are detailed below. The Committee is formed of seven City Councillors. Three Parish Councillors and two independent persons also sit on the Committee but don't have voting rights. The responses have been summarised by Daniel Bird, Democratic Services Officer to the Committee and have been finalised in consultation with the Governance Committee Chairman (Councillor Poulter).

2. **Question A – Are the existing structures, processes and practices in place working to ensure high standards of conduct by local councillors? If not please say why.**

The Committee was happy with the existing structures, processes and practices in place.

3. **Question B – What, if any, are the most significant gaps in the current ethical standards regime for local government?**

The Committee did not feel there are any significant gaps in the current ethical standards regime for local government.

4. **Question C – Are local authority adopted codes of conduct for councillors clear and easily understood? Do the codes cover an appropriate range of behaviours? What examples of good practice, including induction processes, exist?**

The Committee was happy that codes of conduct are clear and easily understood.

5. **Question D – A local authority has a statutory duty to ensure that its adopted code of conduct for councillors is consistent with the Seven Principles of Public Life and that it includes appropriate provision (as decided by the local authority) for registering and declaring councillors' interests. Are these requirements appropriate as they stand? If not, please say why.**

The Committee was happy with the requirements as they stand.

6. **Question E – Are allegations of councillor misconduct investigated and decided fairly and with due process?**

The Committee was happy that allegations are investigated and decided fairly with due process.

7. **Question F – Are existing sanctions for councillor misconduct sufficient?**

The Committee stated that they felt the sanctions were far too timid and were not strong enough to have any real consequences. It was noted that a period of suspension would be suitable in certain circumstances ranging from two weeks to six months. The Committee stated that this would act as a greater deterrent as it would also result in a loss of allowances during the suspension period. It was also noted that where a training course is suggested as an action after a complaint that this is enforced as mandatory.

8. **Question G – Are existing arrangements to declare councillor's interests and manage conflicts of interest satisfactory? If not please say why.**

The Committee agreed that as good practice locally, members should update their interest forms annually. The Committee felt that despite planning to do this locally, it should be made mandatory on a national level to submit a new form annually.

9. **Question H – What arrangements are in place for whistleblowing, by the public, councillors and officials? Are these satisfactory?**

The Committee agreed that the procedures in place were satisfactory and that staff had confidence in using the system.

10. **Questions I & J – What steps could local authorities/central government take to improve local government ethical standards?**

The Committee had differing views on the question of what steps local authorities or central government could take to improve local government ethical standards. It was suggested that parish councils could be made to follow recommendations rather than have the option of ignoring them from the Principal Council. The Committee had views both for and against this suggestion and one of the Parish Councillors present expressed the view that parishes should still have autonomy over their decisions.

11. **Question K – What is the nature, scale, and extent of intimidation towards local councillors?**

The Committee reported issues regarding intimidation on social media especially and expressed this as a major concern that needed to be looked into on a national level.

The Committee also agreed that the upcoming change to electoral law that would allow candidates to not publicly disclose their home address was a positive step and one which would help to tackle intimidation towards local councillors.

Daniel Bird, Democratic Services Officer, Chelmsford City Council



Dear Sir/Madam,

Local government ethical standards consultation

I have been asked to forward the comments (set out below) from Coldharbour Parish Council.

- a. Are the existing structures, processes and practices in place working to ensure high standards of conduct by local councillors? If not, please say why.

No. Since the abolition of the standards board, the local practices and over representation of councillors on the local panels, mean that the system is already breached and flawed and open to local abuse and or genuine independent oversight. We would wish to see a truly independent process carried out by either a Commissioner / Organisation / current Magistrate(s) in the county with no connection to local politics or some other independent person(s) which would give assurance to the public that the system is managed correctly.

- b. What, if any, are the most significant gaps in the current ethical standards regime for local government?

Its independence. The Monitoring Officer at local district council should not have a part to play in the decision making process. He/she is employed by a Council and is

managed and paid a salary by political leaders – this is not “Independent” and there are concerns that the Monitoring Officer is not being independent and could or has been pressured by local councillors at senior level.

Codes of conduct

- c. Are local authority adopted codes of conduct for councillors clear and easily understood? Do the codes cover an appropriate range of behaviours? What examples of good practice, including induction processes, exist?

No the system, being local, and up for local interpretation, means that it is difficult to gain a credible and genuine view of appropriate standards. What may be good for one set of councillors locally will not be the same in another. Therefore the whole system is fractured and meaningless if trying to raise the standards across local government.

- d. A local authority has a statutory duty to ensure that its adopted code of conduct for councillors is consistent with the Seven Principles of Public Life and that it includes appropriate provision (as decided by the local authority) for registering and declaring councillors' interests. Are these requirements appropriate as they stand? If not, please say why.

They are appropriate and understandable. But we are concerned about the level of consistency and the desire to have genuine high standards and that it is a lip service policy.

Investigations and decisions on allegations

- e. Are allegations of councillor misconduct investigated and decided fairly and with due process?

We do not believe so, based on local newspaper reports and also from what we see in the way of dealing with the complaints. The course of action of an investigation means that it is your peers that are reviewing your alleged transgression. If the member is popular with those on the panel, or holds a position of doling out patronage within the authority, the high risk is that the panel would overlook certain misdemeanours or reduce their relevance. The same goes in reverse. An unpopular or opposition member will likely find it more difficult to get a fair and unbiased hearing. We believe that Justice needs to be seen to be done in a way that gives assurance to the public and those that are being held accountable for their actions.

- i. What processes do local authorities have in place for investigating and deciding upon allegations? Do these processes meet requirements for due process? Should any additional safeguards be put in place to ensure due process?

This question can only be answered if you return back to a national scheme or that a neutral person were to carry out the investigation and offer any sanctions

- ii. Is the current requirement that the views of an Independent Person must be sought and taken into account before deciding on an allegation sufficient to ensure the objectivity and fairness of the decision process? Should this requirement be strengthened? If so, how?

The role is frankly “toothless”. It has no weight and no voting rights. It should be strengthened considerably.

- iii. Monitoring Officers are often involved in the process of investigating and deciding upon code breaches. Could Monitoring Officers be subject to conflicts of interest or undue pressure when doing so? How could Monitoring Officers be protected from this risk?

This is an interesting area. With widespread budget cuts often MOs are increasingly from other local authorities or part time and or contracted in. Patronage of the majority party is therefore essential if the MO wishes to continue to be retained. If a complaint is made against the leader or one of their cabinet or friends, then there will be natural pressure to look for compromise and or reduction in sanction or even investigation. More so if the matter is a ‘discussion with the chair of the committee and the MO’ and then no meeting takes place. Please see above comments on the independence of the Monitoring Officer – this is vital, if it is to continue in this way.

Sanctions

- f. Are existing sanctions for councillor misconduct sufficient?
- i. What sanctions do local authorities use when councillors are found to have breached the code of conduct? Are these sanctions sufficient to deter breaches and, where relevant, to enforce compliance?

No. What we have in place in the moment is utterly pointless and time wasting. If the member has enough ‘brass neck’ they will brazen the issue out and walk away regardless and sanctionless in their and the public eye. The only thing a council can do to the member who has breached the code is insist on training (the individual can refuse) or stop the member attending committee meetings, not the full council meeting and voting etc, and this is laughable as the public see this as not dealing with the issue strongly enough. Remember, that some members are accused of bullying staff and behaving disgracefully – its not a true punishment to stop someone attending meetings when they can still claim their councillor allowance etc.

- ii. Should local authorities be given the ability to use additional sanctions? If so, what should these be?

Yes. Right up to suspension and removal from office and or a financial penalty

based on removing and element of their allowance or disbaring them for a period, from holding executive office.

Declaring interests and conflicts of interest

- g. Are existing arrangements to declare councillors' interests and manage conflicts of Interest satisfactory? If not please say why.
- i. A local councillor is under a legal duty to register any pecuniary interests (or those of their spouse or partner), and cannot participate in discussion or votes that engage a disclosable pecuniary interest, nor take any further steps in relation to that matter, although local authorities can grant dispensations under certain circumstances. Are these statutory duties appropriate as they stand?

No and it's confusing, misinterpreted and applied to so many degrees that oftentimes members are confused and therefore the public must be! Many Parish Clerk are very clear on what a councillor should declare whilst often the Monitoring Officer give conflicting advice and opposite to the Parish Clerk – this needs to stop and the Monitoring Officers need to work closely with Parish Clerks so that both SLCC and NALC and local council associations are all clear on what the correct advice is and should be.

- ii. What arrangements do local authorities have in place to declare councillors' interests, and manage conflicts of interest that go beyond the statutory requirements? Are these satisfactory? If not, please say why.

There are waivers made available on certain topics, which should be used sparingly, but also, compulsory annual training should occur and if the member does not attend, that should be enough to warrant to suspension and removal from office and or a financial penalty based on removing and element of their allowance or disbaring them for a period, from holding executive office.

Whistleblowing

- h. What arrangements are in place for whistleblowing, by the public, councillors, and officials? Are these satisfactory?

These are frankly available but useless in their protection of whistle blowers. The policies we have seen do not give us assurance that should and officer or member 'whistle blow' that they would indeed be covered and safeguarded.

Improving standards

- i. What steps could *local authorities* take to improve local government ethical standards?

The standards committee should be entirely independent of the local authority in every

manner and compulsory annual training should occur for all members and if the member does not attend, that should be enough to warrant suspension and removal from office and or a financial penalty based on removing an element of their allowance or disbarring them for a period, from holding executive office. Many organisations insist on specific training and updating staff/members etc.

j. What steps could *central government* take to improve local government ethical standards?

Re-introduce the national standards board again in a better way or some other legally professional body that can be respected to do a good and proper job in dealing with these matters.

Intimidation of local councillors

k. What is the nature, scale, and extent of intimidation towards local councillors?

We are told by some members in district and county council positions that intimidation by executive members is more widespread than is reported. The level of patronage by the leadership and or cabinet, means that there is a very real threat of financial and role loss if you don't toe the line. This means that intimidation is more subtle. Parish councils operate differently to district and county councils but there can be difficulties by one or two councillors and these need to be dealt with swiftly and professionally.

i. What measures could be put in place to prevent and address this intimidation?

Clearly someone needs to carefully look at the system and make urgent changes. Involve and Consult parish clerks / SLCC and NALC on a working group to look at the current system and make proposals for a new system to deal with these matters

Yours faithfully,



**Keith Gray, JP
CLERK TO THE COUNCIL**

SUBMISSION 63

Dear Sir or Madam

I am the Monitoring Officer for Erewash Borough Council and at a meeting of the council's Standards Committee held on 27 March 2018 the above consultation document was discussed and members wish to make the following submissions in response to the various consultations:

- a. Are the existing structures, processes and practices in place working to ensure high standards of conduct by local councillors? If not, please say why.
- b. What, if any, are the most significant gaps in the current ethical standards regime for local government?

Response

Erewash Borough Council has adopted a Code of Conduct based on the LGA model but has specifically included a provision that members show respect for others and do not engage in bullying any person including other councillors, council officers or members of the public.

There are adopted processes in place for considering member complaints which include the involvement of an Independent Person from the initial assessment stage.

The council has appointed a Standards Committee comprising elected members, parish council representatives, Independent Members and two Independent Persons.

The processes in place for receiving complaints, assessing, investigating and determining them have proved effective.

Members are offered training on standards following election and further training as and when considered necessary e.g. in relation to probity in planning.

The code of conduct includes a commitment to comply with all of the council's policies, procedures and protocols.

It is not considered that there are any gaps in the current regime.

Codes of conduct

- c. Are local authority adopted codes of conduct for councillors clear and easily understood? Do the codes cover an appropriate range of behaviours? What examples of good practice, including induction processes, exist?
- d. A local authority has a statutory duty to ensure that its adopted code of conduct for councillors is consistent with the Seven Principles of Public Life and that it includes appropriate provision (as decided by the local authority) for registering and declaring councillors' interests. Are these requirements appropriate as they stand? If not, please say why.

Response

All members received training on standards following local elections and the code of conduct is clearly written and easily understood.

In addition to the Seven Principles of Public Life, which are set out in the code, examples of the conduct required of councillors is included in the code.

In addition to the requirement to register and declare disclosable pecuniary interests, Erewash Borough Council's code also requires the registration and declaration of "other interests" mirroring the provisions of the previous statutory code.

All council agendas include provision for declarations of interests.

One area where the code might be deficient is in relation to the increasing use of social media. However, as Erewash Borough Council's code requires members to behave in accordance with council policies, protocols and procedures once a social media policy for members has been approved it would be brought within the code.

Investigations and decisions on allegations

- e. Are allegations of councillor misconduct investigated and decided fairly and with due process?
- i. What processes do local authorities have in place for investigating and deciding upon allegations? Do these processes meet requirements for due process? Should any additional safeguards be put in place to ensure due process?
 - ii. Is the current requirement that the views of an Independent Person must be sought and taken into account before deciding on an allegation sufficient to ensure the objectivity and fairness of the decision process? Should this requirement be strengthened? If so, how?
 - iii. Monitoring Officers are often involved in the process of investigating and deciding upon code breaches. Could Monitoring Officers be subject to conflicts of

interest or undue pressure when doing so? How could Monitoring Officers be protected from this risk?

Response

Erewash Borough Council has adopted a code of conduct, procedure for considering complaints and a Hearings Sub-Committee procedure for determining complaints, all of which are considered to meet the requirements for due process.

If an investigation is considered appropriate an investigator is appointed by the Monitoring Officer and may be a senior officer of the council, a senior officer of another council or an external investigator with relevant experience.

Accordingly, the Monitoring Officer is not directly responsible for investigating complaints so it is not considered that conflicts of interest would arise nor that he would be subject to undue pressure.

The procedures provide that an Independent Person be consulted at the initial assessment stage of a complaint and the subject member is offered access to an Independent Person (not the same one) at all stages.

The involvement of an Independent Person, particularly at the assessment stage, has proved valuable and offers an objective point of view on complaints.

Sanctions

f. Are existing sanctions for councillor misconduct sufficient?

- i. What sanctions do local authorities use when councillors are found to have breached the code of conduct? Are these sanctions sufficient to deter breaches and, where relevant, to enforce compliance?
- ii. Should local authorities be given the ability to use additional sanctions? If so, what should these be?

Response

The sanctions available are far less draconian than previously.

In Erewash a member can be censured, the findings of the Standards Hearings Sub-Committee reported to Council for information or recommendations made to group leaders for members to be removed from committees or from portfolio responsibilities or outside appointments.

To date any sanctions have been sufficient to impress upon members found to have breached the code that their behaviour has been unacceptable and not to be repeated.

The stronger the sanctions available are the more adversarial the process of determining the complaint can become.

If additional sanctions are considered appropriate these should be specifically identified by central government and set out.

Declaring interests and conflicts of interest

g. Are existing arrangements to declare councillors' interests and manage conflicts of interest satisfactory? If not please say why.

i. A local councillor is under a legal duty to register any pecuniary interests (or those of their spouse or partner), and cannot participate in discussion or votes that engage a disclosable pecuniary interest, nor take any further steps in relation to that matter, although local authorities can grant dispensations under certain circumstances. Are these statutory duties appropriate as they stand?

ii. What arrangements do local authorities have in place to declare councillors' interests, and manage conflicts of interest that go beyond the statutory requirements? Are these satisfactory? If not, please say why.

Response

As required by the Localism Act a public register of disclosable pecuniary interests is maintained. In addition the council's members' code of conduct includes provision for disclosure of "other interests" which reflects the previous national code.

All agendas include "Declarations of Interest" and members are encouraged to take advice from the Monitoring Officer as to whether they have interests that should be declared.

No issues have arisen regarding failure to declare interests.

Whistleblowing

h. What arrangements are in place for whistleblowing, by the public, councillors, and officials? Are these satisfactory?

Response

The council has adopted a confidential reporting (whistleblowing) policy that is available for use by anyone.



The policy has been regularly reviewed and updated, considered by members and is accessible on the council's website.

Improving standards

- i. What steps could *local authorities* take to improve local government ethical standards?
- j. What steps could *central government* take to improve local government ethical standards?

Response

Under the former regime, Standards for England issued guidance on standards. Such national guidance could be a useful resource.

Intimidation of local councillors

- k. What is the nature, scale, and extent of intimidation towards local councillors?
 - i. What measures could be put in place to prevent and address this intimidation?

Response

This is not something that members have experienced to date. However the increased use of social media could lead to online intimidation. A social media policy could help prevent intimidation by other councillors but would not address intimidation by outside sources.

If such behaviour was considered to constitute a criminal offence an affected member would be advised to report the matter to the police.

Yours faithfully

Brendan Morris
Head of Law and Corporate Governance
Erewash Borough Council

SUBMISSION 64

Kessingland Parish Council is the lower tier of local government for the Kessingland area within the district of Waveney in Suffolk. Parish Councillors are required to abide by the Suffolk Code of Conduct on election / co-option to office. A Suffolkwide Code of Conduct is in place. The Parish Council is keen to see that the highest standards of behaviour are observed whilst in public office and so wished to contribute towards this consultation as a means of ensuring improved standards for Councillors across all tiers of local government.

Consultation questions

- a. Are the existing structures, processes and practices in place working to ensure high standards of conduct by local councillors? If not, please say why.

Response: Yes

- b. What, if any, are the most significant gaps in the current ethical standards regime for local government?

Response: Robust remedial measures for breaches of the Code of Conduct

- c. Are local authority adopted codes of conduct for councillors clear and easily understood? Do the codes cover an appropriate range of behaviours? What examples of good practice, including induction processes, exist?

Response: Yes

- d. A local authority has a statutory duty to ensure that its adopted code of conduct for councillors is consistent with the Seven Principles of Public Life and that it includes appropriate provision (as decided by the local authority) for registering and declaring councillors' interests. Are these requirements appropriate as they stand? If not, please say why.

Response: Yes

- e. Are allegations of councillor misconduct investigated and decided fairly and with due process?

- i. What processes do local authorities have in place for investigating and deciding upon allegations? Do these processes meet requirements for due process? Should any additional safeguards be put in place to ensure due process?

Response: Formal investigations co-ordinated by the District Council.

- ii. Is the current requirement that the views of an Independent Person must be sought and taken into account before deciding on an allegation sufficient to ensure the objectivity and fairness of the decision process? Should this requirement be strengthened? If so, how?

Response: Current arrangements for Independent Person sufficient.

- iii. Monitoring Officers are often involved in the process of investigating and deciding upon code breaches. Could Monitoring Officers be subject to conflicts of interest or undue pressure when doing so? How could Monitoring Officers be protected from this risk?

Response: Yes

- f. Are existing sanctions for councillor misconduct sufficient?

- i. What sanctions do local authorities use when councillors are found to have breached the code of conduct? Are these sanctions sufficient to deter breaches and, where relevant, to enforce compliance?

Response: Yes

- ii. Should local authorities be given the ability to use additional sanctions? If so, what should these be?

Response: Power to disqualify a Councillor from office.

- g. Are existing arrangements to declare councillors' interests and manage conflicts of interest satisfactory? If not please say why.

- i. A local councillor is under a legal duty to register any pecuniary interests (or those of their spouse or partner), and cannot participate in discussion or votes that engage a disclosable pecuniary interest, nor take any further steps in relation to that matter, although local authorities can grant dispensations under certain circumstances. Are these statutory duties appropriate as they stand?

Response: Yes

- ii. What arrangements do local authorities have in place to declare councillors' interests, and manage conflicts of interest that go beyond the statutory requirements? Are these satisfactory? If not, please say why.

Response: Yes

Whistleblowing

- h. What arrangements are in place for whistleblowing, by the public, councillors, and officials? Are these satisfactory?

Response: Yes

Improving standards

- i. What steps could *local authorities* take to improve local government ethical standards?

Response: Member Development – Ongoing training and development for Councillors.

- j. What steps could *central government* take to improve local government ethical standards?

Response: Encourage / promote ongoing Councillor development / training.

Intimidation of local councillors

k. What is the nature, scale, and extent of intimidation towards local councillors?

Response: No comment

i. What measures could be put in place to prevent and address this intimidation?

Response: Execute the law. Report to the Clerk / Monitoring Officer

END

SUBMISSION 65

I am a Parish Councillor in Quorn, Leicestershire. I was co-opted after interview in 2016.

I am a retired GP having worked in the NHS for over 40 years.

May I raise 2 points with regard to the Consultation questions which I have read within the whole document?

Code of conduct:-

There is no requirement for *any* mandatory training before or after one is elected/appointed as a Parish Councillor in our area, and I cannot find such a requirement in the "The Good Councillor's guide, 4th edition" or standing orders.

I have unfortunately witnessed examples of poor behaviour as a result of ignorance rather than malevolence in my own and others' conduct at times.

With others I am seeking to establish a register of training for our Councillors which will be published.

Should some mandatory training be a national requirement, in spite of the difficulty in attracting people to stand for election in many areas?

Conflict of interest:-

The current regulation only identifies pecuniary and business interests under this heading. I believe there is a wider issue.

It is efficient and wise for Councils to delegate work to Committees or other groups where possible. However, if those *not* on a particular Committee wish to challenge something, it is difficult if the non-members of the Committee are in a numerical minority on Council. This has happened in our Council recently and the local Monitoring officer referred us to Appendix B of the Code of conduct, which actually does not help here.

I believe the pre-emptive solution to this potential problem is to specify that Committees must *never* have so many Councillor members that they are a majority of the whole Council. This will ensure a degree of local accountability of Committees to Council and the local community, something which is not present now. again I found nothing in standing orders or elsewhere to support the position.

Sub-groups of a Council must always include less than a majority of the whole Council to assure local accountability.

Yours faithfully

Roger Price

SUBMISSION 66

Bretherton Parish Council has considered the consultation document and feels that the existing system works well.

Kind Regards,

Glenys Southworth

Appendix A

Review of Local Government Ethical Standards: Stakeholder Consultation

- a. **Are the existing structures, processes and practices in place working to ensure high standards of conduct by local councillors? If not, please say why.**

Suggested Response

The Council believes that its current structures, processes and practices ensure high standards of conduct.

Since the introduction of the amended standards regime brought in by the Localism Act 2011 authorities are under a core duty to “promote and maintain high standards of conduct by members and co-opted members of the authority”. As part of that core duty they must adopt a Code of Conduct that is expected of members and co-opted members of the authority when acting in that capacity. This duty extends to Parish and Town Councils too.

Bedford Borough Council has an adopted Code of Conduct and a complaints process in respect of allegations of breaches of the Code to ensure all allegations are dealt with.

The Councils' Standards Committee deals with all issues relating to promoting and maintaining high standards of conduct. Set out below is its Terms of Reference from the Council's Constitution.

ARTICLE 9 – THE STANDARDS COMMITTEE

Standards Committee

9.1 The Full Council shall establish and maintain a Standards Committee.

Composition

9.2 The Standards Committee will consist of 7 Members of the Council.

Role and Functions of the Standards Committee

9.3 The Standards Committee will have the following roles and functions:-

Delegated Powers

(1) To promote and maintain high standards of conduct by Members and co-opted Members of the Council.

(2) To assist Members and co-opted Members of the Council to observe the Council's Code of Conduct.

(3) To monitor the operation of the Council's Code of Conduct.

(4) To advise, train or ensure that training is arranged for Members and co-opted Members of the Council on matters relating to the Council's Code of Conduct.

(5) To grant dispensations to Members and/or co-opted Members from specific requirements relating to the interests set out in the Council's Code of Conduct (in accordance with any regulations which may be made to govern the circumstances in which the Committee may grant dispensations).

(6) To monitor the operation of the Council's approved arrangements for dealing with any written allegations received by the Monitoring Officer that a Member or co-opted Member of:-

Bedford Borough Council;

Any Town or Parish Council for which the Borough Council is the responsible Authority;

has failed or may have failed to comply with their Council's Code of Conduct, including arrangements for:-

- the assessment of whether or not a complaint merits investigation
- the conduct of any hearings in relation to such complaints following their investigation

Schedule of Referred Powers (ie, matters on which the Committee will submit recommendations to the Council for a decision)

(1) The adoption or revision of any local Code of Conduct for Members and co-opted Members of the Council.

(2) The adoption or revision of the Council's "arrangements" for dealing with complaints about breaches of the Code of Conduct by Members of the Borough Council and/or Town/Parish Councils in the Borough's area.

The Standards Committee meets quarterly where there is business to transact. It will hold sub- Committees as required to deal with allegations of alleged breaches of the Code.

The Council has appointed two Independent Persons to deal with the initial assessment of allegations of breach of the Code and they work together with the Monitoring Officer. They assist in the determination of whether or not a matter goes for investigation or goes to the Sub-Committee for a decision on whether to investigate or not.

The Council has received three complaints in the last three years. In that time all have been dealt with by the Monitoring Officer and Independent persons. Due to the number of complaints we believe the system is adequate to maintain the highest standards of conduct.

Additionally Council Committees have an agenda item requiring disclosure of any local or Disposable Pecuniary Interests in matters to be considered by the Committee. Members regularly make such declarations at meetings and these are recorded in the Minutes of the meeting.

Members also complete and record interests in their Register of Interest which is published on our website and available for public inspection.

b. What, if any, are the most significant gaps in the current ethical standards regime for local government?

Suggested Response

We identify no significant gaps in the current regime.

Codes of conduct

c. Are local authority adopted codes of conduct for councillors clear and easily understood? Do the codes cover an appropriate range of behaviours? What examples of good practice, including induction processes, exist?

Suggested Response

The flexibility offered to local authorities in respect of not being prescriptive in respect of the Code to be adopted has been helpful. The fact that it must be viewed as consistent with the Nolan principles gives adequate steer as to what should be included. In reality, however, many authorities opted to adopt Codes very similar to previous tried and tested ones with only minor amendments.

Bedford Borough Councils' Code is part of the Council's Constitution and is available on its website so the public are able to view it and understand the expected levels of behaviour from elected members. The public refer to this when making complaints so it would seem to be accessible and understood by users.

A selection of other Guidance is also available on the web which Members can access and must take into consideration in their decision making including:

- Arrangements for Registering and Declaring Interests
- Guidance for members on Disclosing Interests at Meetings
- Guidance for Members dealing with Planning Matters
- Guidance for Members dealing with Licensing Matters
- Guidance for Members on Property Transactions and Commercial Property Management
- Guidance for Members on Gifts and Hospitality

- o Protocol for relationships between Members and Officers
- o Arrangements for Dealing with Complaints against Councillors

All Members are given training during their Induction on Standards issues and in particular the Code of Conduct.

- d. **A local authority has a statutory duty to ensure that its adopted code of conduct for councillors is consistent with the Seven Principles of Public Life and that it includes appropriate provision (as decided by the local authority) for registering and declaring councillors' interests. Are these requirements appropriate as they stand? If not, please say why.**

Suggested Response

The requirements are appropriate as they are and the clarity around Disclosable Pecuniary Interests is much improved from previous regimes.

The seven Nolan Principles remain as relevant as ever and give public confidence in governance.

Elected Members receive the appropriate training to ensure they understand the declaration of interest process. The Monitoring Officer also is available to give advice as required and actively encourages members to consult where they have concerns.

Investigations and decisions on allegations

- e. **Are allegations of councillor misconduct investigated and decided fairly and with due process?**

Suggested Response

At Bedford Borough Council we believe we have a process that is both fair and transparent. The process of complaining, investigating allegations and hearings and outcomes are documented and available to all interested parties.

- i. **What processes do local authorities have in place for investigating and deciding upon allegations? Do these processes meet requirements for due process? Should any additional safeguards be put in place to ensure due process?**

All investigation processes meet the requirements of our procedures and the legislation. The Monitoring Officer has overall responsibility. A Deputy Monitoring Officer is available to assist with investigations as are the Intern Audit Team.

The Monitoring Officer together with Independent Persons deal with the initial complaint as to whether an allegation should be investigated. The Monitoring Officer also has the option to refer it to a sub-committee to consider the issue.

Decisions sheets on the outcome of the complaint are issued to the Complainant together with reasons for that decision as to whether an investigation is appropriate.

If investigation is recommended then arrangements are put in place to carry this out either in house or externally with the production of a report. If a report finds a case to answer it will then be passed to an assessment sub-committee to be determined.

- ii. **Is the current requirement that the views of an Independent Person must be sought and taken into account before deciding on an allegation sufficient to ensure the objectivity and fairness of the decision process? Should this requirement be strengthened? If so, how?**

Suggested Response

We believe this currently works well and would not wish to change the position. The Monitoring Officer finds this assists the process and adds weight of independence to the outcome.

- iii. **Monitoring Officers are often involved in the process of investigating and deciding upon code breaches. Could Monitoring Officers be subject to conflicts of interest or undue pressure when doing so? How could Monitoring Officers be protected from this risk?**

Suggested Response

The role of Monitoring Officer is not an easy one. The constant need to balance conflicts and remain fair and transparent in a political environment is difficult. Undue pressure can make this difficult for more inexperienced officers who carry out this role.

It is essential that good training for Monitoring Officers is in place. Those with a legal background often carry out the role but equally those without a legal background may be required to fulfil the function. What is essential is a clear understanding of the legislation, case law and general governance in a local authority environment.

A good relationship with the Section 151 Officer and Chief Executive is essential. As the three statutory officers, albeit with independent functions, need to be at one on corporate governance standards. With this support any undue pressure should be manageable.

The Council should have comprehensive insurances in place covering their Statutory Officers which is available should challenge arise. Additionally a Counselling support service for the officers should be available via HR Services.

Sanctions

f. Are existing sanctions for councillor misconduct sufficient?

- i. What sanctions do local authorities use when councillors are found to have breached the code of conduct? Are these sanctions sufficient to deter breaches and, where relevant, to enforce compliance?**

Suggested Response

Please see **b.** above.

The current sanctions available are censure, training, apology and ultimately deselection by voters. If any breach is so severe as to cross the threshold to criminality then the law will bring about the necessary sanctions.

- ii. Should local authorities be given the ability to use additional sanctions? If so, what should these be?**

Suggested Response

We believe that the current sanctions outlined in f(i) above are sufficient.

Declaring interests and conflicts of interest

g. Are existing arrangements to declare councillors' interests and manage conflicts of interest satisfactory? If not please say why.

Suggested Response

Please see **a.** above.

We further suggest that it be made clearer whether a Declaration of Interest relates to interests as an employer or as an employee

- i. A local councillor is under a legal duty to register any pecuniary interests (or those of their spouse or partner), and cannot participate in discussion or votes that engage a disclosable pecuniary interest, nor take any further steps in relation to that matter, although local authorities can grant dispensations under certain circumstances. Are these statutory duties appropriate as they stand?**

Suggested Response

Yes we believe they are appropriate as they embed transparency and good governance. Further guidance could be provided on granting dispensations in such

cases to ensure consistency in approach as this currently does not exist.

- ii. **What arrangements do local authorities have in place to declare councillors' interests, and manage conflicts of interest that go beyond the statutory requirements? Are these satisfactory? If not, please say why.**

Suggested Response

All Councillors have training on the need to declare interests and manage conflicts during the induction process. Additionally the Monitoring Officer will issue guidance on issues as necessary. This works well and ensures Members seek early advice on potential issues.

The Monitoring Officer is part of the Council's Management Team and is able to pick up on any potential governance issues at an early stage which may affect Members and can then proactively draw matters to Members' attention.

Whistleblowing

- h. **What arrangements are in place for whistleblowing, by the public, councillors, and officials? Are these satisfactory?**

Suggested Response

The Council has a Whistleblowing Policy in place which has been reviewed recently. It is available on our website and staff are reminded of it via the Chief Executive through the publication "One Team". Members also have access to it and have approved the Policy via Audit Committee.

The arrangements are considered satisfactory.

Improving standards

- i. **What steps could local authorities take to improve local government ethical standards?**

Suggested Response

There is always room to raise the profile of ethical standards. The work of the Standards Committee at Bedford Borough Council has dwindled since 2011 due to the change in the regime. In particular we believe the sanction limits may dissuade people making complaints. However the Disclosable Pecuniary Interest criminal offence has added more weight to the system despite prosecutions being few.

Bedford Borough Council does put standards and governance at the heart of its Corporate Plan and embeds it in its Committee processes.

- j. **What steps could *central government* take to improve local government ethical standards?**

Suggested Response

Central Government could provide further financial resource to support training and development on governance and standards. The introduction of an accreditation scheme might further the cause. Investors in People concept could be "Investors in Ethical Standards" concept.

Intimidation of local councillors

- k. **What is the nature, scale, and extent of intimidation towards local councillors?**

- i. **What measures could be put in place to prevent and address this intimidation?**

Suggested Response

Thankfully serious intimidation incidents in respect of Bedford Borough Councillors have been rare. Nevertheless those in public office do at times endure unacceptable behaviours and acts. With the increase in social media abuse on line this seems to occur more frequently. Worse case scenarios result in stalking and other criminal activity.

A recent example of a case at Bedford Borough Council involved threats and intimidation of a female Councillor which resulted in involving the Police. We believe early Police intervention and rapid reaction is key to end this unacceptable behaviour towards those in public office. Any additional legislation that supports urgent action where such incidents occur would be welcomed.

Training has been provided to Councillors as part of the Council's Member Development programme in respect of personal safety.

SUBMISSION 68

I feel the review referred to above will be welcomed, by Councillors in particular.

I have been a Parish Councillor for over 13 years, eight years in South Wales as a Parish Councillor but also working closely with Monmouthshire County Council as vice chairman of their Forum and also with Brecon Beacon's National Park on their Strategy committee. Since moving to south Lincolnshire seven years ago, I have for the past five and a half years been a Parish Councillor on two local councils, being vice-chairman at the last one.

Because of great unrest amongst some Councillors at my last Council regarding problems with [REDACTED] I rang the Monitoring Officer of the District Council to discuss the situation but, unfortunately, I had to leave several messages for the person in that role, who did not return any of my calls. I was then told by a district Councillor who had made enquiries on our behalf, that the information given to him was, as [REDACTED] was a member of staff, the Chairman should deal with it. That person couldn't/wouldn't do so. Consequently, that Council lost three Councillors within a couple of weeks of each other, leaving two or three Councillors in a very unsettled situation and the Council almost not being in a quorum position.

The whole point and matter being that LALC is putting Clerks on very high pedestals making them very egotistical. They feel they can dominate rather than advise, thinking they are more important than Councillors. There was intimidation and vindictiveness if challenged, with threats of constructive Dismissal, and I understand this is still continuing.

I really enjoy being a Councillor, my core role being to help parishioners and the community, not for any other reason. I really didn't want to leave, but I was in an untenable position.

In conclusion, ultimately I find that there is plenty of support for Clerks, but none at all for Councillors. In my view, the Monitoring Officers, who are Officers of the Council and not members, should be more protective and of more help to Councillors, especially when problems arise. It would be advantageous if they would liaise with LALC to make their training of Clerks more down to earth and remind them that they are the employed staff and are there to assist and advise.

I would also say that the type of situation outlined above is not uncommon in other Councils.

I now look forward to seeing the outcome of this Consultation and hope that others will give honest views, too, so that we can see great improvements in the future in the very sensitive areas detailed within this email.

With regards,

June Gwilym.

- a. Are the existing structures, processes and practices in place working to ensure high standards of conduct by local councillors? If not, please say why.
No – The code of conduct would be sufficient, however the process and structure to deal with breaches is inadequate.
The Nolan Principles are either not well understood or not well applied in many English local councils. Failing to declare an interest appears to be widespread as are examples of not abiding by the Nolan Principles, such as bullying, nepotism and bribery. Vexatious complaints for political gain can and do occur.
- b. What, if any, are the most significant gaps in the current ethical standards regime for local government?
Current significant gaps in the ethical standards regime is the lack of a reporting and investigation systems with appropriate sanctions for members who break the code. Standardisation is required to ensure that complaints are dealt with in a consistent manner. The introduction of a national qualification for investigators to improve consistency and standards would be helpful. Case studies to illustrate and educate councillors would be welcome. Guidance is required on wrongdoing via Social Media.

Codes of conduct

- c. Are local authority adopted codes of conduct for councillors clear and easily understood? Yes
Do the codes cover an appropriate range of behaviours? What examples of good practice, including induction processes, exist?
Yes in general, however there should be sanctions for councillors who fail to attend meetings regularly (the six month time frame for nonattendance is not strict enough). New councillor training (not mandatory) carried out by our CALC. The relationship between councillors and council staff needs to be defined with the code containing information on how staff should be treated with regards to bullying and intimidation. No sanctions are available should councillors be found not to be treating council staff appropriately.
- d. A local authority has a statutory duty to ensure that its adopted code of conduct for councillors is consistent with the Seven Principles of Public Life and that it includes

appropriate provision (as decided by the local authority) for registering and declaring councillors' interests. Are these requirements appropriate as they stand? If not, please say why.

No – declaration of pecuniary interests only is insufficient, and it should be mandatory to declare all personal interests as it was under the old regime. There are no problems with the Nolan Principles or the process of registering and declaring an interest. The problems lie with the policing of these declarations.

Investigations and decisions on allegations

e. Are allegations of councillor misconduct investigated and decided fairly and with due process?

i. What processes do local authorities have in place for investigating and deciding upon allegations? Do these processes meet requirements for due process? Should any additional safeguards be put in place to ensure due process?

Unsure of what the process are, these processes should be transparent and timely.

ii. Is the current requirement that the views of an Independent Person must be sought and taken into account before deciding on an allegation sufficient to ensure the objectivity and fairness of the decision process? Should this requirement be strengthened? If so, how?

The views of an independent person should follow standardised English guidelines and should be strengthened by training of the independent person, who should also have to follow the code.

iii. Monitoring Officers are often involved in the process of investigating and deciding upon code breaches. Could Monitoring Officers be subject to conflicts of interest or undue pressure when doing so? How could Monitoring Officers be protected from this risk?

Monitoring officers should not adjudicate on matters in their own council, they should be from a different outside council to prevent conflicts of interest and pressure. Alternatively, panels of experts could assess.

Sanctions

f. Are existing sanctions for councillor misconduct sufficient?

i. What sanctions do local authorities use when councillors are found to have breached the code of conduct? Are these sanctions sufficient to deter breaches and, where relevant, to enforce compliance?

Current sanctions are only for breach of pecuniary interest via the courts, we are not aware of any other sanctions that may be applied for example to deal with bullying. Proper and timely enforcement is essential with emphasis on enforcement.

ii. Should local authorities be given the ability to use additional sanctions? If so, what should these be?

Yes – suspension for a specific time period, removal of allowances, disqualification for serious breaches, fines and publication of

misdemeanours in the local press. If disqualified cannot be a councillor at any level for a set number of years

Declaring interests and conflicts of interest

- g. Are existing arrangements to declare councillors' interests and manage conflicts of interest satisfactory? If not please say why.
- i. A local councillor is under a legal duty to register any pecuniary interests (or those of their spouse or partner), and cannot participate in discussion or votes that engage a disclosable pecuniary interest, nor take any further steps in relation to that matter, although local authorities can grant dispensations under certain circumstances. Are these statutory duties appropriate as they stand?
Yes – however no right to question what pecuniary interest is declared.
 - ii. What arrangements do local authorities have in place to declare councillors' interests, and manage conflicts of interest that go beyond the statutory requirements? Are these satisfactory? If not, please say why.
The onus for a declaration of interest is on the councillor and it is all done on a trust basis. In smaller councils there are not the staff levels to be able to ensure that members abide by what they have declared on their forms. As a parish council we do not have any way to manage conflict of interest that goes beyond the statutory requirements. Town and Parish Councils require support and assistance from their District, County/ Unitary authority.

Whistleblowing

- h. What arrangements are in place for whistleblowing, by the public, councillors, and officials? Are these satisfactory?
Not clearly publicised. The Code should include a section on how complaints should be reported and to whom.

Improving standards

- i. What steps could *local authorities* take to improve local government ethical standards?
Local authorities should have a clear and precise structure for reporting issues to a named person. Creation of Local standards Boards.
Case studies, forums, training modules (e-learning) and better enforcement. Worked examples of the code in practice.
- j. What steps could *central government* take to improve local government ethical standards?
Make code of conduct training mandatory for all councillors at every level of government. Introduce tariffs for misdemeanours into legislation.

Intimidation of local councillors

- k. What is the nature, scale, and extent of intimidation towards local councillors?

- i. What measures could be put in place to prevent and address this intimidation?

It would be of assistance if the code could be clear about the manner in which bullying and harassment issues involving councillors should be managed. It should be made clear that the Health and Safety at Work Act applies to councillors as well as staff.

West Moors Parish Council

SUBMISSION 70

Good morning.

I have held the position of Monitoring Officer at Preston City Council for three years. Prior to that I held the position of deputy Monitoring officer for in excess of five years. My comments on the consultation exercise are as follows;

A. Yes, I would agree.

B. There are inadequate sanctions available. This is particularly apparent where a complaint merits a formal investigation and the matter is referred for a Local Hearing. The cost and officer time involved is disproportionate to the sanctions available.

C. I believe that the Code of Conduct adopted by Preston City Council is clear and understood. It covers a wide range of behaviours. All new Members receive an induction on the Code of Conduct and it is compulsory for every Member to complete an on line training course. A paper exercise is also available for those who have difficulty accessing the Council's website. Two Parish Councillors sit on the Council's Standards Committee to ensure that high standards of conduct are adopted by Parish Councillors. It is also mandatory for them to complete the on line training course/ paper exercise.

D. I feel these are well embedded and Members have a good understanding of the need to register and declare interests. In addition to general advice and assistance, the Council also provides a surgery before each full Council where Members can seek additional advice from the Council's deputy Monitoring Officer.

E. Yes I feel that allegations are dealt with fairly.

(i) I feel the requirements of due process are met. Where a complaint merits formal investigation the Monitoring Officer appoints an Investigation Officer. This can be a Council officer, an officer of another Council, or an external investigator. The Investigating Officer follows guidance by the Monitoring Officer on the investigation of complaints. The guidance follows the principles of proportionality and the cost effective use of the Council's resources and is interpreted in line with these principles. The Investigating Officer ensures that the Subject Member receives a copy of the complaint- subject to the Monitoring Officers decision on Confidentiality. At the end of the investigation, the Investigating Officer will produce a draft report and will send copies to the Complainant and to the Subject Member, for comments. The Investigating Officer will take such comments into account, before issuing their final report to the Monitoring Officer.

(ii) There are x3 Independent Persons who sit on Standards Committee. They were appointed following a rigorous recruitment exercise to ensure that they possessed the necessary qualities and objectivity to determine decisions on allegations. The Council also offers the Subject Member the opportunity to discuss an allegation with an Independent Person who has not been involved in any consultation with the Monitoring Officer.

(iii) This has never arisen. If such a situation arose then the use of an external Monitoring Officer from a neighbouring authority, or an external advisor would be engaged.

F.(i) This usually involves a written apology, training, mediation, or the forfeit of a benefit e.g. a car park pass for a limited period. I believe that the current sanctions are insufficient to deter breaches and enforce compliance. Members fully understand that when the Code of Conduct is engaged the penalties for non compliance are very limited and very weak.

(ii) Yes. To confiscate Council equipment which are used by Members e.g. iPads and car parking passes.

G. Yes, I feel that the current arrangements are satisfactory.

(i) Yes, I feel that these statutory duties are appropriate as they stand. The fact that there have been relatively few prosecutions however, somewhat undermines the seriousness of declaring such an interest.

(ii) Please refer to D above.

H. The Council has policies and procedures in place for dealing with whistleblowing. These can be found on the Council's website and in the Employee Handbook. Members have also signed up to these documents.

I. There needs to be effective ethical governance arrangements in place, which can be challenged and reviewed on a regular basis.

J. To strengthen the sanctions available and raise the profile of ethical standards.

This has not been identified as an issue here at Preston. Perhaps this can be addressed by introducing more harsher sanctions in the event of non compliance.

Kind regards

Caron.

Caron Parmenter

Head of Legal and Democratic Services - Monitoring Officer



Local Government Ethical Standards
Review
GC.07
1 Horse Guards Road
London
SW1A 2HQ



16th April 2018

Dear Sirs,

**Local Government Ethical Standards Review Stakeholder Consultation –
Response on behalf of the Member Conduct Committee of Charnwood Borough
Council**

The Member Conduct Committee of Charnwood Borough Council have requested me to submit their views, which I would be grateful if you could consider as part of the stakeholder consultation process.

The Committee wish to put forward the following points:

Sanctions

The Committee are of the view that the current level of sanctions available for dealing with situations where a breach of a Code of Conduct by a Councillor is found to have occurred is inadequate, particularly in more serious cases.

The Committee suggests that the option of suspending a Councillor for a period of up to six months should be re-introduced, and that during any periods of suspension payment of any basic or special responsibility allowances should cease.

The Committee also feels that there should be provision to compel a Councillor to undertake relevant training where that is identified as being required in response to a breach.

Dealing with Conduct Complaints against Parish Councillors

The Member Conduct Committee has responsibility for considering conduct complaints for the 27 parish and town councils within the Borough of Charnwood and in practice, the majority of complaints that are made relate to those councils, rather than to the Borough Council.

The Committee suggests that consideration should be given to arrangements for the recharging of the costs of investigations into complex complaints when the cost goes above a certain limit, but being mindful of the size of the Parish or Town Council in question and their consequent ability to pay.

This could perhaps be achieved by a tiered cost capping system, based on the total annual precept levied by the councils concerned.

Yours faithfully,

A solid black rectangular box used to redact the signature of the Monitoring Officer.

Adrian Ward
Monitoring Officer

- a. Are the existing structures, processes and practices in place working to ensure high standards of conduct by local councillors? If not, please say why.
- b. What, if any, are the most significant gaps in the current ethical standards regime for local government?

Codes of conduct

- c. Are local authority adopted codes of conduct for councillors clear and easily understood? Do the codes cover an appropriate range of behaviours? What examples of good practice, including induction processes, exist?

Response: Sanctions (if any) are weak and rarely enforced

- d. A local authority has a statutory duty to ensure that its adopted code of conduct for councillors is consistent with the Seven Principles of Public Life and that it includes appropriate provision (as decided by the local authority) for registering and declaring councillors' interests. Are these requirements appropriate as they stand? If not, please say why.

Investigations and decisions on allegations

- e. Are allegations of councillor misconduct investigated and decided fairly and with due process?
 - i. What processes do local authorities have in place for investigating and deciding upon allegations? Do these processes meet requirements for due process? Should any additional safeguards be put in place to ensure due process?

Response: Any additional safeguards should be enshrined in the Standing Orders of any Town or Parish Council

Eg: New Romney Town Council has a 'Personnel Panel' which is the first point of contact and investigates complaints and allegations of Councillor misconduct.

- ii. Is the current requirement that the views of an Independent Person must be sought and taken into account before deciding on an allegation sufficient to

- ensure the objectivity and fairness of the decision process? Should this requirement be strengthened? If so, how?
- iii. Monitoring Officers are often involved in the process of investigating and deciding upon code breaches. Could Monitoring Officers be subject to conflicts of interest or undue pressure when doing so? How could Monitoring Officers be protected from this risk?

Sanctions

- f. Are existing sanctions for councillor misconduct sufficient?
- i. What sanctions do local authorities use when councillors are found to have breached the code of conduct? Are these sanctions sufficient to deter breaches and, where relevant, to enforce compliance?
Response: District Councils are reluctant to involve themselves in Town and Parish Councillor misconduct and invariably refer it back to the originating Town or Parish Council
- ii. Should local authorities be given the ability to use additional sanctions? If so, what should these be?
Response: Yes. They should have sanctions as none appear to be available at the moment, other than in cases of criminal conviction.

Declaring interests and conflicts of interest

- g. Are existing arrangements to declare councillors' interests and manage conflicts of interest satisfactory? If not please say why.
- i. A local councillor is under a legal duty to register any pecuniary interests (or those of their spouse or partner), and cannot participate in discussion or votes that engage a disclosable pecuniary interest, nor take any further steps in relation to that matter, although local authorities can grant dispensations under certain circumstances. Are these statutory duties appropriate as they stand?
- ii. What arrangements do local authorities have in place to declare councillors' interests, and manage conflicts of interest that go beyond the statutory requirements? Are these satisfactory? If not, please say why.

Whistleblowing

- h. What arrangements are in place for whistleblowing, by the public, councillors, and officials? Are these satisfactory?

Improving standards

- i. What steps could *local authorities* take to improve local government ethical standards?
- j. What steps could *central government* take to improve local government ethical standards?

Intimidation of local councillors

- k. What is the nature, scale, and extent of intimidation towards local councillors?
 - i. What measures could be put in place to prevent and address this intimidation?

Local government ethical standards review

The Committee on Standards in Public Life

Dear Chairman,

I would like to point out that this report is not Ramsgate Town Council policy and is based solely on my experiences as a Councillor and Council Officer over a near half century. Members of Ramsgate Town Council may or may not agree with the findings of this report, but they have not been asked nor consulted on this report. They may commission a report from the Council, which might differ in its findings, but that is for them to consider.

The report tracks the changes that have happened during the past 50 years and how Councillors and the public react to each other.

There is no doubt that 'social media ' has had a corrosive effect on trust between Councils and residents and it is fair to say that Cllrs, Officers and CEO's have received some quite appalling traffic via twitter and Facebook, let alone emails. MP's may be facing similar 'trolling by unspeakable individuals who it seems get their pleasure from defaming, traducing and threatening individuals who have a public faced.

In contrast the rogue element in the ranks of Councillors is relatively small but extremely vexing and difficult to deal with when using the L.G.Code of Conduct and it needs reform.

Cllrs should not be judging other Cllrs and the investigation process is a racket which uses hearsay evidence of the worse kind. The system of Cabinet Local Govt, in house secretiveness and online Gateways is eroding trust with the public and the response is twitter and facebook retaliation.

I have suggested a way forward that combines a police force for the code of conduct and a widening of the L.G. Ombudsman service.

I commend this report to you.

Richard Styles

The Review and Proposed Responses:

a. Are the existing structures, processes and practices in place working to ensure high standards of conduct by local councillors? If not, please say why.

No. structures, procedures and practices are in place however it is felt that the sanctions are not effective enough to ensure that high standards of conduct are maintained.

b. What, if any, are the most significant gaps in the current ethical standards regime for local government?

There is no compulsion to adhere to the sanctions imposed and there is no visible follow up procedure to ensure compliance.

Codes of conduct

c. Are local authority adopted codes of conduct for councillors clear and easily understood? Do the codes cover an appropriate range of behaviours? What examples of good practice, including induction processes, exist?

Yes the codes of conduct are clear and easily understood. The Town Council considers that a list of breaches of the code that councillors could refer to which would ensure that they are aware of the ethical high standards. Good practice could be that a "welcome pack" with this information is provided to councillors at the start of their term of office. The pack can include guidance on the code of conduct to ensure clarity when a councillor signs the code of conduct they understand what they are signing and why. Reinforcement can be introduced to councillors via councillor continued professional development training throughout the term of office for clarity and that they understand what they are signing and why.

d. A local authority has a statutory duty to ensure that its adopted code of conduct for councillors is consistent with the Seven Principles of Public Life and that it includes appropriate provision (as decided by the local authority) for registering and declaring councillors' interests. Are these requirements appropriate as they stand? If not, please say why.

Yes. The Town Council understands that all councils in the East Riding of Yorkshire have a requirement to have a code of conduct that is consistent with the seven principles of public life and Declarations of Interests are registered & placed in the public domain via council websites.

Investigations and decisions on allegations

e. Are allegations of councillor misconduct investigated and decided fairly and with due process?

Yes on the whole.

What processes do local authorities have in place for investigating and deciding upon allegations? Do these processes meet requirements for due process? Should any additional safeguards be put in place to ensure due process?

The Town Council has concerns with regards to the configuration of the hearing committee in that it could be open to political manipulation due to the composition of the voting members.

Is the current requirement that the views of an Independent Person must be sought and taken into account before deciding on an allegation sufficient to ensure the objectivity and fairness of the decision process? Should this requirement be strengthened? If so, how?

Additional safeguards could be put in place to ensure due process in that the views of the Independent Person could be strengthened and there should be independent members & parish council representatives to ensure that there is no political manipulation during all processes.

Monitoring Officers are often involved in the process of investigating and deciding upon code breaches. Could Monitoring Officers be subject to conflicts of interest or undue pressure when doing so? How could Monitoring Officers be protected from this risk?

The Town Council considers that Democratic Services department should always be non-political and therefore there should be no pressure or conflict of interest.

Sanctions

f. Are existing sanctions for councillor misconduct sufficient?

No. There appears to be repeated breaches of the codes by offenders.

What sanctions do local authorities use when councillors are found to have breached the code of conduct? Are these sanctions sufficient to deter breaches and, where relevant, to enforce compliance?

Sanctions imposed are often requests and offenders can choose whether to will adhere of not.

Should local authorities be given the ability to use additional sanctions? If so, what should these be?

Yes. Non-adherence to sanctions imposed could result in the withdrawal of allowances for the period of non-compliance. The introduction of a financial implication alongside sanctions may induce effective and timely compliance.

Declaring interests and conflicts of interest

g. Are existing arrangements to declare councillors' interests and manage conflicts of interest satisfactory? If not please say why.

The Town Council believe that the declaration of interests and management of conflicts of interests are satisfactory, however, they do not appear to be checked.

A local councillor is under a legal duty to register any pecuniary interests (or those of their spouse or partner), and cannot participate in discussion or votes that engage a disclosable pecuniary interest, nor take any further steps in relation to that matter, although local authorities can grant dispensations under certain circumstances. Are these statutory duties appropriate as they stand?

The Town Council have no experience of the statutory duties not being appropriate as they stand.

What arrangements do local authorities have in place to declare councillors' interests, and manage conflicts of interest that go beyond the statutory requirements? Are these satisfactory? If not, please say why.

The Town Council have no experience of having to deal with matters that go beyond the statutory requirements.

Whistleblowing



h. What arrangements are in place for whistleblowing, by the public, councillors, and officials? Are these satisfactory?

Complaints procedure has never been found to be unsatisfactory and to date the Town Council has been able to effectively deal with any complaints appropriately in accordance with the current guidelines.

Improving standards

i. What steps could *local authorities* take to improve local government ethical standards?

The introduction of recording all full council meetings would potentially improve local government ethical standards.

j. What steps could *central government* take to improve local government ethical standards?

Central government could enforce the recording and publishing of all principal authority full council meetings.

Intimidation of local councillors

k. What is the nature, scale, and extent of intimidation towards local councillors?

Political pressures could be brought to bear.

What measures could be put in place to prevent and address this intimidation?

The Town Council don't really see how this can be addressed.

Kind regards

Paula King – Town Clerk, Bridlington Town Council

SUBMISSION 76

Good afternoon

This submission is from and on behalf of Waltham Abbey Town Council, a third tier local authority in the Epping Forest District and Essex County. We would like to submit our views on the current situation regarding ethical standards in local government.

The contact e-mail address is the same as this one being used.

- a. Are the existing structures, processes and practices in place working to ensure high standards of conduct by local councillors? If not, please say why.

Yes, from this Town Council's point of view, structures, processes and practices are in place and work well.

- b. What, if any, are the most significant gaps in the current ethical standards regime for local government?

There is one gap in the regime that needs improvement – the lack of any sanctions against poor behaviour. The threat of Police action in cases of misuse of position in the decision-making process is sufficient, but this does not apply to some misbehaviours. For example, the local Standards Committee does not have sufficient sanctions available to it to either stop the bullying of other councillors or staff, or act as a deterrent against such behaviours in the first place.

Codes of conduct

- c. Are local authority adopted codes of conduct for councillors clear and easily understood? Do the codes cover an appropriate range of behaviours? What examples of good practice, including induction processes, exist?

Our adopted Code of Conduct is clear and understood. Training in the Code is also made available to Town and Parish Councillors and Officers by the local District Council alongside their own, at no cost to the local councils.

- d. A local authority has a statutory duty to ensure that its adopted code of conduct for councillors is consistent with the Seven Principles of Public Life and that it includes appropriate provision (as decided by the local authority) for registering and declaring councillors' interests. Are these requirements appropriate as they stand? If not, please say why.

The seven principles of public life stand up to scrutiny and work well.

Investigations and decisions on allegations

- e. Are allegations of councillor misconduct investigated and decided fairly and with due process?
- i. What processes do local authorities have in place for investigating and deciding upon allegations? Do these processes meet requirements for due process? Should any additional safeguards be put in place to ensure due process?

This Council is part of a Joint Committee with other Towns and Parishes in the locale, using the District Council's Monitoring Officer and resources.

- ii. Is the current requirement that the views of an Independent Person must be sought and taken into account before deciding on an allegation sufficient to ensure the objectivity and fairness of the decision process? Should this requirement be strengthened? If so, how?

We think this works reasonably well, and that this is an important part of the regime.

- iii. Monitoring Officers are often involved in the process of investigating and deciding upon code breaches. Could Monitoring Officers be subject to conflicts of interest or undue pressure when doing so? How could Monitoring Officers be protected from this risk?

This is undertaken by the District Council.

Sanctions

- f. Are existing sanctions for councillor misconduct sufficient?
- i. What sanctions do local authorities use when councillors are found to have breached the code of conduct? Are these sanctions sufficient to deter breaches and, where relevant, to enforce compliance?

No, as mentioned previously, the current sanctions available are insufficient. Naming and shaming is not enough as "today's news is tomorrow's fish and chips wrapping".

- ii. Should local authorities be given the ability to use additional sanctions? If so, what should these be?

Suspension from attendance at all meetings or events for 6 months, to full disqualification.

Declaring interests and conflicts of interest

- g. Are existing arrangements to declare councillors' interests and manage conflicts of interest satisfactory? If not please say why.
- i. A local councillor is under a legal duty to register any pecuniary interests (or those of their spouse or partner), and cannot participate in discussion or votes that engage a disclosable pecuniary interest, nor take any further steps in relation to that matter, although local authorities can grant dispensations under certain circumstances. Are these statutory duties appropriate as they stand?

From this Council's point of view, the system works well. Councillors are aware of when they should declare a pecuniary interest and do so.

ii. What arrangements do local authorities have in place to declare councillors' interests, and manage conflicts of interest that go beyond the statutory requirements? Are these satisfactory? If not, please say why.

Whistleblowing

h. What arrangements are in place for whistleblowing, by the public, councillors, and officials? Are these satisfactory?

Improving standards

i. What steps could *local authorities* take to improve local government ethical standards?

Continue with regular training for all councillors/officers.

j. What steps could *central government* take to improve local government ethical standards?

Introduce stronger sanctions.

Intimidation of local councillors

k. What is the nature, scale, and extent of intimidation towards local councillors?

What measures could be put in place to prevent and address this intimidation?

a. Are the existing structures, processes and practices in place working to ensure high standards of conduct by local councillors? If not, please say why.

No. The existing system at East Riding of Yorkshire Council creates a smokescreen of impeccable behaviour, through investigation and public condemnation of minor misdemeanours. Meanwhile, genuine accusations of corruption, failure to declare significant interests, and misuse of public office are regularly aired in the media, [REDACTED]

There is a 20 year history of council properties being declared surplus, and sold to acquaintances of [REDACTED] justifiably low market value due to constraints on future use. Those constraints are then quickly ignored or overturned through the planning process. The latest scandal relates to the sale of Bridlington Golf Club. One 'poacher turned gamekeeper' property developer, [REDACTED], has revealed many pecuniary interests not declared by [REDACTED] and has copied the Committee on Standards in Public Life into recent correspondence.

b. What, if any, are the most significant gaps in the current ethical standards regime for local government?

More detailed guidance is required to assist Monitoring Officers, standards committee members and independent persons to understand the level of offence on which to focus their efforts.

Lack of political balance within the council allows for trivial complaints to be pursued for political purposes.

Codes of Conduct

c. Are local authority codes of conduct for councillors clear and easily understood?

No. Whilst the code itself is clear, its practical application is not. Too much is subjective.

Do the codes cover an appropriate range of behaviours?

No. The code does not allow for natural variation in social standards in dealing with representatives of the people, nor for disability discrimination. This applies particularly to the requirement to 'treat others with respect'. It is often misapplied when a councillor stands up to a bully, who then retaliates by accusing the elected member of bullying. In too many cases, the standards regime is used as the equivalent of an infant running to 'tell teacher' about a playground incident.

Any system that seeks to punish individuals for social *faux pas* will fall foul of disability discrimination laws. Invisible disabilities such as autism are rarely understood by those making complaints, investigating them, or sitting in judgement. This can lead to condemnation of an elected member for use of unfashionable terminology or for saying something that is factually correct but socially unwelcome. The system at present only makes allowance for social mistakes by individuals prepared to disclose an invisible disability, compounding the social stigma of their disability. This potentially renders them unelectable through public ignorance and prejudice, and undermines adopted policies seeking to promote an autism-friendly society. It should be noted that only a small proportion of autistic adults will have a diagnosis, and many will be completely unaware of their condition. Approximately 10% of the 67 current ERYC councillors exhibit autistic traits - well above the quoted average 1% of population. Recent research highlights that females often learn coping strategies to mask their condition and so are far harder to diagnose, or even to recognise themselves as autistic, within a public expectation of 'Rainman'. For this reason, it is unreasonable to expect case law from appeals to inform the system.

Similarly, insufficient allowance is made for cultural variations, such that members using language in common parlance amongst their electorate can be measured by social standards from other (self-righteous) social groupings. Such 'offences' are highly subjective.

For these reasons, the code should never be used as a disciplinary measure to enforce social engineering. Elected members are the representatives of the people, and councils must be prepared to welcome, and tolerate variations of normal respectful behaviour from, all sectors of society living within their boundaries.

What examples of good practice, including induction processes, exist?

d. A local authority has a statutory duty to ensure that its adopted code of conduct for councillors is consistent with the Seven Principles of Public Life and that it includes appropriate provision (as decided by the local authority) for registering and declaring councillors' interests. Are these requirements appropriate as they stand?

Yes.

If not, please say why.

Investigations and decisions on allegations

e. Are allegations of councillor misconduct investigated and decided fairly and with due process?

No. Whilst the investigations are fair, they are not decided upon with adequate respect for disability discrimination or variation in social values. Instead they are used to enforce a middle-class 'political correctness' that discriminates against members from other social backgrounds or with an invisible disability such as autism, by classing any variations to the norm as 'failure to treat others with respect'. Members can be condemned for using the everyday language of their electorate but deemed unacceptable by other social groups. This can even include vernacular terms of endearment (eg. love, duck, mate, chuck, pet, etc) being misinterpreted as patronising, usually as an excuse to use the standards regime as a weapon in another battle.

i. What processes do local authorities have in place for investigating and deciding upon allegations?

The ERYC procedures have been submitted with the Council's response.

ii. Do these processes meet requirements for due process?

No. There is no independent appeal process within ERYC. Recommendations involving ERYC members are made to Full Council, but are always carried without question by the massive majority of the dominant political group. Where sanctions involve removal from a committee, or action by officers (such as withholding information), this then becomes a decision of the Council.

Should any additional safeguards be put in place to ensure due process?

Yes. Natural Justice requires a right of appeal.

iii. Is the current requirement that the views of an Independent Person must be sought and taken into account before deciding on an allegation sufficient to ensure the objectivity and fairness of the decision process?

Mostly. The Independent Person also needs to have a good understanding of the context of any complaint, and an appreciation of the variety of 'normal' behaviour that is socially acceptable across the full spectrum of residents.

iv. Should this requirement be strengthened? If so, how?

v. Monitoring Officers are involved in the process of investigating and deciding upon code breaches. Could Monitoring Officers be subject to conflicts of interest or undue pressure when doing so?

Yes. The Monitoring Officer, as an employee of the council knows that their career can be influenced by the goodwill (or otherwise) of the Leader. Where both have been in position for decades, along with other senior members and officers, there is difficulty in remaining objective when faced with accusations involving collusion between members and senior officers.

vi. How could Monitoring Officers be protected from this risk?

Investigations of accusations against Cabinet members or committee chairmen (ie those in positions where influence could be misused) should be undertaken by a different local authority.

Sanctions

f. Are existing sanctions for councillor misconduct sufficient?

Yes.

i. What sanctions do local authorities use when councillors are found to have breached the code of conduct?

Within East Yorkshire, this ranges from requirement to write a letter of apology, to calls for a member to resign (after committing a social *faux pas* via facebook).

ii. Are these sanctions sufficient to deter breaches and, where relevant, to enforce compliance?

No. They keep some members in fear of expressing any opinions, whilst others are undeterred from committing more serious breaches.

iii. Should local authorities be given the ability to use additional sanctions?

No. Members are elected by their residents, and a member's fate should be decided by their electorate, not their colleagues.

Under the previous system, sanctions have been misused for political purposes, for example, to suspend an opposition member over a period that prevented them from standing for re-election. By the time the court overturned the decision on appeal, it was too late.

iv. If so, what should these be?

Declaring interests and conflicts of interest

g. Are existing arrangements to declare councillors' interests and manage conflicts of interest satisfactory?

In theory, yes. In practice, a councillor can choose not to declare a significant interest.

i. A local councillor is under a legal duty to register any pecuniary interests (or those of their spouse or partner), and cannot participate in discussion or votes that engage a disclosable pecuniary interest, nor take further steps in relation to that matter, although local authorities can grant dispensation under certain circumstances. Are these statutory duties appropriate as they stand?

Yes. Widening the declaration to include family members (as proposed by ERYC), who may be estranged, and over whom they have no control, is impractical and likely to deter members of the public from standing for office, particularly at parish level.

ii. What arrangements do local authorities have in place to declare councillors' interests, and manage conflicts of interest that go beyond the statutory requirements?

iii. Are these satisfactory? If not, please say why.

Whistleblowing

h. What arrangements are in place for whistleblowing, by the public, councillors, and officials?

Are these satisfactory?

No. When former developer [REDACTED] circulated a long list of undeclared large gifts to [REDACTED] (eg. a mobile home) the Monitoring Officer decided that failure to declare any interest was the member's choice and not a breach of standards.

Improving standards

i. What steps could local authorities take to improve local government ethical standards?

Councils can and should record their public meetings. The benefits are two-fold. It would protect members from false accusations based on what was said or not said during a meeting. This is particularly important to counter the Mandela Effect, where a group of people may share a false memory of events and outnumber those with more accurate memories. Without an impartial record, anyone judging the alleged offence will be swayed by the number of witnesses for each side. In addition, the publication of recordings of meetings would allow the public to see and hear how their representatives act on their behalf.

Senior officers should also make public their register of interests.

Appointment of scrutiny chairmen and vice-chairman should be decided by secret ballot. At present in East Riding, these paid positions are effectively appointments of the executive that they are intended to scrutinise, and members are rewarded for 'loyalty' to the leadership. The result is a culture where decision-making (including alleged 'dodgy deals' for disposal of assets) by the single-party Cabinet is permanently excluded from questioning through the intended channels. Instead, scrutiny committees concentrate on partner organisations.

j. What steps could central government take to improve local government ethical standards?

Central Government could insist that all local councils (above a certain size) provide recordings of public meetings. At a minimum, this should be Full Council and any planning committees. The original intention of the Localism Act was to 'throw open the doors of town halls' and allow the public to make more of their own decisions. The cost of filming and webcast has dropped enormously in recent years, and will surely require far less time or expense than investigating trivial complaints.

Central government could insist that committee chairmen are elected by secret ballot in a manner similar to election of Parliamentary chairmen.

Intimidation of local councillors

k. What is the nature, scale, and extent of intimidation towards local councillors?

Within East Yorkshire there is negligible intimidation of councillors by the general public. However, there is widespread intimidation, including constant threats of referral to the Standards Committee, by other elected members, prospective members and political activists. This exists at Parish, Town and Unitary levels and is encouraged by the present system within East Riding.

i. What measures could be put in place to prevent and address this intimidation?

Clear guidance on what behaviours should, or should not, constitute each type of breach of the code.

Wychavon District Council response to the Committee on Standards in Public Life's Review of Local Government Ethical Standards – endorsed by Full Council at its meeting on 21 February 2018

- a. Are the existing structures, processes and practices in place working to ensure high standards of conduct by local councillors? If not, please say why.
The Member Conduct Committee at Wychavon is broadly happy with the existing processes and structures, but feels that it was a retrograde step to remove the voting rights of independent members, who are a cornerstone of an objective Conduct Committee. The Committee would also suggest that the ability to invite Parish Council representatives to take part in investigations should be restored. That being said, the Committee feels that the total lack of meaningful sanctions completely undermines these positives.

- b. What, if any, are the most significant gaps in the current ethical standards regime for local government?
The Member Conduct Committee feels that the most significant gaps in the current ethical standards regime are primarily its total lack of meaningful sanctions, and secondly its lack of voting rights for independent members and parish councillors. The latter is illogical, and the imposition of the current regime was a slap in the face for independent members. No longer permitting them to vote took away the very reason for independent members' inclusion.

The total lack of any ability or mechanism for a Member Conduct Committee to firstly apply meaningful sanctions, and, secondly, to enforce the decisions it is able to take thwarts the purpose of a Code of Conduct. The Wychavon Committee feels that only having the power to make recommendations to Parish Councils regarding breaches of the Code of Conduct often leaves complainants feeling that there is little merit in bringing forward any complaint, especially when coupled with the current regime's stipulation that investigations cannot be pursued if a councillor leaves office.

Again, it is the unanimous feeling of the Committee that additional sanctions should be introduced to the current regime, and/or revert to the sanctions of the previous Standards regime. It is the view of the Committee that, in the most serious cases of misconduct, it should have the power to suspend the member concerned for up to six months.

Codes of conduct

- c. Are local authority adopted codes of conduct for councillors clear and easily understood? Do the codes cover an appropriate range of behaviours? What examples of good practice, including induction processes, exist?
Good practice at Wychavon includes a detailed induction pack for new district councillors, and thorough training.
- d. A local authority has a statutory duty to ensure that its adopted code of conduct for councillors is consistent with the Seven Principles of Public Life and that it includes appropriate provision (as decided by the local authority) for registering and declaring

councillors' interests. Are these requirements appropriate as they stand? If not, please say why.

Wychavon District Council's adopted Code of Conduct makes specific and detailed reference to the Seven Principles, and makes clear the requirement for councillors to register and declare their interests.

The Committee feels, however, that additional mechanisms for raising the profile of the register of interests, and making regular updating of them more mandatory, would be a useful addition to the current regime. Although it's required, in practise it's not rigorously done by some parish councils. Currently it's a self policing system – reliant on Parish Councils updating their members' registers – that cannot always be relied upon, especially when coupled with the workload that would be generated by the 64 parish and town councils and parish meetings within Wychavon.

An email reminder or online form could provide a paper trail and a way of referring to updating requests made.

Investigations and decisions on allegations

e. Are allegations of councillor misconduct investigated and decided fairly and with due process?

i. What processes do local authorities have in place for investigating and deciding upon allegations? Do these processes meet requirements for due process? Should any additional safeguards be put in place to ensure due process?

Wychavon's Standards Regime states as follows and this process is adhered to:

"1. Monitoring Officer to acknowledge receipt of complaint within 7 days.

2. Monitoring Officer to inform accused Member of the complaint within 7 days.

3. Where appropriate, the Monitoring Officer will explore with the accused Member and the complainant the possibility of a matter being resolved quickly outside the formal process; e.g. by the Member in question making an apology.

4. (a) Complaints will usually be assessed within 21 days of receipt.

(b) Where a complaint is against a Wychavon Member, the Monitoring Officer will decide whether or not the complaint needs to be investigated, having first consulted with the Committee Chairman (or Vice-Chairman), one other District Council Member of the Committee, and an Independent Member of the Committee.

(c) Where a complaint is against a Parish Member, the Monitoring Officer will decide whether or not the complaint needs to be investigated, having first consulted with the Committee Chairman (or Vice-Chairman), one of the Parish Representatives on the Committee, and an Independent Person.

(d) Both the accused Member and the complainant will be informed promptly in writing of the outcome of the assessment.

5. Where assessment decision is to investigate the matter, the Monitoring Officer will have discretion as to how this is conducted. It is anticipated that, in many cases, the investigation will take the form of the parties making written submissions to the Monitoring Officer. However, there may be some circumstances where the Monitoring Officer will find it necessary to appoint another person to carry out an investigation and report back.

6. Where there is an investigation, one of the Independent Persons will be made aware of the situation. The Independent Person will be asked for their views on the matter and they will also be available to be consulted by the accused Member. The Monitoring Officer will have the power to curtail an investigation at any stage, following consultation with the Committee Chairman (or Vice-Chairman). The situation would then be reported to the Committee."

- ii. Is the current requirement that the views of an Independent Person must be sought and taken into account before deciding on an allegation sufficient to ensure the objectivity and fairness of the decision process? Should this requirement be strengthened? If so, how?
As outlined above, the involvement of an Independent Member is always sought.
- iii. Monitoring Officers are often involved in the process of investigating and deciding upon code breaches. Could Monitoring Officers be subject to conflicts of interest or undue pressure when doing so? How could Monitoring Officers be protected from this risk?
- iv. *The Monitoring Officer has a Deputy; as this role is a joint position across both Wychavon and Malvern Hills District Councils, an individual Deputy is in place at each council.*
- v.
- vi. *The Committee would suggest that the formation of Wychavon's Member Conduct Committee (with a legal background to its Independent Member) be recommended to all authorities where possible.*

Sanctions

- f. Are existing sanctions for councillor misconduct sufficient?
 - i. What sanctions do local authorities use when councillors are found to have breached the code of conduct? Are these sanctions sufficient to deter breaches and, where relevant, to enforce compliance?
As stated, the feeling of the Member Conduct Committee is that the existing regime cannot be sufficient to deter breaches because no meaningful sanction can be imposed. It makes no sense for there to be no way to compel a guilty party to comply with a Committee's recommendations; that a councillor subject to investigation can simply resign and thereby end the

investigation; and that the Committee can essentially only recommend that a guilty party apologise and undergo Code of Conduct training.

It is the experience of this Committee that the only other recourse is to report the outcome of its investigation and the compliance or not of the guilty party to its Full Council for noting, in the hope that the local press, and therefore the court of public opinion, pick it up. The Committee acknowledges that it has slightly more power in the case of district council members, where it can recommend that the guilty party be censured by the full Council; but nonetheless the Committee feels that a simple warning is just as meaningless a sanction as its powers with regard to parish councillors.

Ultimately no real test has been made of this slightly embellished power in the case of district councillors, and the Committee would urge it to be noted that much of what is decided by Wychavon's Member Conduct Committee is settled amicably between all parties without the need for formal action.

Those complaints that cannot be so resolved, and are therefore investigated, have been of a serious nature. These investigations are often hampered by the fact that the councillors complained of resign during the investigation, as previously noted, thus bringing the matter to an end with no conclusion; or, if a breach is found, both the possible sanctions available and the Committee's ability to enforce them are so limited that they have little or no bearing on the future conduct of the Councillor concerned.

The Committee is aware that the new Policing and Crime Act 2017 has sought to deal with similar limitations within the Police Force; namely issues relating to historical complaints against now-retired police officers, and the continuation of investigations despite resignations and retirement of officers during the investigation process. It is the unanimous feeling of the Committee that similar amendments could be made to the current Member Code of Conduct regime.

- ii. Should local authorities be given the ability to use additional sanctions? If so, what should these be?

Suspension for up to six months should be reintroduced – with the associated financial 'hit' for district councillors in particular, this would represent a tangible sanction. The Committee would also suggest that a mechanism for parish councils to co-opt or maintain substitute members in order to remain quorate, if they're small and a member is suspended, should be considered and added to Standing Orders.

Declaring interests and conflicts of interest

- g. Are existing arrangements to declare councillors' interests and manage conflicts of interest satisfactory? If not please say why.
 - i. A local councillor is under a legal duty to register any pecuniary interests (or those of their spouse or partner), and cannot participate in discussion or votes that engage a disclosable pecuniary interest, nor take any further steps in relation to that matter, although local authorities can grant

dispensations under certain circumstances. Are these statutory duties appropriate as they stand?

The Member Conduct Committee wishes to refer back to its previous comments regarding the need for a mandatory requirement to update Register of Interests on a regular basis.

- ii. What arrangements do local authorities have in place to declare councillors' interests, and manage conflicts of interest that go beyond the statutory requirements? Are these satisfactory? If not, please say why.
Both at Wychavon and its parish councils, conflicts of interests are normally raised, queried, and resolved via discussion at the relevant agenda item (Declarations of Interests); members tend to query potential conflicts and then leave the room for the relevant agenda item. Again, though, refer to the previous point about Register of Interests forms.

Whistleblowing

- h. What arrangements are in place for whistleblowing, by the public, councillors, and officials? Are these satisfactory?
The Committee was unsure as to the purpose of this question, and noted that whistleblowing is a mechanism for employees only by definition; the public and councillors cannot be whistleblowers, and, members specifically, instead would simply be disclosing potentially sensitive information, potentially in defiance of the Code of Conduct. Wychavon's adopted Whistleblowing Policy is detailed at <https://www.wychavon.gov.uk/whistleblowing-policy1>. The Committee would appreciate additional clarity on the purpose of this question.

Improving standards

- i. What steps could *local authorities* take to improve local government ethical standards?
Members obviously can't speak for other local authorities, but the Member Conduct Committee has always been non-political, viewed as important and supported by all political parties of the council; Wychavon as a Council has a good record of being ethically strong, and its membership plays a part in this.
- j. What steps could *central government* take to improve local government ethical standards?
The Committee suggests that a requirement for Conduct Committees to review cases considered for a report to Council at the end of each financial or municipal year might be a useful addition.

Intimidation of local councillors

- k. What is the nature, scale, and extent of intimidation towards local councillors?
 - i. What measures could be put in place to prevent and address this intimidation?

The Member Conduct Committee has had very limited experience of this - anecdotally it is more common at parish level, by virtue of members being much closer to their electorate and therefore more likely to be subjected to intimidatory behaviour.

If any further detail or additional information is required in regard to any of Wychavon Member Conduct Committee's responses, please contact Ead Brown, Member Support Officer (Scrutiny) on [REDACTED]

SUBMISSION 79

My submissions are as follows :-

I am a Parish Councillor serving two councils and parishes.

- a) I don't feel the existing structures work at all well. There is much lacking in the training and knowledge of councillors and a majority of newish, and even councillors of many years standing, don't know the rules and regulations and when challenged over an issue that is most certainly wrong it causes much upset and argument.
- b) I believe that the standards regime needs more "independent", but knowledgeable people to have a meaningful say and that their vote to be recognised.
- c) I personally find the codes of conduct clear and easy to understand. However, it would appear that some councillors do not have much interest, or even want to learn, in almost anything to do with Codes of Conduct or even Standing orders as a whole. On my councils there is no induction process for new councillors, or mentoring. A new councillor said to me that he wasn't interested in reading Standing Orders and anyway didn't have time. I can't say there are any good practices.
- d) I think the code is consistent with the seven principles and the provision for registering interests is clear. However there seems to be no way of checking whether a councillor is giving full details unless someone knows different to what has been declared. I personally challenged a long standing councillor who had not, I believed, declared all that should have been declared. [REDACTED]

- e) This is a difficult one to quantify. I feel that investigations of allegations against officers of the council which are conducted in house are difficult to justify as councillors and employees work very closely together and it can be very difficult to come to a safe conclusion. I have found that for councillors, although there is a mechanism for dealing with complaints, the system seems to alter each time and instead of following the rules HR or the complainant make their own interpretation and seem to take different courses of action as they think fit. From personal experience, although a complaint wasn't made HR decided it was going to investigate me. Some months later I enquired what had happened to the enquiry and the answer was "nothing". Totally unsatisfactory.

It is necessary to have independent people on the standards committee... I think only one is insufficient and needs to be strengthened and there should be a minimum of three and that they should have a say in the final decision.

There needs to be someone on the standards committee who knows to code of conduct, standing orders, the law and is conversant with all aspects of the system.

- f) No, the sanctions are not enough. They should be strengthened and should be meaningful and imposed with purpose. Councillors don't seem to care if they are reported to the standards committee. A suspension or some sort of penalty should be imposed.

See my answer above.

Yes, see my answer above.

- g) Conflicts of interests are very open to interpretation and seem to be used to circumvent the rules. [REDACTED]. Conflict arises but having challenged the situation I have been told it is legal. I and many others feel that this situation is not open and transparent.

Please see above. The arrangements are not satisfactory.

- h) No comment on this subject.
- i) I don't know what could be done except strengthen the system so that anomalies cannot arise or people cannot make their own interpretations.
- j) Make them more enforceable so that councillors and officers know where they stand and devise some system that all are fully trained.
- k) No comment.

Robin Pegg

Dear Sir/Madam,

Graveney with Goodnestone Parish Council submits the following response to the Review of Local Government Ethical Standards.

1. Graveney with Goodnestone is a small parish in Kent between Faversham and Canterbury and the council has seven members.
2. The council has adopted the Swale Borough Council Code of Conduct and members strive to promote and maintain high standards of behaviour.
3. However, members are aware that not all councillors from other parishes maintain these same high standards.
4. Members are aware of cases of parish councillors not declaring interests; saying they do not require training, either on the Code of Conduct or other council procedures; bullying other members or officers; and generally behaving in a way not consistent with the seven principles of public life.
5. As the district authority for this area, Swale Borough Council has a duty to monitor parish councils and investigate allegations of misconduct. This is done through the Monitoring Officer and the Standards Committee.
6. However, the Monitoring Officer is overstretched and the Standards Committee does not always appreciate the difference between a large borough council and a small parish council with only one employee.
7. When cases of parish councillor misconduct are taken before the Monitoring Officer and/or the Standards Committee, there can be a conflict of interests as some parish councillors could have been borough councillors and may therefore be personally known to those on the committee. This can lead to a lack of confidence in a fair and impartial judgement.
8. Where the case is between a councillor and an officer, being comprised of councillors, the Standards Committee could have a tendency to take the part of the councillor over the officer, either finding in the councillor's favour or suggesting both parties are equally at fault.
9. The Standards Committee also hears only from the party accused of the breach and not from the party making the accusation. This can lead to a judgement which only takes account of one side of the case.
10. Where the Standards Committee finds a councillor guilty of a breach of the Code of Conduct, the sanctions that can be imposed are extremely limited. A councillor can be removed from a committee, but not from the council as a whole; if equipment has been misused it can be taken away; or training can be recommended but not enforced.

11. For a small parish council with no committees and no equipment given to individual councillors, the guilty party therefore walks away with no sanctions imposed and is free to continue their misconduct, particularly if they refuse to attend any recommended training.
12. Whilst we hope every parish councillor would try to improve their behaviour after being found guilty of such a breach, it is unfortunately true that some merely continue in their ways and no improvement is made, sometimes leading to another complaint.
13. The Standards Committee should therefore have the ability to suspend or remove a councillor who has been found guilty of breaching the Code of Conduct, particularly in cases of repeated breaches with no attempt to improve. This would ensure high standards are maintained, even at parish level, and would deter others from similar misconduct.
14. Declarations of interests rely on councillors' own honesty and transparency and are rarely, if ever, checked or monitored. Only if a complaint is made is the situation investigated.
15. However, we do appreciate that it would be unfeasible to check every councillor and every meeting and there is a necessity for this aspect of regulation to be 'self-policing' and reliant on the councillors' and officers' integrity.
16. In summary, Graveney with Goodnestone PC would like to see stronger sanctions available to deal with those who are guilty of misconduct, particularly repeat offenders.

Yours sincerely,



Bex Ratchford
Parish Clerk

SUBMISSION 81

Dear Sir/Madam,

Oare Parish Council would like to submit the following response to the Review of Local Government Ethical Standards.

1. Oare Parish Council comprises seven councillors in a small village in Kent near Faversham.
2. The council is subject to the National Association of Local Council's Code of Conduct and members strive to promote and maintain high standards of behaviour.
3. However, members are aware that, despite the requirement for all parish councils to adopt a Code of Conduct, not all are as fully resolved as Oare PC to adhere to its principles.
4. Members are aware of cases of parish councillors not declaring interests, whether pecuniary or non-pecuniary; refusing to undertake training, either on the Code of Conduct or other council procedures; bullying other members or officers; and generally behaving in a way not consistent with the seven principles of public life.
5. As the district authority for this area, Swale Borough Council has a duty to monitor parish councils and investigate allegations of misconduct. This is done through the Monitoring Officer and the Standards Committee.
6. However, the Monitoring Officer and the Standards Committee are also responsible for the borough council and with so many parishes in the area, do not always have the time or resources to spend on individual cases.
7. When cases of parish councillor misconduct are taken before the Monitoring Officer and/or the Standards Committee, there can be a conflict of interests as many parish councillors are also borough councillors and are therefore personally known to those adjudicating. This leads to a lack of confidence in a fair and impartial judgement.
8. Where the case is between a councillor and an officer, being comprised of councillors, the Standards Committee also has a tendency to take the part of the councillor over the officer, either finding in the councillor's favour or suggesting both parties are equally at fault.
9. Where the Standards Committee finds a councillor guilty of a breach of the Code of Conduct, the sanctions that can be imposed are extremely limited. A councillor can be removed from a committee, but not from the council as a whole; if equipment has been misused it can be taken away; or training can be recommended but not enforced.
10. For a small parish council with no committees and no equipment given to individual councillors, the guilty party therefore walks away with no sanctions imposed and is free to continue their misconduct.

11. The Standards Committee should have the ability to suspend or remove a councillor who has been found guilty of breaching the Code of Conduct. This would ensure high standards are maintained, even at parish level, and would deter others from similar misconduct.
12. With regard to the declaration of interests, this relies on councillors' own honesty and transparency and is rarely, if ever, checked or monitored. Only if a complaint is made is the situation investigated.
13. However, Oare PC does appreciate that it would be unfeasible to check every councillor and every meeting and there is a necessity for this aspect of regulation to be 'self-policing' and reliant on the councillors' and officers' integrity.
14. In summary, Oare PC would like to see stronger sanctions available to deal with those who are guilty of misconduct, particularly repeat offenders.

Yours sincerely,



Bex Ratchford
Parish Clerk

Dear Sir/Madam

Breaches of Members' Code of Conduct - Sanctions Available to Local Authorities

On 9th April, 2018, Dudley Metropolitan Borough Council considered recommendations arising from a standards investigation into the conduct of an elected Member. The investigation was undertaken in line with the Members' Code of Conduct and our local standards arrangements. For reference purposes, the full details of the case are enclosed with this letter along with the minutes of the Standards Sub-Committee hearing on 27th February, 2018.

Full Council endorsed the recommendations of the Standards Sub-Committee, including a formal motion of censure, in respect of the breaches of the standards set out in the Members Code of Conduct. In doing so, the Council recognised that it has very limited powers to impose sanctions in respect of such breaches.

The Council resolved that representations be made to the Committee on Standards in Public Life and the Secretary of State for Housing, Communities and Local Government calling for amendments to the Localism Act 2011 to provide for stronger sanctions to be made available to local authorities in dealing with breaches of the Members Code of Conduct.

Please give due consideration to this matter as part of the review of local government ethical standards. Representations have also been forwarded to the Secretary of State in accordance with my Council's resolution.

The Council would be grateful to receive your observations in due course.

Yours faithfully,



Mohammed Farooq
Monitoring Officer
Dudley Metropolitan Borough Council



Good Afternoon

Please see the response from Cranleigh Parish Council in blue text to this consultation:

a. Are the existing structures, processes and practices in place working to ensure high standards of conduct by local councillors? If not, please say why.

Yes

b. What, if any, are the most significant gaps in the current ethical standards regime for local government?

No gaps

Codes of conduct

c. Are local authority adopted codes of conduct for councillors clear and easily understood? Do the codes cover an appropriate range of behaviours? What examples of good practice, including induction processes, exist?

A set process for training is required. Mentoring from other Councillors. Example of good practice is new Councillor induction training provided by the Surrey Association of Local Councils after election.

d. A local authority has a statutory duty to ensure that its adopted code of conduct for councillors is consistent with the Seven Principles of Public Life and that it includes appropriate provision (as decided by the local authority) for registering and declaring councillors' interests. Are these requirements appropriate as they stand? If not, please say why.

Agreed.

Investigations and decisions on allegations

e. Are allegations of councillor misconduct investigated and decided fairly and with due process?

Not applicable.

i. What processes do local authorities have in place for investigating and deciding upon allegations? Do these processes meet requirements for due process? Should any additional safeguards be put in place to ensure due process?

A published scheme. Independent person.

ii. Is the current requirement that the views of an Independent Person must be sought and taken into account before deciding on an allegation sufficient to ensure the objectivity and fairness of the decision process? Should this requirement be strengthened? If so, how?

iii. Monitoring Officers are often involved in the process of investigating and deciding upon code breaches. Could Monitoring Officers be subject to conflicts of interest or undue pressure when doing so? How could Monitoring Officers be protected from this risk?

[Independent Monitoring Officers to handle complaints, e.g. similar to Internal Auditors.](#)

Sanctions

f. Are existing sanctions for councillor misconduct sufficient?

[Yes](#)

i. What sanctions do local authorities use when councillors are found to have breached the code of conduct? Are these sanctions sufficient to deter breaches and, where relevant, to enforce compliance?

ii. Should local authorities be given the ability to use additional sanctions? If so, what should these be?

[No](#)

Declaring interests and conflicts of interest

g. Are existing arrangements to declare councillors' interests and manage conflicts of interest satisfactory? If not please say why.

[Yes](#)

i. A local councillor is under a legal duty to register any pecuniary interests (or those of their spouse or partner), and cannot participate in discussion or votes that engage a disclosable pecuniary interest, nor take any further steps in relation to that matter, although local authorities can grant dispensations under certain circumstances. Are these statutory duties appropriate as they stand?

[Yes](#)

ii. What arrangements do local authorities have in place to declare councillors' interests, and manage conflicts of interest that go beyond the statutory requirements? Are these satisfactory? If not, please say why.

Whistleblowing

h. What arrangements are in place for whistleblowing, by the public, councillors, and officials? Are these satisfactory?

Improving standards

i. What steps could *local authorities* take to improve local government ethical standards?

[None](#)

j. What steps could *central government* take to improve local government ethical standards?

[None](#)

Intimidation of local councillors

k. What is the nature, scale, and extent of intimidation towards local councillors?

i. What measures could be put in place to prevent and address this intimidation?

None

Kind Regards

Beverley Bell FSLCC

Parish Clerk

Consultation response from Mr. Geoffrey Pickering
East Riding resident

Relevant former positions:

- East Riding of Yorkshire Councillor for Bridlington South from May 2007 to May 2011.
- Chairman of ERYC Greater Prosperity Overview and Scrutiny Committee.
- Chairman of East Yorkshire Constituency Conservative Association.
- Deputy Chairman Political of Conservative Party's North & East Yorkshire Area Management Executive.

a. Are the existing structures, processes and practices in place working to ensure high standards of conduct by local councillors? If not, please say why.

No. From my experience of resolving disputes in the North & East Yorkshire Area, the existing system is frequently controlled by collusion between senior officers and the Council leadership. I have seen it used to silence councillors, scare them from proper interaction with residents (particularly in planning issues), and as political punishment for not toeing the line. It is used politically to discredit opposition councillors. I have also seen it used to 'clear' senior councillors of wrong-doing where the police should have been called. The corruption of process is at its worst in The East Riding of Yorkshire Council.

b. What, if any, are the most significant gaps in the current ethical standards regime for local government?

It is entirely pointless: there are no consistent standards of sanctions

The system places extraordinary powers in the hands of the supposedly independent Monitoring Officer, who's position in the council hierarchy makes them partial rather than independent. Too much depends on the quality of the individual and too much opportunity for corruption and collusion as there is no appeal or outside supervision inspection of Monitoring Officers. They have become a law unto themselves, with their word being final.

This, and having councillors from the same council chairing and making up the majority of the committee, leads to many of the issues raised in a)

Codes of Conduct

c. Are local authority codes of conduct for councillors clear and easily understood?

No. Whilst the code itself is clear, the committee often exceeds its remit. Imposing sanctions such as that the Member should resign or be removed from a scrutiny committee (ERYC), and also dealing with issues which are outside the scope of a standards committee such as allegations of corruption.

Do the codes cover an appropriate range of behaviours?

No. It includes far too many subjective areas such as treating with respect. These should be replaced with more quantifiable charges such as abusive behaviour

What examples of good practice, including induction processes, exist?

Sadly, I can not offer any good examples.

d. A local authority has a statutory duty to ensure that its adopted code of conduct for councillors is consistent with the Seven Principles of Public Life and that it includes appropriate provision (as decided by the local authority) for registering and declaring councillors' interests. Are these requirements appropriate as they stand?

Yes. With the possible exception of respect which is greatly misused and needs to be better defined from principle to code.

If not, please say why.

Investigations and decisions on allegations

e. Are allegations of councillor misconduct investigated and decided fairly and with due process?

No. The all-powerful Monitoring Officer acts as a filter and primary investigation. This allows them to manipulate the system in the ways described in a).

I have never seen a committee investigate, other than during the hearing, and then they are reliant on the report and advice of the Monitoring Officer.

Witnesses are often ignored or not spoken to.

i. What processes do local authorities have in place for investigating and deciding upon allegations?

Not

ii. Do these processes meet requirements for due process?

No. The principles of natural justice are hardly ever met where councillors and officers from the same authority are unable to distance themselves from group loyalties or personal relationships with those charged.

There is no independent appeal process within ERYC.

There is no mechanism for enforcement of sanction.

Should any additional safeguards be put in place to ensure due process?

Yes. Natural Justice requires a right of appeal.

It also requires that you can not prosecute your own case. Standards should not be controlled by an employee of the Council, nor should hearing committees include members who know and have a relationship with the accused.

iii. Is the current requirement that the views of an Independent Person must be sought and taken into account before deciding on an allegation sufficient to ensure the objectivity and fairness of the decision process?

The entire committee should be independent persons, not just a drafted in non-voting token. Also independent members are vetted and approved by the Council. This is an opportunity for corruption of process as only tame, biddable or controllable independents get approved.

iv. Should this requirement be strengthened? If so, how?

Monitoring officers and committee members can be local to the council area but should be entirely independent of the council, in the same way as the planning inspectors are appointed independently and monitored by the planning inspectorate.

v. Monitoring Officers are involved in the process of investigating and deciding upon code breaches. Could Monitoring Officers be subject to conflicts of interest or undue pressure when doing so?

I do not know one who isn't! It is essential that Monitoring Officers are NOT employed by the council, or as in many cases, have another role within the council.

Undue pressure is an issue but you need to address capitulation, collusion and corruption.

vi. How could Monitoring Officers be protected from this risk?

It is only possible if Monitoring Officers are part of an external inspectorate / regulator paid for by the council.

I do not want to see the Standards Board for England returned: individual Monitoring Officers could be under the auspices of the Local Government Ombudsman and work on a seconded basis directly within the council.

This would also be beneficial and cost-saving in streamlining ombudsman complaints and taking on initial case assessment.

Sanctions

f. Are existing sanctions for councillor misconduct sufficient?

Yes. But some are disproportionate and excessive.
More guidance is needed as is given to magistrates. In particular it is necessary for committees to be required to refer potential criminal cases to the police.
Many hear cases of corruption and non-disclosure which are outside their remit.

i. What sanctions do local authorities use when councillors are found to have breached the code of conduct?

Anything from public admonishment to instruction to resign. They have included silencing councillors, by excluding them from committees, and barring them from receiving information they are entitled to.
There is currently a case at Scarborough Borough Council where a whistle-blowing Member has been excluded from entering Council property or communicating with Council staff.
This sanction was imposed by the Chief Executive without any hearing.

ii. Are these sanctions sufficient to deter breaches and, where relevant, to enforce compliance?

No. They keep some members in fear of expressing any opinions, whilst others are undeterred from committing more serious breaches.

iii. Should local authorities be given the ability to use additional sanctions?

No. Not unless the committee is completely independent and there is a proper appeal system.
I am extremely concerned that in its submission to you, the ERYC has actually requested the powers to dismiss elected representatives without electoral process (recall might be appropriate, but not Standards Committees interfering with democratic processes).

iv. If so, what should these be?

Declaring interests and conflicts of interest

g. Are existing arrangements to declare councillors' interests and manage conflicts of interest satisfactory?

In theory, yes. In practice, a councillor can delay declaration or choose not to declare a significant interest.

i. A local councillor is under a legal duty to register any pecuniary interests (or those of their spouse or partner), and cannot participate in discussion or votes that engage a disclosable pecuniary interest, nor take further steps in relation to that matter, although local authorities can grant dispensation under certain circumstances. Are these statutory duties appropriate as they stand?

Yes. But these are now unlawful acts supposedly not covered by standards committees. There needs to be a duty to refer allegations of criminal activity to the police.

ii. What arrangements do local authorities have in place to declare councillors' interests, and manage conflicts of interest that go beyond the statutory requirements?

iii. Are these satisfactory? If not, please say why.

Whistleblowing

h. What arrangements are in place for whistleblowing, by the public, councillors, and officials?

Are these satisfactory?

Absolutely not. Whistle blowers are subject to being discredited, bullied and intimidated using the entire power of the council.

Improving standards

i. What steps could *local authorities* take to improve local government ethical standards?

An increasing number of decisions are delegated to officers and so fall outside any call-in, requirements for public access or any public standards procedures. A standards system must also include officers.

Public meetings should be recorded and broadcast.

Senior officers should also make public their register of interests.

j. What steps could *central government* take to improve local government ethical standards?

Local government needs to have an independent regulator with proper powers to act.

There are a number of local authorities which are modern Rotten Boroughs where there is a perpetual dominance by one party. These Authorities become laws unto themselves and are dismissive of the usual electoral controls.

Most complaints are dealt with internally and scrutiny recommendations given no standing, so they are not subject to any real effective checks and balances.

Combining Standards with a more powerful, compelling and sanction-imposing Ombudsman service would provide independent oversight and a reversion to the electorate which currently does not exist or is ineffective.

The cost would be offset by efficiencies in combining services across multiple Authorities, investigating initial complaints and from the cessation of individual funding of current standards committee and Monitoring Officers.

Intimidation of local councillors

k. What is the nature, scale, and extent of intimidation towards local councillors?

I have seen frustrated residents, but the longstanding and very serious official intimidation and bullying of councillors is from the Council itself, especially at ERYC. There is absolutely no mechanism for redress at the moment.

i. What measures could be put in place to prevent and address this intimidation?

We need an inspectorate of local government with proper powers to act.

Local Government Ethical Standards Consultation

1. The arrangements for member oversight should be set by, and report directly, to the full Council. Members providing oversight of the implementation of the member Code and compliance with the seven principles, underpinning the council's constitution, should be appointed on a cross party basis. Members of the political executive should not be appointed.
2. The leaders of each political group should be made personally accountable for inducting all their group members after each election. Written confirmation that all members must undertake to apply the principles should be put in place, and available for scrutiny. The Head of Paid Service should put a similar process in place for the appointment of senior managers, which should also be made available for scrutiny.
3. Any settlement agreements intended to gag members of the public from referring to breaches of the member code, or to council attempts to cover up member wrongdoing, should be reported to the member oversight panel in order to provide a complete picture.
4. The member oversight panel should provide an annual report to the Council on performance in implementing the seven principles, which should be made publicly available.
5. The time limits for accepting a complaint of member breach should not be unreasonably restrictive. At present, under the Act, each council can set its own local eligibility criteria which can be as low as three months after the incident. Councils can then state that there is no appeal, and dismiss a complaint which relates to an incident which took place more than three months ago. Councils should make clear if there is discretion, and how it can be applied. They should also make available the name and contact details of the Independent Person on their website.
6. The Monitoring Officer role needs root and branch reform. The MO should never be the lead investigator for a complaint from a member of the public, dealt with under the council's complaints policy. The MO should not be the Senior Information Risk Officer as well as complaints investigator. If the council's legal adviser, as is usually the case, the MO should avoid conflicts of interest when advising on the complaint. Under the current arrangements, the MO can be the complaints investigator, be made aware of possible breach of the member code, for which he is also accountable, and then not make clear to the complainants that they will need to make a separate complaint, under the member code breach policy. In the worst case the MO can, in theory, knowingly spend more than three months as lead investigator of a general complaint from a member of the public which includes possible breach of the member code by a member of the administration, and then use the three month local eligibility criteria to dismiss a complaint about member misconduct, possibly under political pressure before a local election. The review should give consideration to an independent peer review of how the MO role is functioning, similar to the DCS and DASS peer reviews, to give members assurance that the MO retains independence, and does not get too close to the administration. Clear procedures for handling complaints about the MO's conduct should be made publicly available.
7. The MO role needs to be amended to take into account changes in the way councils are run. Councils may not have a Chief Executive, and Chief Officers may report to

Cabinet Members, and thus be exempt from the Officer Code of Conduct, where accountability rests with the Head of Paid Service.

8. The DCLG failed to carry out the review of the Localism Act 2011, which ministers gave an undertaking to Parliament would be completed within three to five years. The review which the Commission is undertaking will replace the Localism Act implementation review. It is therefore essential that your report will cover all the points which the minister made to Parliament.
9. It is important to bring together obligations to professional regulators- in law, accountancy, social work, teaching- both for officers and members. They should align well with the seven principles, and should provide additional assurance that councils- both members and senior officers- are acting ethically. This is particularly important in respect of the Monitoring Officer who, as a lawyer, has professional obligations to the SRA.
10. The role of the External Auditor, who reports to the Council on assurance with the governance framework, should be covered. Members receive annual reports from the auditor, including compliance with standards on complaints handling. They rely on the annual reports from the LGO. The LGO have no powers to investigate maladministration by council officers in respect to school governors where it relates to the internal management of a school, which senior council officers know but elected members do not. This should be made clear to members. There may be other gaps in the law.
11. The National Governance Association is carrying out a review on basing ethical standards for school leadership on the seven principles. Member responsibility for education and maintained schools needs to be aligned. There may be other cross sectional opportunities to apply the seven principles.
12. The link to the proposed Public Services Ombudsman Bill needs to be established, especially to ensure the legislation will sweep up all known anomalies, such as the denial of access to an Ombudsman by governors of maintained schools.
13. The particular importance of the effective application of the seven principles when there is in practice a one party state, with a single party with a long term overwhelming majority, with the implications for member/officer relations, needs to be considered. The implications of the electoral cycle, particularly six months before an election when the party holding the political leadership fear losing power, will place particular strain on the arrangements for implementing the principles.
14. There needs to be a policy and procedure, which members can monitor and scrutinise, for whistleblowers when they are members of the public. The LGA could publish best practice.

2 East Sussex County Council response

2.1 The proposed response to the consultation questions are as follows.

a) Are the existing structures, processes and practices in place working to ensure high standards of conduct by local councillors?

Proposed response: Yes. The table below shows the number of complaints considered by the Assessment Sub Committee over the past 7 years. It is considered that the standards of conduct among Members and co-opted members of the Council remain high and maintaining good standards is taken seriously.

| Year | No. of complaints considered |
|---------|------------------------------|
| 2017/18 | 0 |
| 2016/17 | 1 |
| 2015/16 | 1 |
| 2014/15 | 3 |
| 2013/14 | 1 |
| 2012/13 | 1 |
| 2011/12 | 1 |

b) What, if any, are the most significant gaps in the current ethical standards regime for local government?

Proposed response: The current arrangements are understood and generally adhered to by county councillors. No gaps have been identified in the current ethical standards.

Codes of conduct

c) Are local authority adopted codes of conduct for councillors clear and easily understood? Do the codes cover an appropriate range of behaviours? What examples of good practice, including induction processes, exist?

Proposed response: The current Code of Conduct for councillors is understood by councillors and covers the appropriate areas. Following the last county Council elections in May 2017, training was given to members on the Code of Conduct, including register of interests, personal interests, disclosable pecuniary interests and gifts and hospitality at the Induction Day. All councillors have signed a declaration undertaking to comply with the County Council's Code of Conduct for Members and have been provided with/have access to the Code.

d) A local authority has a statutory duty to ensure that its adopted code of conduct for councillors is consistent with the Seven Principles of Public Life and that it includes appropriate provision (as decided by the local authority) for registering and declaring councillors' interests. Are these requirements appropriate as they stand? If not, please say why.

Proposed response: The Council's Code of Conduct is based on the seven principles of public life and the principles are attached as an appendix to the Code. It

is considered that current arrangements for registering and declaring interests are appropriate. Having completed the register of interests form following election, councillors are regularly reminded of the need to update their form when necessary. In addition, there is an item on each meeting agenda under which councillors are asked to declare any interest they have on any matters on the agenda.

Investigations and decisions on allegations

e) Are allegations of councillor misconduct investigated and decided fairly and with due process?

i) What processes do local authorities have in place for investigating and deciding upon allegations? Do these processes meet requirements for due process? Should any additional safeguards be put in place to ensure due process?

Proposed response: The current arrangements are considered to work well and those who have been subject of an allegation that they may have breached the Code have not had cause to complain about the fairness of the process. The process we follow is described here and it is considered that no additional safeguards are required:

An Assessment Sub-Committee, formed of three members of the Standards Committee, conducts an initial assessment of any written allegation that a councillor has breached the Code of Conduct. The Sub-Committee may then either a) refer the allegation to the Monitoring Officer for investigation; or b) refer the allegation to the Monitoring Officer for other action; or c) decide that no action should be taken in respect of the allegation. If the matter is referred to the Monitoring Officer for investigation then an investigator would be appointed to undertake the investigation and submit a report back to the Monitoring Officer and the Standards Committee with their findings.

ii) Is the current requirement that the views of an Independent Person must be sought and taken into account before deciding on an allegation sufficient to ensure the objectivity and fairness of the decision process? Should this requirement be strengthened? If so, how?

Proposed response: The current requirement works well and is effective in ensuring a proportionate and fair approach to the investigation of any allegation. In East Sussex, the Independent Person is made aware of all allegations of a breach of the Code of Conduct and is informed of decisions of the Assessment Sub-Committee. The views of the Independent Person are further sought and taken into account before a final decision is taken on a response. The views of the Independent Person are valued. There is no need to strengthen the current requirement.

iii) Monitoring Officers are often involved in the process of investigating and deciding upon code breaches. Could Monitoring Officers be subject to conflicts of interest or undue pressure when doing so? How could Monitoring Officers be protected from this risk?

Proposed response: Because the initial assessment of any allegation is carried out by an Assessment sub Committee (comprising three councillors), we have never experienced a situation where the Monitoring Officer has been subject to a conflict of interest or undue pressure. However, such conflicts and pressures are a theoretical possibility. If an investigation is warranted, the Monitoring Officer appoints an independent investigator (who is not employed by the Council).

These measures virtually eliminate any risk of the Monitoring officer being subject to conflicts of interest or undue pressure. It is not apparent what further measures are needed or would be effective.

Sanctions

f) Are existing sanctions for councillor misconduct sufficient?

i) What sanctions do local authorities use when councillors are found to have breached the code of conduct? Are these sanctions sufficient to deter breaches and, where relevant, to enforce compliance?

Proposed response: The most common sanctions used in East Sussex have included:

- Recommendation to undertake training
- Recommendation to participate in a conciliation exercise
- Request to issue an apology.

In most cases, councillors in East Sussex take the lessons arising from the assessment or investigation of an alleged breach of the local code seriously.

We do consider that the Council has insufficient power to take action in respect of a serious breach of the local Code.

ii) Should local authorities be given the ability to use additional sanctions? If so, what should these be?

Proposed response: Yes. The local authority should have the ability to suspend a councillor for a significant breach of the Code of Conduct.

Declaring interests and conflicts of interest

g) Are existing arrangements to declare councillors' interests and manage conflicts of interest satisfactory?

i) A local councillor is under a legal duty to register any pecuniary interests (or those of their spouse or partner), and cannot participate in discussion or votes that engage a disclosable pecuniary interest, nor take any further steps in relation to that matter, although local authorities can grant dispensations under certain circumstances. Are these statutory duties appropriate as they stand?

Proposed response: Yes

ii) What arrangements do local authorities have in place to declare councillors' interests, and manage conflicts of interest that go beyond the statutory requirements? Are these satisfactory?

Proposed response: The register of interest form for each councillor is published on the Council's website. As previously mentioned, councillors are asked at each meeting of any interest they have in any item on the agenda they wish to declare. Any declarations made at this point are recorded on the Council's website in addition to being recorded in the minutes. Councillors are aware of the importance of

declaring interests and if they are unsure will seek advice from officers in advance of a meeting. The current arrangements are satisfactory.

Whistleblowing

h) What arrangements are in place for whistleblowing, by the public, councillors, and officials? Are these satisfactory?

Proposed response: The County Council has a Whistleblowing Policy that applies to all employees, councillors, contractors and staff working for the Council such as agency staff, consultants and builders. The policy is available via the web site. With regard to members of the public, the corporate complaints policy is published on the Council's website together with the contact details for the Team. There are established arrangements for dealing with complaints and whistleblowing, and are considered satisfactory.

Improving standards

i) What steps could *local authorities* take to improve local government ethical standards?

Proposed response: Local authorities have a role in maintaining ethical standards and a key way of doing this is by ensuring that councillors are aware of their responsibilities and duties. This can be achieved by providing training, regular reminders to councillors and ensuring that councillors are aware who to contact for advice.

j) What steps could *central government* take to improve local government ethical standards?

Proposed response: None. From a local perspective, the current approach is largely understood and has resulted in a relatively small number of allegations.

Intimidation of local councillors

k) What is the nature, scale, and extent of intimidation towards local councillors? What measures could be put in place to prevent and address this intimidation?

Proposed response: There have been no reported cases of intimidation towards East Sussex County Councillors.

Review of Local Government Ethical Standards: Stakeholder Submission

On behalf of Bentham Town Council

[REDACTED]

The Council felt that as it was directly affected by the existing structures it was important to respond.

- a. Are the existing structures, processes and practices in place working to ensure high standards of conduct by local councillors? If not, please say why.

Yes. Standing orders and adopted policies and codes of conduct are agreed to both national and local standards and in general work well

- b. What, if any, are the most significant gaps in the current ethical standards regime for local government?

The current code of conduct is less stringent than before, DPs replaced Personal Interests and focus on monetary issues only. This was a backwards step

Codes of conduct

- c. Are local authority adopted codes of conduct for councillors clear and easily understood? Do the codes cover an appropriate range of behaviours? What examples of good practice, including induction processes, exist?

Some information is unclear and better clarity would not go a miss. There are some grey areas which may be open to misinterpretation. Mandatory training of new councillors would also go to assisting.

- d. A local authority has a statutory duty to ensure that its adopted code of conduct for councillors is consistent with the Seven Principles of Public Life and that it includes appropriate provision (as decided by the local authority) for registering and declaring councillors' interests. Are these requirements appropriate as they stand? If not, please say why.

Investigations and decisions on allegations

- e. Are allegations of councillor misconduct investigated and decided fairly and with due process?

Town / Parish Councils can only pass allegations on to the monitoring officer at District level

- f. What processes do local authorities have in place for investigating and deciding upon allegations? Do these processes meet requirements for due

process? Should any additional safeguards be put in place to ensure due process?

Yes. We can only refer them to the monitoring officer at Craven DC. The chairperson / clerk may seek to find out facts but they are unable to make any judgement.

- g. Is the current requirement that the views of an Independent Person must be sought and taken into account before deciding on an allegation sufficient to ensure the objectivity and fairness of the decision process? Should this requirement be strengthened? If so, how?

How independent should independent mean? This will very much depend on the complexity of each case and how far removed from the monitoring officer

- h. Monitoring Officers are often involved in the process of investigating and deciding upon code breaches. Could Monitoring Officers be subject to conflicts of interest or undue pressure when doing so? How could Monitoring Officers be protected from this risk?

We believe that they may have conflicts of interest in some cases but are currently unaware of any. Perhaps MOs should not investigate their own Councillors but pass cases to a neighbouring District where conflicts are perceived

Sanctions

- i. Are existing sanctions for councillor misconduct sufficient?

No

- j. What sanctions do local authorities use when councillors are found to have breached the code of conduct? Are these sanctions sufficient to deter breaches and, where relevant, to enforce compliance?

The Town/Parish Council does not have the powers to enforce compliance. Any non-compliance would be brought to the attention of the Monitoring Officer at Craven DC. The Chairman of the meeting, may also remind councillors of their obligations as required.

- k. Should local authorities be given the ability to use additional sanctions? If so, what should these be?

Not at Town/Parish Council level

Declaring interests and conflicts of interest

- l. Are existing arrangements to declare councillors' interests and manage conflicts of interest satisfactory? If not please say why.

The new system of Disclosable Pecuniary Interest is far more complex than the old personal interest system. When does an interest become pecuniary?

- m. A local councillor is under a legal duty to register any pecuniary interests (or those of their spouse or partner), and cannot participate in discussion or votes that engage a disclosable pecuniary interest, nor take any further steps in relation to that matter, although local authorities can grant dispensations under certain circumstances. Are these statutory duties appropriate as they stand?

We are not sure of how dispensations would be issued and work - if a pecuniary interest is present then no discussion or voting should be entered into whatever the situation

- n. What arrangements do local authorities have in place to declare councillors' interests, and manage conflicts of interest that go beyond the statutory requirements? Are these satisfactory? If not, please say why.

Register of interests held by the clerk and copied to the District Council. Only current issue is the review/update of these documents mid-term.

Whistleblowing

- o. What arrangements are in place for whistleblowing, by the public, councillors, and officials? Are these satisfactory?

Concerned individuals can contact the Clerk or Chairperson of the council or the District Council. The framework exists but may not appear independent enough to the public in small communities where everyone knows everyone. It is difficult for officials on parish councils to whistleblow and protection of these individuals from bullying etc by one or more Councillors is sadly lacking

Improving standards

- p. What steps could *local authorities* take to improve local government ethical standards?

Not sure

- q. What steps could *central government* take to improve local government ethical standards?

Need to disclose more information to the public.

Intimidation of local councillors

- r. What is the nature, scale, and extent of intimidation towards local councillors?

Occasionally members of the public do intimidate councillors particularly if they do not agree with council practice or decisions. Abuse is normally by abusive speech in the street or phone, or by letter. Our council has little power to resolve any such disagreement / conflict in this kind of situation. There should be some way in which this could be brought to the monitoring officer as well as the police if required

- s. What measures could be put in place to prevent and address this intimidation?

This would depend on the severity of each case. However it would be useful to have some way of resolving issues early on without involving the police – who frankly have little time to help unless the situation becomes very bad. Could some form of mandated warning be issued with a fixed penalty for contravention?

**REVIEW OF LOCAL GOVERNMENT ETHICAL STANDARDS: STAKEHOLDER CONSULTATION
SUBMISSION TO THE COMMITTEE ON STANDARDS IN PUBLIC LIFE**

1. My name is Crispin Taylor and I am currently Clerk to a small parish council in the west of England. I was formerly Clerk to a larger parish council. I hold the Certificate in Local Council Administration and I am a Principal Member of the Society of Local Council Clerks. I am also an Advisor to the Society of Local Council Clerks and in that capacity have advised many members of the Society affected by the issues dealt with in this consultation. However this submission is in my personal capacity. All my comments relate to local (parish and town) councils in England.

2. I answer the questions as follows:

(a) The existing structures, processes and practices are clearly not working to ensure high standards of conduct by local councillors. There continues to be a very high level of bullying by local councillors. Many local councillors do not understand their role and do not understand the relationship between themselves and officers. Very often they see themselves as private sector 'managers'.

(b) The most significant gap for the local (parish and town) sector is that there is no provision for compulsory training for local councillors. Local councillors, especially those with private sector experience, do not appreciate the differences of a public sector regime. In addition principal authority councillors often do not appreciate that local (parish and town) councils do not and cannot have 'executive members'.

(c) and (d) As the current regime on codes of conduct does not provide for any effective sanctions I do not regard these questions as relevant. I am aware that in introducing the current regime the then Government said that the ballot box would provide the answer but as local (parish and town) council seats are rarely contested in smaller councils, and indeed in many small councils the challenge is to find enough people to stand, in most cases the ballot box does not exist.

(e) I have no comment on this.

(f) Existing sanctions are not sufficient. In fact they do not exist. The only sanction is of 'naming and shaming'. Councillors cannot be required to undertake training, nor can they be suspended or disqualified. Councillors who bully can ignore whatever is said about them and respond that they are being 'robust managers'.

(g) Existing arrangements on declaring interests are not satisfactory.

(i) The 2011 Act made disclosable pecuniary interests ('DPIs') a matter for the police and not the monitoring officer, and the police do not have the expertise to investigate allegations, as well as having better things to do with their time. The result is that monitoring of DPIs does not exist. Because allegations must be referred to the police the monitoring officer cannot even use the few powers of publicity that s/he possesses.

(ii) The law on declaring interests other than DPIs is entirely unclear. As failure to declare interests other than DPIs is a code of conduct matter there are no effective sanctions for failure to declare interests other than DPIs. Local (parish and town) councils can make whatever provision they think fit in their code of conduct for the registration and

declaration of interests other than DPIs but in the absence of effective sanctions it makes little difference what they do.

(h) I have no comment on this.

(i) I have no comment on this.

(j) The Government should bring in legislation to (a) provide for compulsory training of councillors (as is already the case for school governors) and (b) re-introduce the sanctions of compulsory training, suspension and disqualification. The legislation should also provide for compulsory training of clerks of local (parish and town) councils at the expense of the council (this is already a requirement for a council which wishes to possess the general power of competence or wishes to be awarded Quality status but many councils will not do either of these). The Government should also remove declaration of DPIs from the criminal regime and bring it back into the code of conduct regime.

(k) I have no comment on this.

3. I am happy to be contacted by the Committee if I can assist further and I am happy for my submission to be published.

Crispin Taylor PSLCC

**Review of Local Government Ethical Standards: Stakeholder Consultation
Cromer Town Council response.**

Cromer Town Council decided to respond to this consultation following significant issues with the harassment of both Councillors and Council Staff between 2015-16.

Consultation questions

- a. (Q) Are the existing structures, processes and practices in place working to ensure high standards of conduct by local councillors? If not, please say why.
- (A) In recent years, there have been no code of conduct issues that have tested existing policies.
The Town Council is aware that it can address concerns and receive advice from the Monitoring Officer at the District Council wherever necessary.
- b. (Q) What, if any, are the most significant gaps in the current ethical standards regime for local government?
- (A) Cromer Town Council has not noted any gaps in the existing ethical standards regime.

Codes of conduct

- c. (Q) Are local authority adopted codes of conduct for councillors clear and easily understood? Do the codes cover an appropriate range of behaviours? What examples of good practice, including induction processes, exist?
- (A) Cromer Town Council feels that the current codes of conduct are clear and unambiguous.
- d. (Q) A local authority has a statutory duty to ensure that its adopted code of conduct for councillors is consistent with the Seven Principles of Public Life and that it includes appropriate provision (as decided by the local authority) for registering and declaring councillors' interests. Are these requirements appropriate as they stand? If not, please say why.
- (A) Yes.

Investigations and decisions on allegations

- e. (Q) Are allegations of councillor misconduct investigated and decided fairly and with due process?
- i. What processes do local authorities have in place for investigating and deciding upon allegations? Do these processes meet requirements for due

process? Should any additional safeguards be put in place to ensure due process?

- ii. Is the current requirement that the views of an Independent Person must be sought and taken into account before deciding on an allegation sufficient to ensure the objectivity and fairness of the decision process? Should this requirement be strengthened? If so, how?
- iii. Monitoring Officers are often involved in the process of investigating and deciding upon code breaches. Could Monitoring Officers be subject to conflicts of interest or undue pressure when doing so? How could Monitoring Officers be protected from this risk?

(A) Cromer Town Council have had no experience of misconduct investigations in recent years and therefore do not wish to respond to these questions.

Sanctions

- f. (Q) Are existing sanctions for councillor misconduct sufficient?
 - i. What sanctions do local authorities use when councillors are found to have breached the code of conduct? Are these sanctions sufficient to deter breaches and, where relevant, to enforce compliance?
 - ii. Should local authorities be given the ability to use additional sanctions? If so, what should these be?

(A) Cromer Town Council have had no experience of misconduct investigations, nor outcomes in recent years, and therefore do not wish to comment.

Declaring interests and conflicts of interest

- g. (Q) Are existing arrangements to declare councillors' interests and manage conflicts of interest satisfactory? If not please say why.
 - i. A local councillor is under a legal duty to register any pecuniary interests (or those of their spouse or partner), and cannot participate in discussion or votes that engage a disclosable pecuniary interest, nor take any further steps in relation to that matter, although local authorities can grant dispensations under certain circumstances. Are these statutory duties appropriate as they stand?
 - ii. What arrangements do local authorities have in place to declare councillors' interests, and manage conflicts of interest that go beyond the statutory requirements? Are these satisfactory? If not, please say why.

(A) Cromer Town Council have found the current arrangements to be sufficient.

Whistleblowing

- h. (Q) What arrangements are in place for whistleblowing, by the public, councillors, and officials? Are these satisfactory?

(A) Cromer Town Council will consider the introduction of a Whistleblowing Policy shortly, though this does not exist at present.

Improving standards

- i. (Q) What steps could *local authorities* take to improve local government ethical standards?

(A) Were finance and capacity not an issue, the ability for Monitoring Officers to carry out spot checks to ensure policy compliance and offer advice to Town/Parish Councils could be useful.

- j. (Q) What steps could *central government* take to improve local government ethical standards?

(A) Cromer Town Council do not have a view on this question.

Intimidation of local councillors

- k. (Q) What is the nature, scale, and extent of intimidation towards local councillors?

(A) Cromer Town Councillors and staff, who we feel should also be considered in this instance, have previously experienced significant problems with intimidation from two individuals.

This has included social media abuse, misogynistic comments, the invasion of privacy, unarranged visits to the office designed to intimidate, potentially libellous accusations, and vexatious and repetitive correspondence, including the misuse of Freedom Of Information and Subject Access Requests.

There is only very limited recourse for local authorities to counter this behaviour. We have successfully used our own Complaints Procedure and Persistent Complaints Policy, but only following significant expenditure on legal advice and staff time. Our Councillors are not paid and receive no allowance for time spent dealing with these issues.

A significant sum of money was also invested in increasing security at Cromer Town Council's office, including the provision of CCTV surveillance and biometric door entry system.

The Police were only able to offer limited advice on the issues, having been advised themselves that correspondence of this nature to Local Authorities was legitimate due to the public nature of a Local Authority. A Police Information Notice was previously issued against one individual and then rescinded for this reason.

It is currently possible for an individual, or small number of individuals, to expend the majority of a small Council's resources on vindictive and baseless accusations, therefore taking the attention away from the Council's core responsibilities. Many Local Authorities simply do not have the capacity to deal with such issues, and it could result in both Councillors and Council staff leaving their role due to the lack of any protection against such issues. Inevitably for some, resigning may seem the only recourse.

- i. (Q) What measures could be put in place to prevent and address this intimidation?

(A)

1. Increased guidance and powers to Police for dealing with cases of harassment against Local Authority Councillors and Local Authority staff. Harassment of those connected to Local Authorities should be considered equally important as the harassment of other private individuals.

2. Limits on the number of consecutive Freedom of Information Requests and Subject Access Requests any one individual can submit to individual authorities in a short space of time, or where a complaint is already being investigated by the Information Commissioner.

3. A bulletin or briefing to Local Authorities sharing best practice, for instance, Cornwall County Council's 'Unreasonable Customer Behaviour Policy', which Cromer Town Council used as a model policy for the purposes of re-writing its own policies.

4. In most cases, the Parish/Town Council Clerk's private home address and phone number are also the public contact details for various Parish Councils.

Parish/Town Councils must now be one of the only sectors, if not the only sector, where the private contact details of staff are often publicly available. Therefore, there should be a requirement in place for Parish/Town Councils to provide a PO Box, or reach agreements with larger authorities to receive mail where a public Council Office is not present.

Response of West Lancashire Borough Council – Review of Local Government Ethical Standards: Stakeholder Consultation

a. Are the existing structures, processes and practices in place working to ensure high standards of conduct by local councillors? If not, please say why.

The Code of Conduct adopted by the Borough Council (and by our local Parish Councils) is modelled on the former national code and was well received by both Borough and Parish members upon introduction. The overwhelming majority of members take their duties under the Code extremely seriously and have a very real desire to achieve the highest standards of conduct in the discharge of their democratic duties.

Save for the issue of limited sanctions (which appears also to be of concern to other local authorities) the Borough Council's Procedure for the Assessment of Complaints is considered to be robust and operating fairly to both the complainant and the subject member.

b. What, if any, are the most significant gaps in the current ethical standards regime for local government?

It is considered that the existing legislation gives rise to a lack of meaningful sanctions where a more serious breach of the Code of Conduct is established.

See further the response to f. below.

Codes of conduct

c. Are local authority adopted codes of conduct for councillors clear and easily understood? Do the codes cover an appropriate range of behaviours? What examples of good practice, including induction processes, exist?

As part of their induction all new Borough members are given training on the requirements of the Code. In addition the Council holds an annual Code of Conduct Training Seminar to which all Borough and Parish Members (including Parish clerks) are invited to attend. As well as covering the Code of Conduct in detail, the seminar also provides advice to members on wider ethical matters such as the Code of Recommended Practice on Publicity (purdah guidance) and Probity in Planning. In recent years the training has been interactive and participative through the use of fictional cases studies and standards quizzes. Generally it is considered that the Code is well understood by members.

However, the wording of the statutory provisions relating to Disclosable Pecuniary Interests (DPs) could be improved so as to clarify when a Councillor will have a DPI in a matter to be voted on or discussed at a meeting.

Although the Code adopted by the Borough Council (and the Parish Councils within West Lancashire) is modelled on the former national code it is noted that other authorities have departed somewhat from the former standard provisions. The removal of the single national code may have led to inconsistencies between codes which members of the public may find difficult to understand.

d. A local authority has a statutory duty to ensure that its adopted code of conduct for councillors is consistent with the Seven Principles of Public Life and that it includes appropriate provision (as decided by the local authority) for registering and declaring councillors' interests. Are these requirements appropriate as they stand? If not, please say why.

Yes. The requirements allow sufficient flexibility for local authorities to decide what matters should be addressed within their adopted Code.

Investigations and decisions on allegations

e. Are allegations of councillor misconduct investigated and decided fairly and with due process?

i. What processes do local authorities have in place for investigating and deciding upon allegations? Do these processes meet requirements for due process? Should any additional safeguards be put in place to ensure due process?

The Borough Council has adopted detailed arrangements for handling standards complaints. It is considered that these processes operate well. In particular, the arrangements allow for complaints to be dealt with more quickly than before, particularly in relation to the initial assessment process.

During 2017/18 the Borough Council received 4 complaints and 1 complaint from the previous year had been carried forward. Of these:-

3 have resulted in no further action;
0 have been assessed as suitable for informal resolution
1 were considered by the Standards Hearings Sub-Committee
1 complaint pending
1 of the complaints were made against Parish Councillors, 4 against Borough Councillors

ii. Is the current requirement that the views of an Independent Person must be sought and taken into account before deciding on an allegation sufficient to ensure the objectivity and fairness of the decision process? Should this requirement be strengthened? If so, how?

The role of the Independent Person(s) (IP) is well-regarded within West Lancashire and forms an integral part of current processes.

The input of the IP is important and gives confidence to the general public and members. The Borough Council has adopted a comprehensive Independent Person Protocol to help clarify how the role will be performed. The IP is consulted at all stages of a complaint from initial assessment to a final decision as to whether there been a breach of the Code.

iii. Monitoring Officers are often involved in the process of investigating and deciding upon code breaches. Could Monitoring Officers be subject to conflicts of interest or undue pressure when doing so? How could Monitoring Officers be protected from this risk?

The Borough Council's procedures provide that pre-assessment reports and investigatory reports are prepared with the assistance of an external advisor where appropriate.

Whilst it would be rare for there to be a conflict of interest, MOs (and Deputy MOs) may have some unease in handling complaints against senior members at their own authority. These issues are managed in West Lancashire through robust procedures and the use of external advisors where appropriate.

Sanctions

f. Are existing sanctions for councillor misconduct sufficient?

Nationally, the absence of meaningful sanctions is considered a weakness of the existing arrangements and this has also been echoed at a local level.

Whilst a Councillor who fails to meet the statutory obligations relating to DPIs may be subject to criminal proceedings, in respect of other misconduct the sanctions available to Standards Committees are much weaker than those available to Standards for England under the former regime. This may undermine the confidence held by the public that more serious allegations are met with appropriate sanctions.

What sanctions do local authorities use when councillors are found to have breached the code of conduct? Are these sanctions sufficient to deter breaches and, where relevant, to enforce compliance?

There are a range of possible sanctions within the existing law and the locally adopted procedures including:

Borough Council

- A. Reporting its findings to Council for information;
- B. Recommending 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;
- C. Recommending to the Leader of the Council that the member be removed from the Cabinet, or removed from particular Portfolio responsibilities;
- D. Instructing the Borough Solicitor to arrange training for the member;
- E. Recommending to the Council the member be removed from all outside appointments to which he/she has been appointed or nominated by the authority.
- F. Recommending to the Council that it withdraws facilities provided to the member by the Council, such as a computer, website and/or email and Internet access; or
- G. Recommending that the Council excludes 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.

Parish Councils

- A. Reporting its findings to the Parish Council for information;
- B. Recommending the Parish Council arrange training for the member;
- C. Recommending to the Parish Council the member be removed from all outside appointments to which he/she has been appointed or nominated by the authority.
- D. Recommending to the Parish Council that it withdraws facilities provided to the member by the Parish Council, such as a computer, website and/or email and Internet access.

There is no appeal mechanism against decisions of the Hearing Sub Committee. Any challenges to unreasonable or unlawful decisions would be made by way of Judicial Review. The grounds for challenging by way of Judicial Review are limited.

Should local authorities be given the ability to use additional sanctions? If so, what should these be?

Consideration should be given to Standards Committees having the power to suspend a member for a period of time depending on the seriousness of the breach of the Code.

Declaring interests and conflicts of interest

g. Are existing arrangements to declare councillors' interests and manage conflicts of interest satisfactory? If not please say why.

The existing arrangements to declare interests are considered satisfactory.

A local councillor is under a legal duty to register any pecuniary interests (or those of their spouse or partner), and cannot participate in discussion or votes that engage a disclosable pecuniary interest, nor take any further steps in relation to that matter, although local authorities can grant dispensations under certain circumstances. Are these statutory duties appropriate as they stand?

The existing arrangements are considered satisfactory.

What arrangements do local authorities have in place to declare councillors' interests, and manage conflicts of interest that go beyond the statutory requirements? Are these satisfactory? If not, please say why.

The Borough Council's Code mirrors the former national code in that it provides for additional categories of interests: non-pecuniary interests which must be declared, and pecuniary interests, which must also be declared and would prevent participation in relevant matters by the member concerned. The operation of non-pecuniary and pecuniary interests has not caused any difficulties.

Whistleblowing

h. What arrangements are in place for whistleblowing, by the public, councillors, and officials? Are these satisfactory?

The Borough Council has an adopted policy on whistleblowing. It is not considered that any changes are required to these arrangements.

Improving standards

i. What steps could local authorities take to improve local government ethical standards?

It is suggested that all local authorities should be required to establish a Standards Committee.

j. What steps could central government take to improve local government ethical standards?

As set out above, the most fundamental weakness of the existing regime is the absence of meaningful sanctions. It is considered that this should be addressed.

Intimidation of local councillors

k. What is the nature, scale, and extent of intimidation towards local councillors? What measures could be put in place to prevent and address this intimidation?

The MO is not aware of any concerns being raised by local councillors in relation to intimidation.

Local Borough and Parish Members have been made aware of the consultation and are invited to reply as appropriate regarding this issue.

Are the existing structures, processes and practices in place working to ensure high standards of conduct by local councillors? If not, please say why.

What, if any, are the most significant gaps in the current ethical standards regime for local government?

Response

There are existing structures, processes and practices in place. The Council has received only a small number of complaints, which could suggest that they are working. Conversely, the lack of adequate sanctions in respect of any potential breaches of the code of conduct may discourage people from following through on complaints.

Following the Localism Act changes there is now no uniform national code which leads to inconsistency between local authorities. Within Cumbria we have worked hard to address this by having a common code of conduct shared by all tiers of local authority, and which is still common to all Parish and District Councils.

Codes of conduct

Are local authority adopted codes of conduct for councillors clear and easily understood? Do the codes cover an appropriate range of behaviours? What examples of good practice, including induction processes, exist?

A local authority has a statutory duty to ensure that its adopted code of conduct for councillors is consistent with the Seven Principles of Public Life and that it includes appropriate provision (as decided by the local authority) for registering and declaring councillors' interests. Are these requirements appropriate as they stand? If not, please say why.

Response

The codes are clear and understood. As indicated above, within Cumbria, the Monitoring Officers worked together on a code applied across all three tiers of local government. Whilst the County Council has subsequently made amendments to its code, the Parish Councils and District Councils have continued with the code adopted in 2012.

The local code incorporates the seven general principles of conduct and it is considered that the requirements are appropriate as they stand.

Investigations and decisions on allegations

Are allegations of councillor misconduct investigated and decided fairly and with due process?

What processes do local authorities have in place for investigating and deciding upon allegations? Do these processes meet requirements for due process? Should any additional safeguards be put in place to ensure due process?

Is the current requirement that the views of an Independent Person must be sought and taken into account before deciding on an allegation sufficient to ensure the objectivity and fairness of the decision process? Should this requirement be strengthened? If so, how?

Monitoring Officers are often involved in the process of investigating and deciding upon code breaches. Could Monitoring Officers be subject to conflicts of interest or undue pressure when doing so? How could Monitoring Officers be protected from this risk?

Response

The Council has adopted standards arrangements, which meets the requirements and follows due process. Since 2012 they have not been tested to the full, and therefore difficult to comment further. A copy of the arrangements is included with this response, together with the Council code of conduct for your information (Appendix 1).

The current arrangements for taking views of the Independent Person work well.

The MO is protected by having ability to put a case to the Standards Committee if there is felt to be a conflict of interest, or the ability for the Deputy MO, or neighbouring MO to be involved.

Sanctions

Are existing sanctions for councillor misconduct sufficient?

What sanctions do local authorities use when councillors are found to have breached the code of conduct? Are these sanctions sufficient to deter breaches and, where relevant, to enforce compliance?

Should local authorities be given the ability to use additional sanctions? If so, what should these be?

Response

There are limited sanctions that local authorities can use when councillors are found to have breached the code of conduct. These are set out in the procedure for local hearings, also included with this response as Appendix 2. It is not considered that these sanctions are sufficient to deter breaches, and where relevant to enforce compliance.

Sanctions originally available prior to the Localism Act 2011 should be reinstated which would enable a member to be suspended if found to have seriously breached the code of conduct.

Declaring interests and conflicts of interest

Are existing arrangements to declare councillors' interests and manage conflicts of interest satisfactory? If not please say why.

A local councillor is under a legal duty to register any pecuniary interests (or those of their spouse or partner), and cannot participate in discussion or votes that engage a disclosable pecuniary interest, nor take any further steps in relation to that matter, although local authorities can grant dispensations under certain circumstances. Are these statutory duties appropriate as they stand?

What arrangements do local authorities have in place to declare councillors' interests, and manage conflicts of interest that go beyond the statutory requirements? Are these satisfactory? If not, please say why.

Response

At District Council level agendas include an item for declaration of interests so that these are open and transparent where members have interest in any agenda items. Parish agendas also have a similar item for parish councillors to make any appropriate declarations.

The advice of the Monitoring Officer can be sought if there are any queries around conflicts of interests.

The Standards Committee has also granted dispensations to members and co-opted members to enable members with a disclosable pecuniary interest or potential for other conflicts/interests to utilise the Council's general public participation and public participation at planning schemes to make representations, but to then leave the room and not take any part in any discussion or debate where they make have such interests.

Whistleblowing

What arrangements are in place for whistleblowing, by the public, councillors, and officials? Are these satisfactory?

Response

The Council has a whistleblowing policy, which is reviewed by the audit committee on a regular basis. It is believed that existing arrangements are satisfactory.

Improving standards

What steps could *local authorities* take to improve local government ethical standards?

What steps could *central government* take to improve local government ethical standards?

Response

The steps local authorities could take to improve local government ethical standards are limited to government policies and sanctions. The Council undertakes regular training for members and co-optees around the code of conduct and ethical standards, and also to Chairman in chairing meetings.

Whilst not advocating the return of the Standards Board, an independent body reviewing conduct matters did ensure consistency of approach. A question to be considered is whether there should be some form of independent review panel for ethical standards cases.

Intimidation of local councillors

What is the nature, scale, and extent of intimidation towards local councillors?

What measures could be put in place to prevent and address this intimidation?

Response

There is a broad range of intimidation of local councillors from stalking, abusive letters/threats, intimidation, disrespect and social media issues to name a few which is happening within local communities, and which is discouraging people from standing as a councillor in local elections. Whilst it is felt that existing legislation is able to deal with the majority of these issues, additional guidance and support for members would be welcome to help combat these issues.

| Review of Local Government Ethical Standards: Stakeholder Consultation | |
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| Response | |
| Response | |
| a | <p>Are the existing structures, processes and practices in place working to ensure high standards of conduct by local councillors? If not, please say why.</p> <p>No.</p> <p>At Council X, many members command of basic literacy is insufficient. The Code and processes were written in a simple way to make them easily understandable.</p> <p>Despite this, they either lack an awareness of their conduct or feel there is no threat of exposure or sanction that would cause them the necessary concern to get things right in the first place.</p> |
| b | <p>What, if any, are the most significant gaps in the current ethical standards regime for local government?</p> <p>Monitoring Officers refusing to uphold standards of behaviour of members when they fall short. At Council X the officers are politicised and this means decision making by MO's is steeped in political expediency rather than the need to uphold the highest standards of ethical behaviour.</p> <p>The problem of MOs either aligning themselves to politicians to curry favour ; avoid rocking the boat and putting their positions at risk; or simply not knowing what good should look like.</p> <p>Appointing Monitoring Officers who have no experience of monitoring officer</p> |

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| | | duties also exacerbates part of the problem. |
| Codes of conduct | | |
| c | Are local authority adopted codes of conduct for councillors clear and easily understood? Do the codes cover an appropriate range of behaviours? What examples of good practice, including induction processes, exist? | <p>The Code that I drafted was as simple as it could be. Everything was signposted. The Nolan principles were covered and clearly set out and explained.</p> <p>The failures were around training and induction. Instead of having a rolling program of continuous education, a dull and dreary presentation at a members induction evening once every 4 years, at the end of a long and tiring election process is seen as the training session.</p> <p>This is a failure of officers to understand and give weight to the Code of Conduct helps to explain why members then do not take the Codes seriously.</p> <p>If Officers gave the Codes the gravitas they rightly desired then so to might members.</p> |
| d | A local authority has a statutory duty to ensure that its adopted code of conduct for councillors is consistent with the Seven Principles of Public Life and that it includes appropriate provision (as decided by the local authority) for registering and declaring councillors' interests. Are these requirements appropriate as they stand? If not, please say why | <p>No.</p> <p>Embodying the Nolan principles in a document, does not mean the principles result in being a behavioural thread that guides the thinking of members (or indeed officers).</p> <p>The declaration of interests need to be expanded to cover other interests which are important to be registered by of</p> |

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| | | <p>themselves are neither pecuniary nor non pecuniary. For example – sponsorship by commercial companies of Councillors, is not recorded, when members are sponsored to attend events, eg MIPIM</p> <p>There is a lot of confusion the declaration of trade union membership. Membership of political parties, and sitting on outside bodies.</p> <p>Many Councils have adapted their declarations forms to add further interests as recording just specified pecuniary interests is not sufficient. Compliance across the sector with the Localism Act requires is patchy.</p> <p>There is inconsistent treatment and processes. Again this adds to the lack of emphasis on the importance of the Codes, and allows both officers and members too much freedom to do what suits them.</p> <p>Good practice and processes need to be enshrined in regulations.</p> |
| <p><i>Investigations and decisions on allegations</i></p> | | |
| e | <p>Are allegations of councillor misconduct investigated and decided fairly and with due process?</p> | <p>No.</p> <p>Although Council X set up a process map, and it was expected investigations would be conducted in a fair and robust manner, they have not been.</p> |

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| | | <p>For example investigations by an Interim Monitoring officer were taking months and in one case nearly a year, and even then with no outcome.</p> <p>Good guidance should be drawn from bodies such as ACAS to ensure members are treated fairly and not at the whim of who ever may be holding the power, which in the case of Council X are officers.</p> |
| | <p>iii. What processes do local authorities have in place for investigating and deciding upon allegations? Do these processes meet requirements for due process? Should any additional safeguards be put in place to ensure due process?</p> | <p>Procedural steps never envisaged a corruption of due process and fairness.</p> <p>Such requirements were so obvious that it was not felt when I drafted the process to include them.</p> <p>However, the actions one interim MO who was a solicitor and one inexperienced MO, have shown that due process needs to be prescribed. Investigation plans, time limits and key steps need to be set out and a requirement that they are adhered to.</p> <p>Recent failings have been highlighted in several cases that have come to the attention to the press. The question then needs to be considered, what does not come to attention. This is particularly significant is cases of a safeguarding nature or the potential for such.</p> |
| | <p>iv. Is the current requirement that the views of an Independent</p> | <p>No.</p> <p>The Independent person remit is too</p> |

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| | <p>Person must be sought and taken into account before deciding on an allegation sufficient to ensure the objectivity and fairness of the decision process? Should this requirement be strengthened? If so, how?</p> | <p>narrow and they lack power or a wider circle of experience for whom they act as IP.</p> <p>In one case the IP complained about the length of delay the MO was taking in investigation a member complaint. Despite this, no attention was paid. The IP has no influence, as he is unable to escalate his concern outside the organisation.</p> |
| | <p>v. Monitoring Officers are often involved in the process of investigating and deciding upon code breaches. Could Monitoring Officers be subject to conflicts of interest or undue pressure when doing so? How could Monitoring Officers be protected from this risk?</p> | <p>Historically MOs never investigated complaints, instead they would appoint an investigator. I have attached an example of a headline form Council X.</p> <p>However, more and more MO are undertaking the investigations or appointing unsuitable people to investigate. This undermines the process and respect for the process.</p> <p>Regulations should prescribe who should investigate – ie experience, addressed linked individuals etc.</p> |
| Sanctions | | |
| f | <p>Are existing sanctions for councillor misconduct sufficient?</p> | <p>There are no sanctions that have any deterrent effect.</p> |
| | <p>i. What sanctions do local authorities use when councillors are found to have breached the code of conduct? Are these sanctions sufficient to deter breaches and, where relevant, to enforce compliance?</p> | <p>Training and apology.</p> <p>There is no threat from the sanctions as such they do not promote compliance.</p> |
| | <p>ii. Should local authorities be given the ability to use additional sanctions? If so,</p> | <p>There should be prescribed sanctions available, ranging from compulsory successful completion of training, hours</p> |

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| | what should these be? | of community service, suspension, to a recommendation to remove as a Cllr to go to full council for a vote. |
| Declaring interests and conflicts of interest | | |
| g | Are existing arrangements to declare councillors' interests and manage conflicts of interest satisfactory? If not please say why. | No. The system is not clear nor is it transparent. Please see Q re sponsorship. It should not be right the declarations of interests to do cover 3 rd party sponsorship outside of elections. Personal and close relationships with officers are also an issue. |
| | i. A local councillor is under a legal duty to register any pecuniary interests (or those of their spouse or partner), and cannot participate in discussion or votes that engage a disclosable pecuniary interest, nor take any further steps in relation to that matter, although local authorities can grant dispensations under certain circumstances. Are these statutory duties appropriate as they stand? | They lack rigour and the duty should be wider than just pecuniary interests. Many Council's have retained prejudicial interests to fill the gap. |
| | ii. What arrangements do local authorities have in place to declare councillors' interests, and manage conflicts of interest that go beyond the statutory requirements? Are | Mostly none, because of the way the law and regulations work. Most Council still require declarations as meetings, to be transparent. At Council X I still maintained Personal and Prejudicial on top of pecuniary and non-pecuniary just |

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| | these satisfactory? If not, please say why. | to make sure. This is particularly important in planning and licensing. |
| Whistleblowing | | |
| h | What arrangements are in place for whistleblowing, by the public, councillors, and officials? Are these satisfactory? | <p>Council X has a poor record in whistleblowing. Whistle-blowers are hounded out of the organisation.</p> <p>Whistleblowing arrangements should be regulated to force a 3rd party organisation to be able to receive complaints. This was a recommendation by internal audit and myself at Council X but it was ignored. If you are making a whistleblowing complaint about the 2 people in the organisation to whom you allowed to whistle-blower, the inevitable problems arise.</p> <p>At Council X a whistleblowing complaint was sent by a member to the officer against the complaint was made. No action was taken against either. This failure needs to be addressed by prescribed processes.</p> |
| Improving standards | | |
| i | What steps could <i>local authorities</i> take to improve local government ethical standards? | <p>Rolling program for compulsory training for members on standards.</p> <p>Complaints to made to 3rd parties if issue with MO/Council. Maybe a neighbouring Council.</p> |
| j | What steps could <i>central government</i> take to improve local government ethical standards? | <p>Rolling program for compulsory training for members on standards. They should be required to sit a test every time they are elected to office.</p> |

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| | | <p>Qualification requirements for MOs and DMOs.</p> <p>Greater sanctions.</p> <p>Complaints to made to 3rd parties if issue with MO/Council. Maybe a neighbouring Council.</p> |
| Intimidation of local councillors | | |
| k | <p>What is the nature, scale, and extent of intimidation towards local councillors?</p> | <p>Political pressure against women is very high. Cultural sexist pressure was very prevalent at Council X. Clear example of current deputy leader at Council X being threatened when she did not agree, now being targeted. This is well documented in the press and the complaints that have been made both to the MO and to the Labour party office.</p> <p>I witnesses both racist and sexist behaviour, which went on unchecked in any way. Party complaints take to long and often there is retribution with deselection or removal from posts if complaints are made.</p> |
| | <p>i. What measures could be put in place to prevent and address this intimidation?</p> | <p>This is hard as it is hidden. MOs should be more forthcoming in making complaints themselves. It should be expected in these case that they make the necessary referrals.</p> |
| <p>Concluding Comments</p> <p>The question that should also have been asked is how many complaints do MOs make of their members where there is cause for concern but a complainant does not bring a complaint or later withdraws it. This situation has arisen at Council X several times, yet despite the serious nature of the complaints, the MO did nothing. This</p> | | |

helps to highlight concerns with the quality of MOs.

Review of local government

ethical standards:

Stakeholder consultation

This submission to the Review of Local government ethical standards is on behalf of Egremont town parish council.

Egremont town council parish is a relatively small parish which encompasses the ancient market town of Egremont and villages of Moor row and Bigrigg with a population of approx. 15,000 people.

Egremont town council has 10 councillors and 3 full time employees. The council runs several allotments, a bowling green with a club house, a cemetery, market hall with a ball and super rooms as well as a office that all available for hire.

The reason we are contributing to this consultation is to add a small councils perspective on how national interests affect and how small councils work within the ethical frame works and how we provide our services to the local population.

Question: a

Answer- Egremont town council have comprehensive structure and practices that ensure all councillors and employees exhibit high ethical standards.

Question: b

Answer - There are no gaps in Egremont town councils' practices or structures

Question: c

Answer - All the town councils' adopted codes of conduct are clear, concise & easy to understand. They cover all areas of behaviour. All councillors are given a copy of the good councillors guide & are given extensive training in conduct and responsibilities.

Question: d

Answer - All the town councils' code of conduct in line with the seven principles. All councillors complete & sign a conflict of interests register annually and to update

these during the year if necessary, these are made fully available to for public to view both on our website & by the clerk.

Question: e

Answer - i, Initially the town council records the report of councilor/employee misconduct charge and completes an investigation. If a minor issue then it is dealt with by the town council however if a major issue the information and details are passed on Copeland borough councils' Standards & ethics committee for a full investigation.

ii, An independent panel is raised and then completes a full investigation and a hearing is held if appropriate. These investigations & hearing s are totally objective, fair & independent. Findings and actions are made public.

iii, Monitoring officers can be placed in compromising positions. Subsequently they would declare an interest and step aside and another officer would be appointed to the position for the duration of the investigation.

Question: f

Answer - i, All the existing sanctions both within Egremont town and borough councils are sufficient.

ii, All councillors responsibilities are removed. The person under sanctions can not operate, perform duties, attend meetings, perform council business or brief the press and public on behalf of the council.

Question: g

Answer- i, All the town councils' arrangements for councillors declaration of interests are robust.

ii, All councillors complete & sign a conflict of interests register annually and to update these during the year if necessary, these are made fully available to for the public to view both on the town council website & by request to the clerk.

Question: h

Answer - Locally there are no barriers to councillors, employees or members of the public whistle blowing. The town council encourages any person who has evidence to reveal the information and hold those guilty to account.

Question: i

Answer - The town & borough council have fully robust standards and fully support and participate in the systems that are in place and encourage reviewing these procedures so to encourage continual improvement.

Question: j

Answer - Central government could increase funding to all levels of councils for training and up skilling of councillors.

Question: k

Answer - The impacts of austerity have considerably increased the pressures on council employees, officers and councillors.

Question: l

Answer - The government could lower its austerity measures, especially those that are affecting council at all levels and invest greater resources to allow councils to do more than statutory duties.

Egremont town council would like to thank you for the opportunity to take part in this consultation and to be able express the council's views of the ethics and procedures that all councils nationwide have to adhere to.

SUBMISSION 94

We are responding specifically to one Council – Dartford Borough Council

a. Are the existing structures, processes and practices in place working to ensure high standards of conduct by local councillors? If not, please say why.

Dartford Borough Council publishes the Code of members' Conduct, along with a complaints procedure on their website consisting of a reasonably detailed procedure which should be followed together with a flow chart showing how complaints are dealt with. The Code of Conduct as published is quite clear.

b. What, if any, are the most significant gaps in the current ethical standards regime for local government?

The Code gives adequate pointers to behavioural standards, however there is a lack of appropriate sanctions

c. Are local authority adopted codes of conduct for councillors clear and easily understood? Do the codes cover an appropriate range of behaviours? What examples of good practice, including induction processes, exist?

The code is easily understood and some training is given for newly elected members but we believe that attendance at this training is not compulsory

d. A local authority has a statutory duty to ensure that its adopted code of conduct for councillors is consistent with the Seven Principles of Public Life and that it includes appropriate provision (as decided by the local authority) for registering and declaring councillors' interests. Are these requirements appropriate as they stand? If not, please say why.

These are in place

e. Are allegations of councillor misconduct investigated and decided fairly and with due process?

i. What processes do local authorities have in place for investigating and deciding upon allegations? Do these processes meet requirements for due process? Should any additional safeguards be put in place to ensure due process?

ii. Is the current requirement that the views of an Independent Person must be sought and taken into account before deciding on an allegation sufficient to ensure the objectivity and fairness of the decision process? Should this requirement be strengthened? If so, how?

iii. Monitoring Officers are often involved in the process of investigating and deciding upon code breaches. Could Monitoring Officers be subject to conflicts of interest or undue pressure when doing so? How could Monitoring Officers be protected from this risk?

Although there is provision for an Independent Person to be consulted there is no provision for the complainant to a) know who this person is b) receive a copy of their judgement. Regarding timescales there seems to be some confusion as the Monitoring Officer has stated that there is no timescale for her to follow. Surely this is unacceptable and could lead to a protracted investigation period leaving the complainant completely in the dark as to the progress, if any, of his/her complaint. Also the Monitoring Officer is employed by the very Council whose member/s will be the subject of the complaint. How can the MO remain impartial when there is surely scope for internal pressure?

Complaints should be investigated by a MO from another Council which would relieve the MO from any internal pressure.

f. Are existing sanctions for councillor misconduct sufficient? i. What sanctions do local authorities use when councillors are found to have breached the code of conduct? Are these sanctions sufficient to deter breaches and, where relevant, to enforce compliance?

ii. Should local authorities be given the ability to use additional sanctions? If so, what should these be?

There do not appear to be any relevant sanctions for councillor misconduct. Although it is not made clear in this council, it appears that the main sanction is to be referred to the lead member for the political party represented. This seems incongruous as how could there be relative, proportionate sanctions when it would be in the interest of the political party NOT to have to sanction their own members? It is left to the lead member to decide on the sanction which in itself is open to abuse of the system. It is unclear what happens when sanctioning a member who does not belong to a political party.

g. Are existing arrangements to declare councillors' interests and manage conflicts of interest satisfactory? If not please say why. i. A local councillor is under a legal duty to register any pecuniary interests (or those of their spouse or partner), and cannot participate in discussion or votes that engage a disclosable pecuniary interest, nor take any further steps in relation to that matter, although local authorities can grant dispensations under certain circumstances. Are these statutory duties appropriate as they stand? ii. What arrangements do local authorities have in place to declare councillors' interests, and manage conflicts of interest that go beyond the statutory requirements? Are these satisfactory? If not, please say why.

Councillors' interests are declared and published and we can only presume that they are monitored.

What arrangements are in place for whistleblowing, by the public, councillors, and officials? Are these satisfactory?

Unknown

i. What steps could *local authorities* take to improve local government ethical standards?

Complaints relating to the Code of Conduct should be investigated by another authority who has no connection to the member under investigation

j. What steps could *central government* take to improve local government ethical standards?

Perhaps Central Government should review how and by whom sanctions are applied.

What is the nature, scale, and extent of intimidation towards local councillors? i. What measures could be put in place to prevent and address this intimidation?

Unknown

Jan Becket

Parish Clerk

Bean Parish Council

Response to CSPL stakeholder consultation on LG Ethical Standards

My responses use the same paragraph numbers/letter as in the request document.

- a) Structures, processes and practices
 - 1) My biggest concern is that nothing appears to prevent a Cabinet Member in the strong leadership model of LG from being related to another elected councillor within the same portfolio. For example, in [REDACTED], the Cabinet member for Economic Development and Planning is the spouse of the Chair of the Planning Committee. This must lead to a conflict of interest between them as all Planning Committee members are supposed to consider each application on its merits, regardless of any external consideration. This is particularly problematic when the planning application under consideration is sponsored by the Council itself, or a wholly owned subsidiary of the Council. However, there is clearly a much lower risk of conflict if the two related parties have unrelated portfolios, such as Planning & Children's Services.
 - 2) There's a conflict between the Chair of the Planning Committee being an impartial Chair and also being allowed to participate in the decision-making process for each application. Maybe this could be resolved if the Chair were not allowed normally to participate in decision-making unless the vote was tied.

- e) Councillor misconduct
 - 1. The biggest problem here is if an independent monitoring officer does not have the experience or strength of character to call out obvious cases of conflict of interest, but blindly accepts soothing words of assurance from those accused. The only solution here is surely to involve an independent legally-trained person who is not an employee of the council in the assessment of any alleged wrong-doing.
 - 2. Monitoring officers are indeed subject to conflicts of interest if they wish to retain their jobs after issuing a judgement against, for example, the Leader of any Council. It would be a very brave MO to deliver such a judgement.

- g) Management of conflicts of interest
 - 1. There is a problem if, for example, an opposition Party submits a planning application for development of a Party-owned asset. All members of the planning committee will have an issue with conflict of interest requirements: the opposition will wish to approve the application, and the administration will wish to block it. How should this be managed?

Calderdale Metropolitan Borough Council

Could I as a member of the public add my comments to the recent review that I understand ends on the 18 May 2018?

I believe there to be a lack of "Accountability" within our Local Authority. Due in part to poor communications on all levels and this has been the case for a very long time.

1

Standards Committee

CMBC continues to support a non-statutory Standards Committee made up of Elected and Co-opted Members. Democratic Services tell me the committee has no remit to engage with the electorate and look at standards that concern the public, even though the title seems to suggest this.

The Standards Committee have met twice during the last Council Year 2017/2018.

In September 2017 to look at committee places and again in March 2018 to look at allowances the main purpose of the committee.

At the end of The Council Year 2017/18 a request was made for sight of the allowances paid during that period. The statement did not include Councillors expenses or any allowances paid to Co-opted Members. More requests have had to be made to have spreadsheet brought up to date.

It was interesting to see on the March Agenda. "**Review of Local Govt. Ethical Standards – Stakeholder Consultation**". I have no knowledge of the public being made aware of this.

2

Councillors

CMBC is made up of 51 Councillors who receive an allowance, have support from political assistants, and all receive some sort of electronic device to answer emails, but they have no obligation to do this.

Not long ago CMBC agreed to record apologies in council notes. Previously it was not clear when an Elected Member had neither turned up nor sent a substitute to meetings More recently this seems to have lapsed.

3

Cabinet

The Council operate a Cabinet system. Members of the public can attend the meetings and a short time is allocated at the start of the meetings to raise questions.

It seems fairly clear written responses have been compiled by Officers.

Asking if responses will be sent in reply to written letters do not receive a full answer.

4

Scrutiny Committees

Requests sent to members of Scrutiny Committees asking for questions to be submitted and responses recorded are not acknowledged.

5

Monitoring

Reports not found Officers say one of the reasons is because Councillors do not request them.

Questions about implementation of Policies not answered.

6

Ward Forums

Each quarter public meetings are held where the 3 Ward Councillors are down to attend. CMBC have decided that one Councillor takes the Chair but attendees are not made aware of who this is before the meeting. The Chair sets the Agenda, rather than take into consideration submissions by the public.

Resources are used to carry out surveys/consultations requests for brief discussions background information and outcomes at these meetings are declined.

7

Complaints

Official Complaints result in an Officer being appointed to intercept emails and answer on behalf of Councillors and Officers. This does not concern some Councillors, others tell me they do not want repercussions.

The responses sent out by the appointed Officer are often non attributable and factually flawed.

No checks and balances.

SUMMARY

Questions about lack of accountability lead on to other Standards in Public Life.

Leadership, Openness, Integrity etc. that need addressing within CMBC in order that the electorate can play a part in Local Democracy and the decision making process.

I am unfamiliar with writing reports therefore I hope you feel my submission worth including in your findings.

Elaine Ramsden

SUBMISSION 97

Dear Sir,

Gawsworth Parish Council believes that to improve confidence in the Planning System a new procedure should be introduced for the determination of planning applications submitted by the determining authority that the planning decision is taken by a different planning authority, independently chosen. This would prevent a perception of improper practice from one department of a council applying for consent from another part. Gawsworth is in the middle of an example of this for a small affordable housing development and it is apparent that it has reduced confidence in the decision making process of our primary authority.

Gawsworth Parish Council wishes to see the reintroduction of sanctions for code of conduct complaints. These were removed in the Localism Act 2011 meaning that when complaints are made that a councillor has breached the Code of Conduct / Nolan Principles there is little more than a telling off. The previous system whereby councillors could be suspended if they were found to have seriously breached the code instilled greater confidence in the system and the current system may reduce a complainant's confidence in reporting breaches, knowing that the 'punishment' is so light. Transparency in any proceedings is essential.

Gawsworth Parish Council would support the development of a new or expanded code of conduct for local government administration and for councillors, drafted by ethicists as opposed to being a strict interpretation of law and with input from other sectors where professional and institutional codes generally work quite well (such as healthcare). A new complaints handling body and mechanism should be introduced with an adjudication board with independent adjudicators and well respected peers and all proceedings should be published. There should be an effective and well-publicised whistleblowing scheme.

Gawsworth Parish Council would support a requirement being introduced requiring councils to appoint an individual (separate from the legal department) to lead on compliance and ethics within the organisation, primarily for district/county/unitary councils. Each council should be required to produce an annual, meaningful statement on compliance and ethics in the organisation, reporting openly on issues and setting out plans for the coming year.

Kind Regards,

Adam Keppel-Green BSc PSLCC

SUBMISSION 98

My name is John Bright; I am a co-opted councillor of Mary Tavy Parish Council. Our responsible borough council is West Devon Borough Council. I wish to submit evidence because I do not feel that the current system which is in place for guiding and supporting volunteer parish councillors in Mary Tavy is sufficient to prevent abuse from domineering and bullying councillors who seek to use the Parish Council for their own ends, and that as a consequence parishioners have no trust in their Parish Council or its councillors. The village of Mary Tavy has the potential to be a very good place to live: we have a well-used community hall which hosts a very wide range of activities; we have a long standing community pub and we have another which has reopened and appears to be thriving as a restaurant; we have a post office and general store. In short, everything that a community should need. The only real shortcoming is the Parish Council which could be doing so much to improve the quality of life within the village, but which is held in very low esteem by parishioners because it actually seems to achieve very little. I hope that the reasons why will become apparent as I address your questions. I will address the questions in order

a. & b.

The existing practices for ensuring high standards in public life are not sufficient. We have adopted the West Devon Borough Council code of conduct but the code is very wordy and vague. As a consequence it is open to individual interpretation, meaning that – as an example – whilst Councillor A feels that Councillor B has breached the code, Councillor B can interpret the same code in a very different way to argue that they have not breached the code. The Monitoring Officer cannot give any guidance on the correct interpretation of the code of conduct or offer advice on what to do if perceived infractions occur. I am a relatively new and still energetic Councillor, willing to challenge what I perceive as wrong doing by other Councillors. I have asked several questions of our local Monitoring Officer whose reply has consistently been that they cannot offer advice. My only recourse has been to submit formal Code of Conduct complaints, which take a lot of time and create significant ill feeling within the Council when all that I am looking to do is establish whether any code has been broken. Many on the Council have tried making complaints in the past, only for them to be passed over as “not sufficiently serious”. Consequently they do not see the point in challenging poor conduct in other Councillors as a result of which the poor behaviour continues unchecked. The underlying tenet in the legislation governing local government seems to be one of self-regulation. What happens when local Councillors refuse to control themselves?

c.

Our adopted code of conduct is vague and does not cover a sufficient range of behaviours. There is no guidance on what constitutes the offence of bringing a councillor or council into disrepute. This is not helped by the qualification “ ... so as to give a reasonable person the impression that you have brought your office or the Council into disrepute.” In my very limited experience there is usually disagreement as to whether a councillor has acted in such a way as to bring disrepute and the matter has to be reported for an independent person to decide the matter because the definition is so vague. In the meantime councillors have to still work together until the matter is resolved. I have only recently received training on the Code of Conduct. I asked specifically for guidance on the question of bringing the Council into disrepute and was told that it is a matter of interpretation. How does that help?

d.

Similarly, the definition of what constitutes a declarable pecuniary interest is vague, and depends upon each councillor being willing to submit their interests for evaluation if there is any doubt. I am in the throes of leasing an allotment within my Parish and did submit a question to the Monitoring Officer as to whether I would have a DPI in allotments once I had signed the lease. Turns out I will have a DPI because of my interest in land (122' x 18') within the Parish. How ridiculous is that? If it does not suit a councillor to deem an interest a DPI then he need not declare an interest even if it is in doubt. If an individual Councillor refuses to declare an interest there is nothing anyone else can do unless it can be proven that the DPI does exist, which requires a lot of investigation and can be easily hidden from the average member of the public. Like every other councillor, I am aware of the criminal nature of the offence of refusing to declare a DPI, but again my only recourse is to submit a formal complaint to the Police. I would suggest that the definition of a Declarable Pecuniary Interest needs to be clarified.

e.

I have only this weekend submitted my first 2 allegations of councillor misconduct for investigation so I am presently unable to give personal evidence. However I am happy to comment again when the investigation is completed. I can say that the complaints have been efficiently responded to and the person dealing with my complaints has been very sympathetic to me. I was told that the first action that the person dealing had to do was inform the Councillor who was the subject of my complaint. The evidence supporting my complaint is all paper-based so should require very little investigation or interview of witnesses. In a small village such as ours we all know each other to some extent so it would be very difficult for a witness to avoid coming into contact with a councillor about whom they have complained. There is a facility for witnesses to remain anonymous, but it is clear that this anonymity will only be granted in exceptional circumstances. I would prefer to see investigations carried out in the same way as we did in the Police – receive the complaint, carry out a full investigation including interviewing witnesses and then notifying and interviewing the person who was the subject of the complaint.

I'm not sure that the views of an Independent Person are relevant other than when the allegation makes complaint of actions where an average person's view of them would need to be considered. There are investigating officers, there is a standards committee to hear cases, why introduce another tier?

I have seen that Monitoring Officers and Councillors who work in the same building do indeed establish close working relationships. I could see how these relationships might lead to undue influence and pressure in certain circumstances. It strikes me that the best way to make these officers truly independent is for them to be self-employed, working from offices away from the Council.

f.

Put simply, NO. I do not believe that the existing sanctions for councillor misconduct are sufficient. At present our Parish Council is having to deal with bullying and misinformation from two councillors. The rest of the council are intimidated by them and have lost all trust in them, as have many of the parishioners. Yet the worst sanction that they can experience is words of advice and retraining. How is that likely to prevent their behaviour or restore the trust of parishioners or other councillors? I understand that in extreme circumstances Councillors can be suspended for a period of up to six months but the offences proven would need to be very serious indeed, and even then the councillors are at liberty to resume their post once the suspension has been served and could carry on as if they had never left. They remain perfectly entitled to put their names forward as councillors at the next election

and unless there are more nominees than posts available they will walk back into post unopposed. There need to be more rigorous sanctions such as a removal from office or a longer suspension, and in extremis the facility to prevent councillors from standing again if they have been held to have seriously or wilfully breached the code of conduct.

g.

I have already dealt with the issue of DPI at point d.

h.

I am not aware of a whistle blowing policy for our Parish Council.

i.

The Parish Clerk is expected to be the arbiter of what is and what is not correct procedure and behaviour within a Parish Council, yet my own Council has employed a series of clerks who lack experience and confidence in their knowledge and who are consequently easy to intimidate. It would help matters greatly if a system existed where Parish Council meetings were “quality assured” on a random basis by visiting officers experienced in such matters, and who could give their judgements after the meeting. Very much in the fashion of an Ofsted inspection. Councils would have their “grades” published. Those deemed to be good would be left to their own devices whilst those felt to be in need of improvement would be monitored more closely and guided to improve.

k.

As a councillor I expect to talk to members of the parish about their interests and concerns. I would not expect every conversation to be pleasant, but I would be looking for a resolution in one form or another, and am happy to take matters raised to the Council when needed. This has happened a number of times and parishioners have usually been happy with my actions. I have not been intimidated by any parishioners, neither am I aware of any other councillors experiencing anything which could be considered to be intimidation. I do know that in our village our parish clerk was intimidated very unpleasantly by members of the parish in the early part of last year. The husband of our clerk is a serving police officer and encouraged the matter to be referred to them for investigation but our clerk was not willing to do so, preferring instead simply to see the matter dropped. There has been intimidation of councillors by other councillors. These actions are the subject of complaints by me and others under the code of conduct, but I refer to my answers earlier – without appropriate sanction what impact does a formal complaint have upon a bullying councillor?

In summary, it is my opinion that self regulation does not work. It might do in a perfect world, but we do not live in such a place. It is in some peoples’ natures to try and dominate others, or impose their will or ideas on others. Without a clear and effective means of managing the behaviour of all of us who are volunteers in public life there is nothing that will prevent some from abusing their position to their own ends. It is clear that in our village there is a lack of confidence in our Parish Council. The offending councillor(s) are well known but appear immune from sanction. When asked to engage with their Parish Council, the most common responses from parishioners are “what is the point, they never do anything” or “no thank you, I know those people and I’ve seen what they do to people that oppose them”. Effective sanctions would potentially remove these people or at least bring about a public rebuke, which I feel certain would bring parishioners back to their Council.

**Committee on Standards in Public Life
Local Government Ethical Standards: Stakeholder Consultation**

Response from Rother District Council

Consultation Questions

- a. Are the existing structures, processes and practices in place working to ensure high standards of conduct by local councillors? If not, please say why.**

Yes. Although the high profile that the Standards Committee previously enjoyed at Rother District Council under the former regime which required a stand-alone Standards Committee, chaired by an independent co-opted (non-councillor Member) is no longer present.

Whilst the concept of localism is welcome, allowing all councils (including town and parishes) to adopt their own codes (incorporating the minimum requirements) has led to different approaches and a weakening of common standards, particularly in parish and town councils. It is considered by the Councillors, Independent Persons and town and parish representatives serving on the Council's Audit and Standards Committee that a nationally set standard Code of Conduct should be re-introduced for all levels of local government.

Historically, the majority of complaints that were handled by Rother District Council related to parish councillors' conduct, commonly around declarations of interest. It is thought that this could be due, in part, to a lack of visibility, training and awareness of standards matters for both Parish Clerks and Parish Councillors.

- b. What, if any, are the most significant gaps in the current ethical standards regime for local government?**

Whilst not an issue for Rother District Council to date, there is a lack of adequate sanctions for more serious breaches of the Code of Conduct; there is no effective deterrent for poor conduct. The Council is no longer able to suspend a Councillor, as under the previous regime, nor is there any mechanism to disqualify a Councillor during a sitting term or from standing for re-election in the future for poor conduct.

It is recognised that Councils can choose to operate their assessment of complaints as they see fit, and generally the streamlining of the bureaucracy around the previous process is welcome. However, it is possible that by allowing Monitoring Officers to undertake the initial assessment of all complaints, without any consultation with Standards Committee Members, removes the ownership and self-policing aspect from the Members themselves – they are no longer part of the process and feel detached from it.

Although principle authorities have responsibility for the assessment and determination of complaints arising from the town and parish councils, they are not legally bound to take notice of any findings and recommendations made.

The removal of the requirement in legislation for parish and town council representatives to be voting members of a stand-alone Standards Committee has disenfranchised these Members from the process and the work of the Committee.

Codes of Conduct

c. Are local authority adopted codes of conduct for councillors clear and easily understood? Do the codes cover an appropriate range of behaviours? What examples of good practice, including induction processes, exist?

No. Rother District Council adopted the old national code, amended to include the provision for Disclosable Pecuniary Interests and also kept personal and prejudicial interests. Much of the terminology is difficult to understand and is written in the context of “you do not have” and giving examples rather than “you do have” which may be clearer to understand. Whilst it is in the gift of the Council to amend its Code of Conduct so that it is more easily understood, this has not been undertaken to date.

The Council’s current Code of Conduct does not address specifically the increased use of social media, although poor behaviour of this nature would tend to fall under the general obligations within the Code. The Council has however adopted a Staff Social Media Policy in 2015 which also applies to Councillors.

All Councillors receive training on the Code of Conduct as part of the Induction Process and again during the term of office of the Council; some Councillors proactively seek advice on Code matters prior to committee meetings and advice is also provided to Councillors prior to meetings when officers are aware of potential conflicts, for example at Planning Committee.

d. A local authority has a statutory duty to ensure that its adopted code of conduct for councillors is consistent with the Seven Principles of Public Life and that it includes appropriate provision (as decided by the local authority) for registering and declaring councillors’ interests. Are these requirements appropriate as they stand? If not, please say why.

It is considered that these are appropriate; the seven principles are an appendix to the Council’s Code of Conduct.

Councillors are reminded annually following the Annual Council Meeting to review their register of interests and advised on any additions / deletions not already picked up throughout the year. Members also receive regular training on the Code of Conduct and the registration of interests.

Investigations and decisions on allegations

e. Are allegations of councillor misconduct investigated and decided fairly and with due process?

Yes. However, it appears the process is often used to try and change or overturn decisions (primarily planning issues) and the Monitoring Officer has to be aware of motives of those who bring complaints.

i. What processes do local authorities have in place for investigating and deciding upon allegations? Do these processes meet requirements for

due process? Should any additional safeguards be put in place to ensure due process?

Rother District Council appoints an investigating officer to undertake any potential breaches of the Code of Conduct that warrants an investigation.

- ii. **Is the current requirement that the views of an Independent Person must be sought and taken into account before deciding on an allegation sufficient to ensure the objectivity and fairness of the decision process? Should this requirement be strengthened? If so, how?**

At Rother District Council the Independent Persons are consulted on every case to ensure that the MO's initial assessment and proposed action is objective and fair. The IPs feel that since the Localism Act their role has less relevance and is very limited and the worth of the role is questioned at times.

- iii. **Monitoring Officers are often involved in the process of investigating and deciding upon code breaches. Could Monitoring Officers be subject to conflicts of interest or undue pressure when doing so? How could Monitoring Officers be protected from this risk?**

As confirmed above, the MO at Rother District Council does not undertake investigations into potential code breaches. Whilst initial investigations will be made to enable the MO to make an initial assessment of each case, these initial investigations have not given rise to conflicts of interest or undue pressure to date.

Sanctions

- f. **Are existing sanctions for councillor misconduct sufficient?**

No. See b. above.

- i. **What sanctions do local authorities use when councillors are found to have breached the code of conduct? Are these sanctions sufficient to deter breaches and, where relevant, to enforce compliance?**

No breaches have been found since the introduction of the new regime.

Given the limit of sanctions available, is a hearing going to achieve an outcome that could be elicited at the end of an investigation? Given the stringent cutbacks local authorities are having to make, the hearing process seems questionable in terms of cost / benefit. There is a lot of work for little benefit / satisfactory outcome.

- ii. **Should local authorities be given the ability to use additional sanctions? If so, what should these be?**

See b. above. In serious cases it is considered that the sanction of suspension or disqualification should be an option. There could also be an argument for financial sanctions such as withholding allowances, including basic and any Special Responsibility Allowance and/or reclaiming allowances paid. However this would only be applicable to those Members serving on District / Borough / County levels; the majority of town and parish councillors do not receive allowances.

Declaring interests and conflicts of interest

g. Are existing arrangements to declare councillors' interests and manage conflicts of interest satisfactory? If not please say why.

- i. A local councillor is under a legal duty to register any pecuniary interests (or those of their spouse or partner), and cannot participate in discussion or votes that engage a disclosable pecuniary interest, nor take any further steps in relation to that matter, although local authorities can grant dispensations under certain circumstances. Are these statutory duties appropriate as they stand?**

Yes.

- ii. What arrangements do local authorities have in place to declare councillors' interests, and manage conflicts of interest that go beyond the statutory requirements? Are these satisfactory? If not, please say why.**

At Rother District Council, there is a specific agenda item on each formal meeting agenda where Councillors are required to declare any interests that they have at the meeting and to which Agenda Item it relates. Councillors also have to re-declare at the commencement of that item and leave the room, if necessary. Members are required to complete a Declaration of Interest form and this is filed and comprises the register of Members' Interests. All declaration of interests made at meetings are minuted. Having retained the "old" Code of Conduct, modified to incorporate DPIS, the conflicts that go beyond the statutory requirements are captured under the "old" personal and prejudicial interests, for example a planning application that relates to a relative, as prescribed under the old Code.

Whistleblowing

h. What arrangements are in place for whistleblowing, by the public, councillors, and officials? Are these satisfactory?

The Council has a Whistleblowing Policy (last updated December 2015) designed for use by all employees of the Council (including agency staff, trainees and volunteers), independent consultants, contractors, suppliers, Councillors and members of the public.

Links to this policy are provided on the Council website along with information on how to raise a concern. Options include contacting a designated officer, phoning a confidential fraud hotline, emailing [REDACTED] or completing an online Whistleblowing Form. All calls (and voicemail messages) received on the Fraud Hotline, fraud emails and whistleblowing forms are monitored by the Audit Manager and handled in the strictest confidence.

The [East Sussex Counter Fraud Hub](#) also includes links to the whistleblowing information on the Council's Report a Fraud [webpage](#).

The Audit Manager periodically emails all staff and Members to raise awareness of the whistleblowing arrangements but more could probably be done to inform the general public.

Improving standards

i. What steps could local authorities take to improve local government ethical standards?

Continued training for Members and officers on the Code of Conduct (clearly defined national examples of the types of breaches would assist with this). The same goes for Declarations of Interest – examples so that Members can understand the reasons for declaring. Principle councils should invest more in delivering training and guidance to Parish Clerks / Councillors which could result in less complaints work.

Monitoring Officer attendance at parish and town council meetings to disseminate training and advice on standards matters and/or provision of an annual training session for Clerks/Parish Councillors at the local authority.

j. What steps could central government take to improve local government ethical standards?

The re-introduction of a national code so that every elected Councillor is following the same rule book; the abolition of the Standards Board for England has left a void and no central point of contact for advice / guidance / sample case studies etc. to see what sanctions are appropriate for what breaches.

Intimidation of local councillors

k. What is the nature, scale, and extent of intimidation towards local councillors?

Whilst it is not considered a significant problem in Rother District Council, Councillors have complained about feeling intimidated at Council meetings and when attending external public meetings, particularly when controversial items are being discussed. Members that are now active on social media have also reported witnessing an increase of intimidating behaviour towards Councillors on social media in recent months.

Members who serve on the Council's Planning Committee have also experienced lobbying which has bordered on intimidation from residents in respect of the determination of planning applications.

l. What measures could be put in place to prevent and address this intimidation?

Locally, at Rother District Council a review of the seating arrangements was undertaken to ensure that the public were not sitting directly behind the Councillors and where possible so no councillors are sitting with their back to the public gallery. The local police are alerted if there is to be a large public presence, which potentially may be hostile.

Further issues could include keeping all councillor contact information / home addresses confidential and only providing the Town Hall address for correspondence; making sure that procedures are in place to support Councillors who are intimidated; and ensuring that measures are taken against members of the public who continue to intimidate Councillors, for example barring them from Council

meetings or contacting the local Councillor (this may have to involve the local police).

It is acknowledged that there is already provision within the Code of Conduct to keep sensitive information private, and this could in some instances, include contact information / home address.