



Council Report

Report of: Gillian Duckworth, Monitoring Officer

Date: 6th January 2021

Subject: Review of the Members Code of Conduct and Councillor Complaints Procedure

Author of Report: Gillian Duckworth

Summary: To provide the Council with an amended Code of Conduct and Councillor Complaints Procedure approved by the Audit and Standards Committee on 30th July 2020, which takes into consideration the best practice recommendations contained within a report by the Committee on Standards in Public Life dated January 2019.

Recommendations:

To adopt the proposed changes to the Code of Conduct and the Procedure for Dealing with Complaints regarding City, Parish and Town Councillors and Co-Opted Members.

Background Papers:

Report to Audit and Standards Committee on 30th July 2020

Report to Audit and Standards Committee on 24th October 2019

Report by the Committee on Standards in Public Life on Local Government Ethical Standards dated January 2019

Category of Report: OPEN

Statutory and Council Policy Checklist

Financial Implications
YES/NO - Cleared by:
Legal Implications
YES/NO - Cleared by:
Equality of Opportunity Implications
YES/NO - Cleared by:
Tackling Health Inequalities Implications
NO
Human rights Implications
NO:
Environmental and Sustainability implications
NO
Economic impact
NO
Community safety implications
NO
Human resources implications
NO
Property implications
NO
Area(s) affected
None
Relevant Cabinet Portfolio Member
Councillor Terry Fox, Cabinet Member for Finance
Is the item a matter which is reserved for approval by the City Council?
NO
Press release
NO

REVIEW OF THE MEMBERS CODE OF CONDUCT AND COUNCILLOR COMPLAINTS PROCEDURE

1.0 INTRODUCTION

- 1.1 The Committee on Standards in Public Life published a review on Local Government Ethical Standards in January 2019.
- 1.2 At its meeting on 13th June 2019, the Audit and Standards Committee agreed to hold a workshop to look at the best practice recommendations for local government included within the review.
- 1.3 On 26th September, an Ethical Standards Workshop was held to look at whether the Authority was meeting the best practice and what needed to be done in the areas that did not meet best practice. Recommendations from the workshop were discussed at the Audit and Standards Committee held on 24th October 2019.

2.0 BACKGROUND

- 2.1 The Committee on Standards in Public Life published a review on Local Government Ethical Standards in January 2019 (the full report can be found on the gov.uk website). The report set out 26 recommendations to the Government, the LGA, Parish Councils and Political Groups which are designed to strengthen the current regime. All of the recommendations require actions by bodies other than local authorities, e.g. Government, before they can be implemented.
- 2.2 Also included within the report were 15 areas of best practice which it suggested local authorities should be following. The Committee on Standards in Public Life will review implementation of best practice in 2020.

3.0 ETHICAL STANDARDS WORKSHOP

- 3.1 On 26th September, an Ethical Standards Workshop was held to look at whether the Authority was meeting the best practice and what needed to be done in the areas that did not meet best practice.
- 3.2 Invited to the workshop were all members of the Audit and Standards Committee, including the Independent Co-opted Member and Parish Council representatives. Also invited were the Council's two Independent Members. There were seven attendees present at the workshop.
- 3.3 Officers had assessed the 15 areas of best practice against the current practice of the Council and put them into a 'traffic light' system.

4.0 OUTCOMES OF THE WORKSHOP

4.1 The workshop looked at the areas of best practice and made the following recommendations.

4.2 **1. AMBER - 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.**

- SCC current code is not detailed enough.
- ACAS definition included with the review document should be included within the Code of Conduct.
- Examples should be included as an appendix to the Code (should be made clear that the examples are not an exhaustive list!).
- The NALC model code had no definition. This should be a question to NALC.

4.3 **2. RED - 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.**

- Provisions should be included in SCC Code.
- All Members should be asked to sign up to comply with the sanctions.
- Should follow the wording on P.41 of the review document.
- Should apply to the whole code.

4.4 **3. AMBER - 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.**

- A system should be devised that is as inclusive as possible to get the views of the public.
- Carry out consultation with disability groups etc.
- Possible online consultation that is open all year round, requesting feedback on Councillors and the Code of Conduct.
- Consider how to reach those who don't have online access.

4.5 **4. RED - An authority's Code of Conduct should be readily accessible to both Councillors and the public, in a prominent position on the Council's website and available in Council premises.**

- Consider providing hard copies in libraries, First Point etc.

4.6 **5. GREEN - Local authorities should update their gifts and hospitality register at least once per quarter and publish it**

- 4.13 **12. AMBER - Monitoring Officer 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.**
- It was felt that a financial contribution could cause precepts to be increased.
 - An annual fee could be charged to PC's.
- 4.14 **13. RED - 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.**
- This was a good idea as it was better to be independent.
 - Could be written into the procedure.
 - Depending on the level of conflict Deputy Monitoring Officer could be used.
 - Use the reciprocal arrangement with Barnsley MBC.
- 4.15 **14. GREEN - 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, minutes and annual reports in an accessible place.**
- Not Green - should be white, as no bodies currently meeting the criteria.
 - Should look at having measures in place just in case.

5. CHANGES TO THE CODE OF CONDUCT

- 5.1 Taking into account the above, the following (please see **Appendix A**) changes were recommended to the Code of Conduct:
- 5.2 A minor revision has been made to the introduction to make it clearer and more concise.
- 5.3 A definition of bullying has been added to paragraph 1.1(c) (see Best Practice 1), in order to ensure Members are clear on the kinds of behaviour that are not acceptable.
- 5.4 Paragraph 1.1 has also been amended to include that Members should comply with any sanctions imposed and not make any trivial or malicious complaints, as outlined in Best Practice 2.
- 5.5 Paragraph 2.3 has been amended so that the Members gifts and hospitality regime reflects that of Officers, as per the discussion at the

Ethical Standards Workshop (Best Practice 5).

- 5.6 A minor revision to paragraph 4.3 regarding equalities to ensure that the Code of Conduct reflects the Council's current equality responsibilities.
- 5.7 Work is being carried out at a national level to formulate a model code of conduct, therefore the Council will consider the Code again once this work is completed and a model code is published.

6. COMPLAINTS CONCERNING A CITY, PARISH AND TOWN COUNCILLOR AND CO-OPTED MEMBERS

- 6.1 Revisions have been made in line with the best practice recommendations to the Procedure for Dealing with Complaints regarding City, Parish and Town Councillors and Co-Opted Members which is an appendix to Part 5 (b) of the Monitoring Officer Protocol (please see **Appendix B**).
- 6.2 As per best practice 13, insertions of paragraphs 1.4 and 1.5 into the introduction have been made which explain about possible conflicts of interest of officers appointed by the Monitoring Officer when undertaking standards investigations and also that the Monitoring Officer considers the interests of the public when assessing complaints against Councillors.
- 6.3 The procedure now clearly explains who the Independent Persons are and what the purpose of their role is. It also states when the Independent Person is consulted at various stages in the standards process.
- 6.4 At part 4 of the procedure - Making a Complaint/Withdrawing a Complaint, more detailed information has been included around the circumstances of requests for confidentiality by a complainant. This information was formally part of the 'complain about a councillor form', however it was felt better placed at part 4 of the document, this helps keep the 'complain about a councillor' form simpler and easier for complainants to complete.
- 6.5 Throughout the document the word 'potential' has been removed. A complaint will no longer be considered a 'potential breach'. Complaints will now be considered either 'a breach' of the Members' Code of Conduct or 'not a breach' of the Members' Code of Conduct'. This is in line with what neighbouring authorities have adopted in their Councillor complaints procedures.
- 6.6 At the foot of the document a complaints procedure flow chart has been included. This shows clearly each step in the process and also outlines what options are available to the Monitoring Officer/Consideration Sub-Committee/Hearing Sub-Committee should a breach of the Members' Code of Conduct be found.
- 6.7 In line with best practice 10, work has been undertaken to improve the complaint form used by the public to lodge a complaint against a councillor. The form is now more easily accessibly on the Council's

website. A new online complaint form has also been devised and will be launched in the next few months.

- 6.8 At its meeting on 30th July 2020, Audit and Standards Committee approved the changes and recommended they be forwarded to Council for adoption.