

North East Derbyshire District Council

Standards Committee 9th December 2020

CSPL local government ethical standards 15 best practice recommendations – draft responses

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.

Progress:

Progress on this has been somewhat overtaken by the Covid 19 Pandemic and the draft LGA model Code of Conduct.

However the Current Code of Conduct does require councillors both to treat others “fairly, appropriately and impartially”. It also requires councillors to value colleagues and officers in a way that underpins the mutual respect required in local government. In addition the code requires councillors to treat everyone with respect. This gives confidence that bullying and harassment claims can be dealt with under the Code of Conduct.

Once the LGA model Code of Conduct is released the Code will be reviewed and a new version (based on the LGA model) adopted.

However in relation to Parish Councils, there are a variety of Codes of Conduct formats, ranging from only the Nolan Principles to Codes that mirror the District Code and indeed other forms of code too. Clearly therefore bullying and harassment are not specifically mentioned in all the Parish Councils Codes of Conduct. When the LGA model Code is agreed and launched, we will make sure the model code is promoted amongst Parish Councils including this specific point.

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.

Progress:

There is no explicit provision in the Code of Conduct to cover cooperation with a formal standards investigation. However there is a requirement in the Code of Conduct for councillors to behave in accordance with the Council’s legal obligations alongside any requirements contained within its policies, protocols and procedures. A failure to cooperate with a Standards Investigation would itself be a potential breach.

This has not been a problem that has arisen for this Council.

The Council would look to the LGA model to review the Code of Conduct and make explicit provision on this.

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.

Progress:

The Code is reviewed regularly. In recent years the Council has added to it guidance on the use of social media and details of the mandatory training the councillors should take.

In relation to training it is not currently legally possible to enforce this requirement. This hampers a Council's ability to ensure that its councillors are properly trained. It would be helpful to have some legal backing for enforcing this.

No consultation has been carried out in respect of the Code of Conduct contents.

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.

Progress:

The Code of Conduct is on the Committees Page of the Council website and can be reached with 2 clicks.

Members have access to the Code of Conduct through the same page on their iPads.

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.

Progress:

An annual review of both councillors and officers gifts and hospitality is presented to Standards Committee once a year. There are so few entries there would be nothing gained by publishing it quarterly.

However the Council is in the process of introducing Mod.Gov. The next phase of this will include the Gifts and Hospitality Register and its publication.

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

Progress:

The Council has a complaints procedure which is on the website and is also sent to complainants and subject members. The document has a copy of the code of Conduct for the District attached.

This document clearly sets out what the considerations are for each stage of the process and in relation to investigations whether it would be in the public interest (in terms of there being any public benefit) to conduct an investigation.

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

Progress:

The Council has always had 2 Independent Persons, save only where there has been a vacancy.

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.

Progress:

This is always done.

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.

Progress:

This situation has not arisen under the Localism Act 2011 in this Council. If this does arise the Council's Standards Committee could consider and agree a format for such decisions to be published.

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.

Progress:

This is in place. A complaints procedure is accessible on the website and is sent to complainants and subject members – see above.

Generally Members of the public do not research what they need to do to make a complaint, nor do they ask. Sometimes I receive an email from the Leader or another Councillor as the complaint has been made to them not me.

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.

Progress:

This is not within the control of the District and accordingly, there are a variety of practices amongst the Parish Councils in the few cases we have had.

It is also the case that where the allegation is against the Chair of the Parish Council it is unlikely the Council would agree to forward the complaint to me on behalf of the Clerk. If the Clerk were not able to make the complaint themselves, this would deny the Clerk an avenue to resolve the issues.

We are considering more Code of Conduct training for the Parish Councils and will add this to that training. Parish training is and has always been offered to Parish Councils and through the Parish Council Liaison Group. However attendance can be poor.

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.

Progress:

The Monitoring Officer's role includes this support to Parish Councils in relation to complaints.

The Monitoring Officer is provided with training as required.

Resources have recently been added to the role because of an increase in work.

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.

Progress:

This has not been an issue in this Council.

However at least one Deputy Monitoring Officer is appointed and can deal with such cases independently. Where necessary an external Monitoring Officer can be appointed.

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.

Progress:

The Council has formed companies. The Annual Governance Statement is being reviewed and this point will be addressed.

There is a dichotomy in relation to the Nolan Principles and members' roles as once appointed to a Board of Directors the councillor should act with regard to the company's rules and the legislation governing that role. The Nolan principles apply to public life and Board membership is essentially private life, even though the appointment is from the Council.

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

Progress:

This happens.

The Monitoring Officer has access to the Leader and Deputy Leader and other party Leaders as necessary to enable these matters to be discussed.

Consideration can be given to having regular meetings with all party Leaders. The problem is that the councillors (like officers) have limited time.
