

Public Document Pack

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22 February 2019

Standards Committee

A meeting of the committee will be held at **2.15 pm** on **Monday, 4 March 2019** at **County Hall, Chichester**.

Tony Kershaw
Director of Law and Assurance

Agenda

1. **Declarations of Interest**

Members and officers must declare any pecuniary or personal interest in any business on the agenda. They should also make declarations at any stage such as an interest becomes apparent during the meeting. Consideration should be given to leaving the meeting if the nature of the interest warrants it. If in doubt please contact Democratic Services before the meeting.

2. **Minutes of the last meeting of the Committee** (Pages 3 - 6)

The Committee is asked to agree the minutes of the meeting held on 11 June 2018 (cream paper).

3. **Urgent Matters**

Items not on the agenda which the Chairman of the meeting is of the opinion should be considered as a matter of urgency by reason of special circumstances.

4. **Report by the Local Government and Social Care Ombudsman** (Pages 7 - 22)

Report by the Executive Director Communities and Public Protection and Director of Communities.

The report outlines a case where the Ombudsman has issued a report and the reasons for not following the Ombudsman's recommendations. The Committee is asked to consider whether it agrees with the Council's current stance on the matter.

5. **Equality Policy - anti-discrimination** (Pages 23 - 28)

Report by the Director of Law and Assurance.

The Committee is asked to consider whether the Council should formally adopt an internationally recognised definition of anti-semitism as part of its established policy on anti-discrimination.

6. **Local Government Ethical Standards** (Pages 29 - 42)

Report by the Director of Law and Assurance.

The report summarises the key points of the report issued by the Committee on Standards in Public Life on Local Government Ethical Standards. The Committee is invited to note the report and to consider whether any best practice recommended by the Committee on Standards in Public Life should be adopted by the County Council.

7. **Confidential Reporting Policy**

The Committee is invited to note that the Director of Law and Assurance is not in a position to report on any referrals via this Policy but will provide a report to the next meeting of the Committee.

No background papers.

Contact: Charles Gauntlett 033022 22524

8. **Date of Next Meeting**

The next meeting of the Committee will be held at 2.15 pm on 17 June 2019 at County Hall, Chichester.

To all members of the Standards Committee

Standards Committee

11 June 2018 – At a meeting of the Committee held at 2.15 pm at County Hall, Chichester.

Present:

Mr Barnard, Lt Col Barton, Mr Bradford, Mrs Duncton, Mr Smytherman and Mrs Sparkes

Apologies were received from Mr R J Oakley

Absent: Mr Buckland and Mrs Jupp

Also in attendance: Mr Cooper and Mr Donaldson

Part I

1. Declarations of Interest

1.1 None declared.

2. Minutes of the last meeting of the Committee

2.1 Resolved – That the minutes of the meeting of the Committee held on 12 March 2018 be approved as a correct record and that they be signed by the Chairman.

3. Annual Monitoring Report of Complaints Regarding Levels of Service Delivery

3.1 The Committee received a report by the Executive Director, Communities and Public Protection and Director of Communities (copy appended to the signed minutes) which outlined complaints and compliments received by the County Council in the last two years, including the learning from them.

3.2 The report was introduced by David Tominey, Complaints Manager, who advised that the 2016 and 2017 data had been presented in a new dashboard format, following a detailed review. Compliments were being more routinely recorded as well as better quality complaints information. Learning from complaints was included in the report and levels seemed to be reasonably stable.

3.3 The Committee highlighted the importance of recording complaints accurately and acting on the learning. It welcomed assurances that expected levels of customer service were being highlighted to contractors to improve consistency of complaints handling across contracted services. In response to questions from the Committee, Mr Tominey reported that one of the main problems for the Council at the moment was for customers to receive responses within agreed corporate timescales. He highlighted that senior managers were now receiving monitoring information so that late responses could be chased.

3.4 The Committee asked if customers were surveyed following the conclusion of complaints. Mr Tominey confirmed that this had been introduced as an automatic follow-up from May 2018, to obtain a better understanding of people's satisfaction or otherwise.

3.5 The Chairman invited any members with comments on how to improve the format of the reports to contact Mr Tominey direct with their suggestions.

3.6 Resolved – That the report be noted.

4. Review of the Constitution - Codes of Conduct

4.1 The Committee considered a report by the Director of Law and Assurance (copy appended to signed minutes) which set out proposed revisions to the Constitution.

4.2 The report was introduced by Charles Gauntlett, Senior Advisor, Democratic Services. He advised that the Constitution was undergoing a thorough revision to make it clearer and to reduce duplication. The Codes of Conduct had been reviewed and several pieces of advice currently held outside the Codes of Conduct would be put into it so that it was all in one place. It was also proposed to take several corporate and HR policies out of the Constitution altogether, to be held elsewhere.

4.3 The Committee welcomed the proposed changes but hoped that officers would be mindful of the rules of the Constitution, particularly the Member and Officer Relations Protocol. Mr Gauntlett confirmed that these rules would be publicised after the changes to the Constitution were confirmed and that key points were raised at every staff induction meeting.

4.4 Resolved –

- (1) That the proposed revisions to the Code of Conduct included in Part 5 sections 1 and 2 be supported for submission to the County Council for approval.
- (2) That the proposed removal of Part 5 sections 8-13 and the proposed removal of the corporate advice notes be supported for submission to the County Council for approval.
- (3) That authority be delegated to the Director of Human Resources to make and amend future policies relating to staff conduct in consultation with the Director of Law and Assurance.

5. Standards Committee Annual Report

5.1 The Committee considered a report by the Director of Law and Assurance (copy appended to the signed minutes), which provided a draft annual report of the committee's work during 2017/18 for submission to the County Council.

5.2 Resolved – That the draft Annual Report be approved for submission to the County Council on 20 July 2018.

6. Confidential Reporting Policy

6.1 The Committee noted that the Director of Law and Assurance had not received any referrals via this policy since the last meeting of the Committee.

7. Date of Next Meeting

7.1 The Committee noted that its next scheduled meeting would be held at 2.15 p.m. on Monday 5 November 2018 at County Hall, Chichester.

The meeting ended at 3.05 pm

Chairman

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Standards Committee

4 March 2019

Part I

Report by the Local Government and Social Care Ombudsman

Report by Director of Law and Assurance

Executive Summary

The Ombudsman has published a report of an investigation into a complaint against the County Council, because the Council has decided not to accept the Ombudsman's recommendations.

Recommendation

The Committee is asked to consider whether it wishes to comment on the position the Council has taken on the case in light of the LGO's stance and the presumption that LGO investigation outcomes should be respected and to advise whether any particular action should be considered in light of the report.

1. Background

- 1.1 On 12 December 2018 the Local Government and Social Care Ombudsman (LGO) published a report of an investigation into a complaint against the County Council. The LGO took this unusual step because the County Council decided on this occasion not to accept the LGO's recommendations. Although we usually do accept the LGO recommendations in full, on this occasion officers decided that it would be to concede a position relevant to future similar situations which the Council was not advised to take.
- 1.2 The full report is attached for information, but in summary:
 - The complaint the LGO investigated was: Mrs X complains that the Council failed to provide appropriate support and education for her daughter (*Child Y*) when she refused to go to school because of high levels of anxiety, but instead took action against the parents for her non-attendance.
 - The complainant's position was that her daughter should have been treated as having an illness which prevented her from attending school. However no medical evidence to support this was ever presented either to the school or to the Service to support this position. The Service decided that there was possibly anxiety involved and was working with the young person on that basis to try to get her back into school. Mr and Mrs X at one point said that the prosecution route *should* be engaged as they believed that Y would then understand the seriousness of the position and then would start to attend.
 - The Service's position was therefore that Y was correctly treated as a school refuser, was being supported appropriately, and that to have

provided alternative education would have reinforced the refusing behaviours and thereby undermined the attempts to get Y back into school.

- The LGO decided that the Council should have supplied alternative education despite no medical evidence having been provided; and recommended a financial remedy.

1.3 The Service felt that this would set an unhelpful precedent under which any school refuser would have to be supplied with alternative education, whatever the evidential justification and the officers with service responsibility decided, on balance, not accept the recommendation.

2. **Current Situation**

2.1 The LGO published the report on their website on 12 December 2018.

2.2 The Council has, as required, placed two public notice announcements in local newspapers/newspaper websites (w/c 21 January 2019). It has also, as required, informed the LGO about the public notices.

2.3 The Council is required to make copies of the report available to the public (free of charge) at one or more of the offices for three weeks following the public announcements. In this case, the Council has published the report on its website, and also made copies available at County Hall reception.

2.4 The report must be considered either in full Council, Cabinet or other Committee. At West Sussex County Council, this is a role for the Standards Committee.

2.5 The Council must inform the LGO what action it has taken, or intends to take as a result of the report.

2.6 The LGO informed the Council on 8 January 2019 that it had misread its own procedures and hence misinformed us about the necessary process. It appears that the report should have been considered by the Standards Committee within three months of *receipt* rather than *publication*. The Ombudsman's office has acknowledged that this was their error and has extended the period for consideration to meet the timescales originally agreed.

3. **Resource Implications and Value for Money**

3.1 The Council's stance is that it does not accept the recommendation. If it were to accept the recommendation, this could be seen as setting a precedent which would have financial implications for the Service.

3.2 There would be resource implications for the service should LGO investigation outcomes be implemented without consideration of their impact on Council resources as a relevant factor in deciding whether the actions recommended by the LGO report in any case be met. The specific resource implications would need to be considered on a case by case basis, dependent on their proportionate impact in the context of the action being recommended.

4. **Risk Management Implications**

4.1 None arise.

5. **Other Considerations – Equality – Crime Reduction – Human Rights**

5.1 None in relation to the Ombudsman’s report. There will be equality impact considerations and Human Rights considerations in relation to the original decision and the subsequent consideration of the LGO’s recommendation.

5.2 The individual young person would have been identified as having a qualifying disability in connection with the possible causes of her non-attendance at school and in terms of the approach the Council needed to take in connection with meeting her needs. That would require careful consideration to ensure that any decision about formal action took full account of the Council’s duties to avoid discrimination or unfair treatment.

5.3. In addition the parallel duty to ensure that no young person is prevented from having access to education (Human Rights Convention) would have been a primary consideration in dealing with the problem which was presented to the service and in addressing the action recommended in the LGO investigation outcome. The priority would have been to ensure that the young person had access to education. The financial implications of alternative provision arrangements would however have been a relevant factor alongside the considerations linked to the young person’s presenting needs and how they could best be met.

Nicola Bulbeck
Executive Director Communities
and Public Protection

Rachel North
Director of Communities

Contact: David Tominey 033022 22285

Appendices

1. LGO’s report

Background Papers

None

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**Report by the Local Government and Social Care
Ombudsman**

**Investigation into a complaint against
West Sussex County Council
(reference number: 17 008 448)**

2 August 2018

The Ombudsman's role

For 40 years the Ombudsman has independently and impartially investigated complaints. We effectively resolve disputes about councils and other bodies in our jurisdiction by recommending redress which is proportionate, appropriate and reasonable based on all the facts of the complaint. Our service is free of charge.

Each case which comes to the Ombudsman is different and we take the individual needs and circumstances of the person complaining to us into account when we make recommendations to remedy injustice caused by fault.

We have no legal power to force councils to follow our recommendations, but they almost always do. Some of the things we might ask a council to do are:

- > apologise
- > pay a financial remedy
- > improve its procedures so similar problems don't happen again.

Section 30 of the 1974 Local Government Act says that a report should not normally name or identify any person. The people involved in this complaint are referred to by a letter or job role.

Key to names used

Mrs X	The complainant
Y	Her daughter
Officer B	Pupil Entitlement Investigating Officer

DRAFT

Report summary

Subject

Education Council: Attendance and Alternative Provision

Mrs X complains that the Council failed to provide appropriate support and education for her daughter when she refused to go to school because of high levels of anxiety, but instead took action against her for non-attendance.

Finding

Fault found causing injustice and recommendations made.

Recommendations

We recommend that to remedy the injustice to the family the Council should take the following action:

- apologise to Mr and Mrs X for not fully considering alternative approaches to ensuring an education for their daughter from April to July 2017;
- pay them £400 to recognise the loss of educational opportunity during this period, to be used for the benefit of Y's education;
- remind relevant staff that the duty to provide alternative education may arise for reasons other than exclusion and illness.

DRAFT

The complaint

1. Mrs X complained that the Council failed to provide appropriate support when her daughter started refusing to go to school because of high levels of anxiety. Instead the Council decided to take action against her for non-attendance. She says the Council did not take proper account of the medical evidence she provided or her efforts to get her daughter to school, and failed to ensure her daughter received suitable education when she was out of school.

Legal and administrative background

Ombudsman's role and powers

2. We investigate complaints about 'maladministration' and 'service failure'. In this report, we have used the word 'fault' to refer to these. We must also consider whether any fault has had an adverse impact on the person making the complaint. We refer to this as 'injustice'. If there has been fault which has caused an injustice, we may suggest a remedy. (*Local Government Act 1974, sections 26(1) and 26A(1), as amended*)

Education for children out of school

3. Parents have a duty to ensure their children of compulsory school age are receiving suitable full-time education. (*Education Act 1996 section 7*)
4. A council may take action against parents where it is not satisfied their child is receiving suitable education and it considers the child should be attending school. The council may prosecute the parents. Before doing so it must consider whether to apply to the courts for an Education Supervision Order instead. It is a defence to a prosecution that the child's absence is due to sickness or 'unavoidable cause'. (*Education Act 1996, sections 437-447*)
5. The Government introduced a fast track procedure for enforcing school attendance. In its leaflet '*Prosecution – A Guide for Parents*' the Council explains the process as follows:

"Under the Fast Track procedure, you have up to 12 weeks to ensure your child is attending school regularly and punctually. You will receive a summons to appear at court. If attendance has sufficiently improved by the time of the court hearing then the prosecution against you will be withdrawn. If attendance has not improved to a satisfactory level then the prosecution against you will continue."

6. The Council has an Integrated Prevention and Earliest Help team which considers what support to offer to families. There are four levels of support offered according to assessed needs: 'universal', 'early help', 'targeted' and 'specialist'. There is a Forum, known as either the Early Help Forum or the Family Support Network Forum, where schools may refer cases of concern to discuss with the Council to see if they are suitable for extra support. Cases are referred where they are likely to need 'targeted' support at level three or above.
7. Councils have a duty to make arrangements for the provision of suitable education at school or elsewhere for children of compulsory school age who, "by reason of illness, exclusion from school or otherwise may not for any period receive suitable education unless arrangements are made for them". (*Education Act 1996, section 19*)

8. Statutory guidance '*Alternative Provision*' says this duty applies "to all children of compulsory school age resident in the local authority area, whether or not they are on the roll of a school, and whatever type of school they attend".
9. Statutory guidance '*Ensuring a good education for children who cannot attend school because of health needs*' says in considering alternative education local authorities should not:
 - have processes or policies in place which prevent a child from getting the right type of provision and a good education
 - have inflexible policies which result in children going without suitable full-time education (or as much education as their health condition allows them to participate in).
10. The Ombudsman issued a Focus Report in September 2011 amended in June 2016, '*Out of school....out of mind?*' This gives guidance for local authorities on how he expects them to fulfil their responsibilities to provide education for children who, for whatever reason, do not attend school full-time. The report made six recommendations based on examples of good practice seen. It said councils should:
 - a) consider the individual circumstances of each case and be aware that a council may need to act whatever the reason for absence (with the exception of minor issues that schools deal with on a day-to-day basis) even when a child is on a school roll;
 - b) consult all the professionals involved in a child's education and welfare, taking account of the evidence in coming to decisions;
 - c) choose, based on all the evidence, whether to enforce attendance or provide the child with suitable alternative education;
 - d) keep all cases of part-time education under review with a view to increasing it if a child's capacity to learn increases;
 - e) adopt a strategic and planned approach to reintegrating children into mainstream education where they are able to do so; and
 - f) put whatever action is chosen into practice without delay to ensure the child is back in education as soon as possible.
11. The Council's alternative education provision is made through the West Sussex Alternative Education College. This has a Blended Learning Team that can support distance learning at home.

How we considered this complaint

12. We produced this report after examining relevant documents and discussing the complaint with the complainant and the Council. We have decided to issue the report because the Council has not yet agreed to our recommendations in our draft decision statement.
13. We gave the complainant and the Council a confidential draft of this report and invited their comments. The comments received were taken into account before the report was finalised.
14. Under the information sharing agreement between the Local Government and Social Care Ombudsman and the Office for Standards in Education, Children's Services and Skills (Ofsted), we will share this report with Ofsted.

What we found

What happened

15. Mr and Mrs X have a daughter, Y, now aged 15. Y started refusing to go to school at times during the 2015-2016 school year. By September 2016 her attendance had dropped below 60% and she was displaying hostile and aggressive behaviour towards her parents at home. Mr and Mrs X discussed the situation with Y's school ('the School'), including with its Student Welfare Officer. The School had not been able to establish that Y had any concerns about anything that happened in school. It referred Y to the school counsellor. The School also advised Mr and Mrs X about contacting the Youth Emotional Support (YES) service, attending a course on understanding teenage behaviour, and discussing issues with Y's GP. The School explained that in order to authorise absence on medical grounds it would need medical evidence.
16. The School's Welfare Officer carried out an assessment with Mr and Mrs X under the Council's Early Help procedures. The report of the assessment notes that Y was reluctant to accept help offered and had still not raised any specific concerns about school. It noted that Mr and Mrs X were engaging well with the School and looking into the support recommended. The action agreed was to explore the reasons for Y's school refusal and support the family "in preparation for the first Team around the Family meeting".
17. When Y's attendance did not improve and she did not engage with the support offered, the School made a referral to the Council's Pupil Entitlement service in mid-October 2016, after advising Mr and Mrs X it would do so. In the referral information the Welfare Officer said she was taking the case to the Forum in October. The referral noted:

"although [Y] has been warned numerous times about a potential referral, parents believe that until the school referral letter is shown to [Y], she will not take the matter seriously and continue school refusing."

18. The Council allocated the case to a Pupil Entitlement Investigating Officer ('Officer B') who sent a warning letter to Mr and Mrs X about Y's non-attendance. The letter explained that the Council could decide to prosecute them or seek an Education Supervision Order unless there was an immediate improvement in Y's attendance. It ended by inviting them to contact the Officer if they wanted to discuss any issues relating to their child's attendance.
19. Mr and Mrs X continued to discuss issues with the School, and Y continued to refuse to see those offering support, including the school nurse, school counsellor, and the YES worker.
20. Officer B visited the family at home at the end of November 2016. Y refused to speak to her and left the room. The Officer explained parents' duties to Mr and Mrs X and the legal process if attendance did not improve. She said she would monitor Y's attendance. In her assessment following the visit, Officer B recorded that the parents agreed they would continue to work with their daughter to get her to attend by gradually increasing the amount of time spent in school.
21. Over the next few months Mr and Mrs X continued to correspond with the School. The School kept Officer B updated. Mrs X told the School how frustrating she found it dealing with a child who was obviously suffering from high levels of anxiety but who would not recognise this herself and refused all help.

22. In January 2017 Y agreed to see her GP and Mrs X reported that the doctor had found a physical medical problem. The School explained that to authorise absence on medical grounds it would need medical evidence showing the reason Y could not attend school. The School also suggested it might be helpful to set up a medical care plan with the GP to support Y in school. The School reported to the Council that it was still not clear whether Y had a medical condition which affected her ability to attend school.
23. Y's attendance was still poor during the spring term. In February 2017 she stopped attending altogether. In early February 2017 Mrs X asked the School what had happened about the proposed referral to the Early Help Forum. The School's Welfare Officer advised that the case had not gone to the Forum previously because the family had taken up the support offered and there was nothing more to offer at that time. Since then, however, Y had refused to see the mental health support worker. The Welfare Officer suggested asking Mrs X what extra support she was looking for and said she would check when the Forum could next consider the case.
24. Officer B presented the Pupil Entitlement service case to the Legal Panel in mid-February 2017. She recommended legal action as she considered non-attendance had continued without any supporting evidence to authorise the absence. The Panel noted some improvement in attendance after the service became involved. It also noted that Mr and Mrs X were willing to engage in the support offered and had asked about further support from the School. The Panel recommended that Officer B should speak to the School about taking the family's case to the Family Support Network as this has been discussed in the past, but had not actually happened. The Panel decided to support the recommendation to start fast track proceedings.
25. In early March 2017 Mr and Mrs X were still seeking support from the School with getting Y into school and asked for a meeting with the School and Officer B. The School confirmed it would be happy to have a meeting but again advised it would be beneficial to have further discussions with the GP. Mrs X explained she had spoken to her daughter's GP but Y was refusing to see the doctor or engage with anyone. She said that was why they were asking for more help.
26. The Council wrote to Mr and Mrs X in early March 2017 to inform them of the decision to start the fast track proceedings. It explained that prosecution could be withdrawn if Y's attendance had improved sufficiently by the date of the court hearing. The letter invited them to contact the Pupil Entitlement service immediately if there were any factors relating to Y's absences that the service might not be fully aware of.
27. Mrs X replied expressing how upset she and Mr X were to receive the letter. She asked the Council to reconsider the decision to prosecute. She said she and her husband were doing everything possible to try to get their daughter to go to school, and were not condoning non-attendance. They had taken Y to the GP and had a further appointment booked. The doctor had found she had a vitamin deficiency which they felt could account for the symptoms of anxiety and depression they said she displayed.
28. Following a further referral by the School to the Family Support Network, the Council allocated a support worker to meet the family before discussing the case at the next Forum meeting in April 2017. The support worker carried out the visit in mid-March. She then sent an email to the Pupil Entitlement service explaining that Y's GP had referred her to the Child and Adolescent Mental Health Service

(CAMHS) because of her low mood and anxiety. She asked the Council to suspend the prosecution until Y had been offered further support.

29. The Council refused the request saying it had already made the decision to pursue a fast track prosecution. It confirmed that if either Y's attendance improved or there was evidence Y was medically unfit to attend school, it would withdraw the action.
30. In mid-March 2017 there was a meeting at the School with Mr and Mrs X, Officer B, and Y's Head of Year. The meeting discussed strategies for Y to return to school gradually, starting with a significantly reduced timetable. The Council explained the fast track prosecution process and that this was an opportunity for Y to see her GP and obtain medical evidence to show she was prevented from attending school because of her levels of anxiety.
31. Mrs X then sent the Council a letter from Y's GP. It confirmed Y had been "struggling with anxiety relating to attending school". It said Mrs X had attended the surgery several times to discuss her daughter's health but Y had not attended any appointments herself. The GP explained some concerns she had about Y's physical health. She said Y had declined help from the YES service and had recently been referred to CAMHS.
32. Officer B acknowledged the efforts the parents were making to get help and support for their daughter. However she said the evidence was not sufficient to use as a defence for complete lack of attendance, particularly as the GP had not seen Y yet. She said Mr and Mrs X needed to try to reintegrate Y gradually back into school. Mrs X explained the difficulties she had getting her daughter to engage with CAMHS, the YES worker and anyone else offering support.
33. Mrs X asked the School what was happening with the Early Help Plan. The School explained that when it first tried to refer the case to the Forum in October 2016 it was told it did not meet the threshold for referral. However it was now going to the Forum as it met the threshold because of the lack of progress. It said it would let her know the outcome. The School did not agree to Mrs X's request to send work home for Y as it said this would support her non-attendance. But it said it would like to plan Y's reintegration into school. Mrs X said she understood the reasons for not wanting to send work home.
34. The Forum meeting took place at the end of April. Officer B could not attend but the meeting considered a report from her as well as information from the School, CAMHS and Early Help staff. The Forum decided that the family qualified for level three targeted early help. It agreed the following actions:
- to arrange a Team Around the Family meeting to produce a support plan
 - to allocate a Youth Worker for Y
 - to encourage Y to engage with the YES service, but if she continued to refuse, to offer a reassessment by CAMHS
 - to plan Y's gradual reintegration back into school
 - for the School to start sending work home for Y so she would "feel less 'out of the loop' and ensure her anxieties around school refusing are minimised where possible".
35. The Council explained that the support agreed by the Forum would not affect the decision to go ahead with the prosecution, but Mr and Mrs X would be able to explain to the magistrate any further work being carried out with Y.

36. After the Forum meeting Officer B contacted the School to say she did not support the idea of sending work home unless the parents had provided medical evidence to confirm there was a medical reason for non-attendance. She said otherwise it could be misinterpreted as condoning the absence and reinforcing the current situation.
37. In mid-May the Youth Worker allocated to Y visited the family at home. Y would not meet her face to face but they spoke through her bedroom door. The Youth Worker wrote to Officer B to say she was very concerned about Y as she still could not leave the house and was not receiving any services. She confirmed she was making another referral to CAMHS. She said that from what the parents said and from her own observations, Y had “very high anxiety as well as additional health issues that may affect her mood and ability to function”. She was aware there was no formal diagnosis and said she was supporting the family to get one. The Youth Worker said she did not think Y was capable of attending school at the moment and she would like to see a ‘blended learning package’. She asked for advice about this. She felt it would be beneficial to Y and her parents not to have the pressure of a court case as it was affecting the health of the whole family.
38. Officer B replied that without a formal diagnosis and medical evidence, a blended learning package “was not an option”.
39. Mrs X contacted Officer B to ask what sort of medical evidence would be satisfactory. In the course of the correspondence Officer B explained that the absence remained unauthorised without medical evidence but if it could be provided she would review the matter. Mrs X said she had now realised her daughter’s anxieties were more serious than she had first thought. She explained the support the Youth Worker would be providing and asked for the School to be allowed to send work home for Y. She said she understood and accepted the Council needed medical evidence and hoped the CAMHS referral would provide this. She acknowledged Officer B had always made it clear that medical evidence was needed.
40. The magistrates court hearing was set for mid-June 2017. The Council’s statement to court set out the history of the case and the support offered to try and get Y back to school on a gradual basis. It explained that the Council had considered an Education Supervision Order but felt the fast track prosecution route was more likely to bring about change as it gives an incentive to improve attendance.
41. About three weeks before the hearing Mrs X told the Council she had managed to get Y to see the GP who confirmed “there is a high level of anxiety in respect of social and school phobia”. The doctor would be supporting the referral to CAMHS. However she said it would take some time for the GP to produce a letter for the Council.
42. The court adjourned the hearing for six weeks to allow Mr and Mrs X more time to obtain medical reports. In June 2017 Mr and Mrs X provided a letter from Y’s GP and a psychologist’s report following an assessment. At first the Council decided the evidence was not sufficient to show Y was medically unfit to attend school. It also did not uphold a complaint from Mrs X about the way the Council had handled her daughter’s case.
43. Then after considering Mr and Mrs X’s solicitor’s submission to the court and after taking legal advice, the Council decided to withdraw the prosecution.

44. While she was waiting for the psychologist's report Mrs X asked the School to send work home for Y. The School did not agree to do so, saying it had not yet had clear medical evidence that Y was medically unfit to attend school. Also it felt it might make her anxiety worse as she had missed so much work.
45. When the Council withdrew the prosecution it also made a referral to consider a programme of 'blended learning' on medical grounds. It agreed to provide alternative education of 25 hours a week through its home schooling unit, made up partly of home tuition and partly online provision. Y is dual registered with the School.

Conclusions

46. At first Y and her family were not providing any reason why she was not able to attend school, other than that she did not like it. They were not saying she was medically unfit or her absence was due to anxiety. As she was still on the school roll and there was no medical evidence or other reasons provided, the responsibility lay with the parents to ensure the child attended and with the School, rather than the Council, to provide the education.
47. When the School made the referral to the Pupil Entitlement service because of consistently low levels of attendance, we do not find fault in the way the Council considered the matter. It based its decision to issue a warning letter for non-attendance on the information provided in the referral. It was aware of the action the School had taken to offer support to Y and her parents and that this had not resulted in any significant improvement. The School made it clear it would not be able to authorise absence without medical evidence that Y was not fit to attend school. The Council followed the proper process in deciding the case was suitable for fast track prosecution and so giving the family 12 weeks to improve attendance or provide medical evidence that Y was unable to attend school.
48. It is understandable that the Council's decision caused distress to the family, especially as Mr and Mrs X felt they were doing everything they could to try and get their daughter to school. However it is not for the Ombudsman to interfere in the decision unless there was fault in the way it was reached. We do not consider that is the case here. There is also evidence that Mr and Mrs X supported the referral to the Pupil Entitlement service initially as a way to get Y to take the matter seriously. The involvement of the Pupil Entitlement service did not prevent the School or the Council offering support, but ran alongside these offers.
49. However we find that the Council's approach was flawed from when the Forum considered the case at the end of April 2017. The Council reviewed the medical evidence provided at each stage, which ultimately led to a decision to withdraw the prosecution and offer a tailored package of education. But until then we consider that the Pupil Entitlement service did not give sufficient consideration to the views of other professionals in deciding how to provide an education to Y. The Forum agreed a support plan, including sending work home as part of a way of encouraging Y back to school. In our view it was not appropriate to intervene to try to override this decision by advising the School not to do so. If the Council considered it was the School's responsibility to provide education, rather than the Council's to provide alternative education, then it should not have put pressure on the School not to comply with the agreed plan. The School continued to refuse Mrs X's requests to send work home during the rest of the term. It seems likely this stance was influenced by the Council's. So Y missed out on the chance to have work sent home for a term.

50. We also consider that the Council was at fault in refusing to entertain the possibility of an alternative education package earlier by saying it was 'not an option'. Y had not received any education since February 2017. Although she had not had a formal medical diagnosis, support workers and the family had advised the Council she was suffering high levels of anxiety, and she was being referred to CAMHS. Even without a clear medical diagnosis, there was evidence of a reason for non-attendance. If a child is not receiving education because of illness, exclusion or for other reasons, the Council should consider whether it has a duty to arrange suitable education other than at school. If the Council had taken a more flexible approach and considered this possibility sooner, it might have resulted in the 'blended learning package' being available to Y earlier.
51. We find that in this case the Council was focusing on the prosecution to the detriment of the child's education. It lost sight of the primary interest of the child to receive a suitable education.
52. However the Council was not solely responsible for the delay in Y receiving suitable education. If Mr and Mrs X had sought to obtain medical evidence earlier, as the School and the Council had advised several times, the issue might have been resolved and the final outcome achieved sooner.
53. Nevertheless the Council's approach contributed to a loss of opportunity for Y to receive some education at home following the Family Support Network Forum meeting.

Recommendations

54. We recommend that to remedy the injustice to the family the Council should take the following action:
- apologise to Mr and Mrs X for not fully considering alternative approaches to ensuring an education for their daughter from April to July 2017;
 - pay them £400 to recognise the loss of educational opportunity during this period, to be used for the benefit of Y's education;
 - remind relevant staff that the duty to provide alternative education under section 19 of the Education Act 1996 may arise for reasons other than exclusion and illness.
55. The Council must consider the report and confirm within three months the action it has taken or proposes to take. The Council should consider the report at its full Council, Cabinet or other appropriately delegated committee of elected members and we will require evidence of this. (*Local Government Act 1974, section 31(2), as amended*)

Decision

56. Subject to further comments by Mr and Mrs X and the Council, we intend to complete our investigation and issue a report. This is because we have found fault causing injustice and the action we have recommended is a suitable way to remedy this.

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Standards Committee

4 March 2019

Part I

Equality Policy – anti-discrimination

Report by Director of Law and Assurance

Executive Summary

The Committee is asked to consider whether the Council should formally adopt an internationally recognised definition of anti-semitism as part of its established policy on anti-discrimination - through its inclusion in the Council's Equality Policy, previously titled the 'Treating People as Individuals Policy'

Recommendation

To consider the attached internationally recognised definition of anti-semitism for inclusion by reference in the County Council's Equality Policy.

1. **Background**

- 1.1 The County Council received in December 2018 a letter from the Jewish Leadership Council (attached as appendix 1) requesting that consideration be given by the County Council to the formal adoption of an internationally recognised definition of anti-semitism.
- 1.2 The widely accepted definition is attached in appendix 2. It originates from a meeting in 2016 of the International Holocaust Remembrance Alliance. This has since been adopted, without amendment by a large number of UK public bodies as the attached letter explains.

2. **Proposal**

- 2.1 The Council has an established anti-discrimination policy within its Equality policy. It is suggested that the inclusion, by reference to its source, to this definition would be in line with the policy. It is not proposed that the full text of the definition be inserted into a policy which is intended to be a simple and accessible set of principles but that a clear reference to the source of the definition is provided within the policy.
- 2.2 It would not be advisable for the County Council to seek to amend the text of the proposed definition. The issue is whether the Council considers it helpful to adopt such a definition in this way.

3. **Resource Implications and Value for Money**

- 3.1 None arise in relation to this report.

4. **Risk Management Implications**

4.1 None arise.

5. **Other Considerations – Equality – Crime Reduction – Human Rights**

5.1 The Equality Policy is central to the Council's approach to anti-discrimination and the promotion of equal treatment between persons with protected characteristics. The adoption of the definition would be in line with that policy.

Tony Kershaw

Director of Law and Assurance
(Contact: 22662)

Appendices

1. Letter
2. text of definition

Background Papers

None

Letter from Jewish Leadership Council

Dear Council Leader,

I am writing to you on behalf of the Jewish Leadership Council to ask you to adopt the International Holocaust Remembrance Alliance's (IHRA) working definition of antisemitism and its examples within your council policies.

The definition and the examples were officially adopted by the HM Government in December 2016 and the then Secretary of State for Communities and Local Government wrote to all local authorities in England to encourage them to do the same. Since then the definition has been adopted by the devolved governments in Scotland and Wales and by the leadership of the Conservative, Labour, Liberal Democrat, SNP and Plaid Cymru party's.

The definition and the examples has also been adopted by the CPS, College of Policing, the Mayors of London, Liverpool City Region and Greater Manchester and also over 150 local councils across the country. In London 26 out of the 32 Boroughs have now adopted the definition and in Greater Manchester 9 out of the 10 Metropolitan Boroughs.

All representative bodies of British Jews and experts in tackling antisemitism and the entire Senior Rabbinic leadership from all Jewish denominations support the definition with all of the examples in the link below.

Incidents of antisemitism are unfortunately on the rise across the UK and as an umbrella body for Jewish communal institutions we believe that first step in combatting this evil is to adequately define it which is why we are asking local authorities to adopt the definition into their own policies.

The full text of the definition and examples can be found here:

https://www.holocaustremembrance.com/sites/default/files/press_release_document_antisemitism.pdf and a the draft motion from the first local authority that adopted the

definition can be found at

<http://committeepapers.barnet.gov.uk/documents/s37797/14.3%20%20Opposition%20amendment%20in%20the%20name%20of%20Cllr%20Rawlings.pdf>

IHRA's document is intended to be adopted as a whole with the examples complementing the definition and illustrating how contemporary antisemitism expresses itself.

We strongly request on behalf of our Jewish communities that your local authorities formally adopt the full IHRA definition with examples. Our team would be happy to discuss further with you or your local councillors in greater detail.

Kind Regards and I wish you a Merry Christmas and restful break over the festive period.

Agenda Item 5
Appendix 1

Simon Johnson
Chief Executive
The Jewish Leadership Council

Full text of definition

Adopted 2016 by the International Holocaust Remembrance Alliance. This states:

“Anti-Semitism is a certain perception of Jews, which may be expressed as hatred towards Jews. Rhetorical and physical manifestations of anti-Semitism are directed toward Jewish or non-Jewish individuals and/or their property, toward Jewish community institutions and religious facilities.”

The guidelines highlight manifestations of anti-Semitism as including:

- Calling for, aiding, or justifying the killing or harming of Jews in the name of a radical ideology or an extremist view of religion.
 - Making mendacious, dehumanizing, demonizing, or stereotypical allegations about Jews as such or the power of Jews as collective — such as, especially but not exclusively, the myth about a world Jewish conspiracy or of Jews controlling the media, economy, government or other societal institutions.
 - Accusing Jews as a people of being responsible for real or imagined Wrongdoing committed by a single Jewish person or group, or even for acts committed by non-Jews.
 - Denying the fact, scope, mechanisms (e.g. gas chambers) or intentionality of the genocide of the Jewish people at the hands of National Socialist Germany and its supporters and accomplices during World War II (the Holocaust).
 - Accusing the Jews as a people, or Israel as a state, of inventing or exaggerating the Holocaust.
 - Accusing Jewish citizens of being more loyal to Israel, or to the alleged priorities of Jews worldwide, than to the interests of their own nations.
 - Denying the Jewish people their right to self-determination, e.g., by claiming that the existence of a State of Israel is a racist endeavour.
 - Applying double standards by requiring of it behaviour not expected or demanded of any other democratic nation.
 - Using the symbols and images associated with classic anti-Semitism (e.g., claims of Jews killing Jesus or blood libel) to characterize Israel or Israelis.
 - Drawing comparisons of contemporary Israeli policy to that of the Nazis.
 - Holding Jews collectively responsible for actions of the state of Israel.”
- Council welcomes the cross-party support within the Council for combating anti-Semitism in all its manifestations.

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Standards Committee

4 March 2019

Part I

Local Government Ethical Standards

Report by Director of Law and Assurance

Executive Summary

In 2018 the Committee issued a response to a consultation from the Committee for Standards in Public Life on its review of Local Government Ethical Standards. The Committee for Standards in Public Life has now issued its report to the Government for consideration. This report summarises the recommendations.

Recommendation

To note the report and to consider whether any best practice recommended by the Committee on Standards in Public Life should be adopted by the County Council.

1. **Background**

- 1.1 Local authority members act as community champions and leaders, who, by the use of locally raised taxes and other public funds, take decisions that affect the lives of local people. The electorate expect high standards from local authority members because of these crucial roles.
- 1.2 The Committee for Standards in Public Life announced in January 2018 that it was to undertake a review of Local Government Ethical Standards. The County Council submitted a response to the call for evidence, which was approved by the Standards Committee on 12 March 2018.
- 1.2 The Localism Act 2011 made significant changes to the Standards regime in Local Government. It abolished the national Standards Board, abolished the national code of conduct and instead gave local authorities a duty to adopt a code of its own choosing. A compulsory element was introduced through legislation that defined a certain range of pecuniary interests and making a failure to disclose these within 28 days a criminal offence.
- 1.3 Following the flexibilities introduced by the Localism Act 2011, the County Council has maintained a comprehensive Code of Conduct with the aim to uphold the highest standards of conduct.

2. **Proposal**

- 2.1 The full report from the Committee for Standards in Public Life sets out the scope of the consultation and notes wide variations in standards regimes in

different local authorities. The Executive Summary, recommendations and recommended best practice are included in Appendix 1.

- 2.2 The 26 recommendations are made to the Government to make changes in law to the local government standards regime and will be for the Government to consider. The main recommendations are:
- The LGA should create an updated model Code of Conduct while local authorities retain ownership of their own Codes of Conduct.
 - a new power for local authorities to suspend councillors for up to six months but with a right of appeal to the Ombudsman; the power could only be used with the agreement of the Independent Person.
 - revised rules on declaring interests, gifts and hospitality;
 - a presumption that councillors are acting in an official capacity in their public conduct, including on social media.
 - greater transparency about the number and nature of Code complaints.
 - Independent persons having an enhanced role, specifically their agreement being required if a sanction of suspension is proposed
 - Councillors being required to attend formal induction training.
 - Councillors not being required to publish their home addresses in the register of interests.
- 2.3 The recommended best practice is a set of guidance that local authorities can adopt now within existing powers. The County Council is fully compliant with Best practice 4, 5, 6, 7, 8, 10, 13 and 15. It is partially compliant with Best Practice 1, 2, 3, 9 and 14. Best practice 11 and 12 are not applicable. The areas where the County Council is not fully compliant are set out below:

Best Practice Number	Suggestion	Council's current position
1	Local authorities should include prohibitions on bullying and harassment in codes of conduct. These should include a definition of bullying and harassment, supplemented with a list of examples of the sort of behaviour covered by such a definition.	The County Council does include prohibitions on bullying and harassment in its code of conduct, but does not include a definition or examples. A definition could give clarity and consistency but may also limit flexibility.
2	Councils should include provisions in their code of conduct requiring councillors to comply with any formal standards investigation, and prohibiting trivial or malicious allegations by councillors.	The County Council does not include any formal provision to require councillors to comply with any formal standards investigation, although this is certainly expected. The Monitoring Officer and Assessment Sub-Committee do consider whether any complaint should be deemed trivial or malicious.
3	Principal authorities should review their code of conduct each year and regularly seek, where	The County Council has modelled its code as far as possible on the old national

	possible, the views of the public, community organisations and neighbouring authorities.	code. It was reviewed before the election in 2017 and was then reviewed as part of the review of the Constitution in 2018, when minor revisions were made. The expectation is that a review is made ahead of elections every four years, but this has not included seeking the views of the public, community organisations and neighbouring authorities to date.
9	Where a local authority makes a decision on an allegation of misconduct following a formal investigation, a decision notice should be published as soon as possible on its website, including a brief statement of facts, the provisions of the code engaged by the allegations, the view of the Independent Person, the reasoning of the decision-maker, and any sanction applied.	A public notice is only issued when this is agreed by the Hearing Sub-Committee, depending upon the facts of the individual case. A summary of all cases is, however, included in the annual report.
14	Councils should report on separate bodies they have set up or which they own as part of their annual governance statement, and give a full picture of their relationship with those bodies. Separate bodies created by local authorities should abide by the Nolan principle of openness, and publish their board agendas and minutes and annual reports in an accessible place.	The County Council does not automatically report on separate bodies as part of the Annual Governance Statement. It does expect the Nolan principle of openness to be adhered to and papers to be published. In the case of WSCC these will be joint committees with other authorities.

- 2.4 The County's response to the consultation in 2018 highlighted the strong approach to high standards followed by the County Council. It highlighted that more uniformity in codes of conduct could be welcomed because of the different tiers of local government. It highlighted the need for members to be trained in good standards, particularly when using social media. The limited nature of sanctions in the current regime was also noted with a recommendation that the suspension of members should be restored as a sanction option.
- 2.5 The recommendations in the report are broadly in line with what the Standards Committee set out in its response to the consultation. The Committee's view is sought on whether the Monitoring Officer should seek to implement any further best practice, through any further aspect of Best Practice 1, 2, 3, 9 and 14 as detailed above.

3. **Resource Implications and Value for Money**

3.1 None arise in relation to this report.

4. **Risk Management Implications**

4.1 None arise.

5. **Other Considerations – Equality – Crime Reduction – Human Rights**

5.1 A strong Code of Conduct and a commitment to high standards helps to ensure that equality duties are respected by both members and officers.

Tony Kershaw

Director of Law and Assurance

Contact: Charles Gauntlett 033022 22524

Appendices

1. Executive Summary, Recommendations and Best Practice from the Committee for Standards in Public Life's report.

Background Papers

None



Executive summary

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

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

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

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

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

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

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

Codes of conduct

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



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

Declaring and managing interests

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

Investigations and safeguards

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

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

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

Sanctions

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

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

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



Town and parish councils

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

Supporting officers

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

Councils' corporate arrangements

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

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

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

Leadership and culture

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

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

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



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

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



List of recommendations

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



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



List of recommendations

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



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



List of best practice

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

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

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

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

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

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

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

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

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



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

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

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

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

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

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

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