



**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

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