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Chief Executive

Date: 05 February 2019



Hinckley & Bosworth
Borough Council

To: **Members of the Ethical Governance and
Personnel Committee**

Mrs R Camamile (Chairman)	Mr K Morrell
Mr RG Allen (Vice-Chairman)	Mr M Nickerson
Mr MB Cartwright	Mr LJP O'Shea
Mr WJ Crooks	Ms BM Witherford
Mr MR Lay	

Copy to all other Members of the Council

(other recipients for information)

Dear member,

It has been agreed by the Chairman that the undermentioned item of business be accepted for the meeting of the **ETHICAL GOVERNANCE AND PERSONNEL COMMITTEE** on **WEDNESDAY, 6 FEBRUARY 2019 at 10.30 am.**

I would be grateful if you could place this with your papers for the meeting.

Yours sincerely

A handwritten signature in black ink, appearing to read 'R Owen'.

Rebecca Owen
Democratic Services Officer

LATE REPORT

(a) Local government ethical standards (Pages 1 - 10)

A summary of the recent report of the Committee on Standards in Public Life. This chairman has agreed to accept this as an item of urgent business as the report was published after the agenda for this meeting had been dispatched.

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Hinckley & Bosworth Borough Council

FORWARD TIMETABLE OF CONSULTATION AND DECISION MAKING

ETHICAL GOVERNANCE & PERSONNEL COMMITTEE

6 FEBRUARY 2019

WARDS AFFECTED: ALL WARDS

LOCAL GOVERNMENT ETHICAL STANDARDS – REVIEW OF THE COMMITTEE ON STANDARDS IN PUBLIC LIFE

Report of the Monitoring Officer

1. PURPOSE OF REPORT

- 1.1 To inform the committee of the review into local government ethical standards published by the Committee on Standards in Public Life on 30 January.

2. RECOMMENDATION

- 2.1 The report be noted.
- 2.2 Consideration be given to the best practice highlighted in paragraph 3.6 and whether these should be explored for adoption in this authority.

3. BACKGROUND TO THE REPORT

- 3.1 The Committee on Standards in Public Life was established in 1994 and is responsible for promoting the seven principles of public life of selflessness, integrity, objectivity, accountability, openness, honesty and leadership (the Nolan Principles).
- 3.2 The Committee on Standards in Public Life has conducted a review into the effectiveness of the current arrangements for standards in local government in light of the changes made by the Localism Act 2011.
- 3.3 A key finding of the review was that there is not a widespread standards problem within local government, but there is misconduct by some councillors, particularly in relation to bullying and harassment or other disruptive behaviour, including repeated misconduct by a minority of councillors. The review also found that the current system for ethical standards works well and that local determination of complaints is more appropriate than determination by a central body.
- 3.4 Some key points from the report are:

- The importance of political parties in the standards process and the need for them to take responsibility for member conduct and that party discipline needs to be transparent and tied into the standards regime
- The lack of consistency in current codes of conduct
- The current lack of powers in relation to standards is restrictive for local authorities
- The need for more support for Parish councils and, more specifically, for clerks
- The crucial roles of the Monitoring Officer and Independent Member
- The disparity between codes of conduct of different authorities which makes it difficult for Monitoring Officers and dual/triple hatted members in districts with parish councils
- The lack of clarity to both councillors and the public in relation to disclosable pecuniary interests and that the criminal offences are not fit for purpose
- That most codes of conduct do not reflect current challenges, such as the use of social media and complaints arising from that
- The difficulty of assessing whether a councillor is acting in an official capacity in their public conduct in order to fall within the scope of the code of conduct
- The inadequacy of sanctions available to standards committees
- The risk of intimidation arising from requiring a councillor's home address to be published on their register of interest form.

3.5 The report does set out a number of recommendations that it wishes to put to the government. These are included at appendix A. Many of these recommendations would require changes to primary and secondary legislation and have been submitted to the government. We will keep members updated on the progress of this.

3.6 The report also includes a number of best practice recommendations directed to local authorities, which authorities are expected to implement:

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 Principles 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.

The Committee on Standards in Public Life will review implementation of the best practice recommendations in 2020.

3.7 Members are asked to consider the best practice recommendations, some of which are already in operation at HBBC, and make recommendations in relation to those that are not already in operation.

4. EXEMPTIONS IN ACCORDANCE WITH THE ACCESS TO INFORMATION PROCEDURE RULES

4.1 To be taken in open session.

5. FINANCIAL IMPLICATIONS (IB)

5.1 None.

6. LEGAL IMPLICATIONS [initials of person writing the implications]

6.1 [Legal to insert – reports must be submitted to Legal by the deadline stated on the list of deadlines which can be found on the intranet. If there are no implications, it is for the relevant Solicitor to state ‘none’]

7. CORPORATE PLAN IMPLICATIONS

7.1 This report relates to governance within the authority and therefore supports all corporate aims.

8. CONSULTATION

8.1 No consultation undertaken at this stage.

9. RISK IMPLICATIONS

9.1 It is the Council’s policy to proactively identify and manage significant risks which may prevent delivery of business objectives.

9.2 It is not possible to eliminate or manage all risks all of the time and risks will remain which have not been identified. However, it is the officer’s opinion based on the information available, that the significant risks associated with this decision / project have been identified, assessed and that controls are in place to manage them effectively.

9.3 The following significant risks associated with this report / decisions were identified from this assessment:

Management of significant (Net Red) Risks		
Risk Description	Mitigating actions	Owner
None		

10. KNOWING YOUR COMMUNITY – EQUALITY AND RURAL IMPLICATIONS

10.1 No decisions are being made which impact any area, group or community.

11. CORPORATE IMPLICATIONS

11.1 By submitting this report, the report author has taken the following into account:

- Community Safety implications
- Environmental implications
- ICT implications
- Asset Management implications
- Procurement implications
- Human Resources implications
- Planning implications
- Data Protection implications
- Voluntary Sector

Background papers: Report of the Committee on Standards in Public Life:
https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/772900/Local_Government_Ethical_Standards_Web_.PDF

Contact Officer: Becky Owen, ext 5879
Executive Member: Councillor C Ladkin

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**EXTRACT FROM THE REPORT OF THE
COMMITTEE ON STANDARDS IN PUBLIC LIFE**

List of recommendations

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



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



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



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