

Open

Ethics and Standards Committee

Agenda

6pm
Thursday, 12th September 2019
Council Chamber
Wyre Forest House
Finepoint Way
Kidderminster



Wyre Forest District Council



Ethics and Standards

Members of Committee:

Chairman: Councillor S Miah

Vice-Chairman: Councillor A L L'Huillier

Councillor B S Dawes

Councillor S Griffiths

Councillor N Gale

Councillor I Hardiman

Co-opted Members: Reverend J Cox and Mr R Reynolds.

Parish Council Representative: Councillors R Drew, D Killingworth and W Mack

Information for Members of the Public:

Part I of the Agenda includes items for discussion in public. You have the right to request to inspect copies of Minutes and reports on this Agenda as well as the background documents used in the preparation of these reports.

Part II of the Agenda (if applicable) deals with items of "Exempt Information" for which it is anticipated that the public may be excluded from the meeting and neither reports nor background papers are open to public inspection.

There are particular circumstances when the Ethics and Standards Committee may exclude the public, which are in addition to those available at meetings of the Council, its Cabinet and Committees etc. These apply when the Ethics and Standards Committee considers the following:

Information relating to a particular chief officer, former chief officer or applicant to become a chief officer of a local probation board within the meaning of the Criminal Justice and Court Services Act 2000.

Information which is subject to any obligation of confidentiality.

Information which relates in any way to matters concerning national security.

Declaration of Interests by Members – interests of members in contracts and other matters

Declarations of Interest are a standard item on every Council and Committee agenda and each Member must provide a full record of their interests in the Public Register.

In addition, alongside the Register of Interest, the Members Code of Conduct ("the Code") requires the Declaration of Interests at meetings. Members have to decide first whether or not they have a disclosable interest in the matter under discussion.

Please see the Members' Code of Conduct as set out in Section 14 of the Council's constitution for full details.

Disclosable Pecuniary Interest (DPI) / Other Disclosable Interest (ODI)

DPI's and ODI's are interests defined in the Code of Conduct that has been adopted by the District.

If you have a DPI (as defined in the Code) in a matter being considered at a meeting of the Council (as defined in the Code), the Council's Standing Orders require you to leave the room where the meeting is held, for the duration of any discussion or voting on that matter.

If you have an ODI (as defined in the Code) you will need to consider whether you need to leave the room during the consideration of the matter.

For further information:

If you have any queries about this Agenda or require any details of background papers, further documents or information you should contact Louisa Bright, Principal Committee and Member Services Officer, Wyre Forest House, Finepoint Way, Kidderminster, DY11 7WF. Telephone: 01562 732763 or email louisa.bright@wyreforestdc.gov.uk

Wyre Forest District Council

Ethics and Standards Committee

Thursday, 12th September 2019

Council Chamber, Wyre Forest House, Finepoint Way, Kidderminster

Part 1

Open to the press and public

Agenda item	Subject	Page Number
1.	Apologies for Absence	
2.	Appointment of Substitute Members To receive the name of any Councillor who is to act as a substitute, together with the name of the Councillor for whom he/she is acting.	
3.	Declarations of Interests by Members In accordance with the Code of Conduct, to invite Members to declare the existence and nature of any Disclosable Pecuniary Interests (DPI's) and / or Other Disclosable Interests (ODI's) in the following agenda items and indicate the action that they will be taking when the item is considered. Please see the Members' Code of Conduct as set out in Section 14 of the Council's Constitution for full details.	
4.	Minutes To confirm as a correct record the Minutes of the meeting held on the 16 th April 2018.	6
5.	Complaints to the Local Government and Social Care Ombudsman 2018/19 To receive a report from the Chief Executive on the outcome of complaints to the Local Government and Social Care Ombudsman in accordance with Council Policy for the period of 1 st April 2018 to 31 st March 2019.	15
6.	Local Government Ethical Standards To receive a report from the Solicitor to the Council to consider a Review by the Committee on Standards in Public Life (CSPL) into Local Government Ethical Standards.	21

7.	To consider any other business, details of which have been communicated to the Solicitor to the Council before the commencement of the meeting, which the Chairman by reason of special circumstances considers to be of so urgent a nature that it cannot wait until the next meeting.	
8.	<p>Exclusion of the Press and Public</p> <p>To consider passing the following resolution:</p> <p>“That under Section 100A(4) of the Local Government Act 1972 the press and public be excluded from the meeting during the consideration of the following item of business on the grounds that it involves the likely disclosure of “exempt information” as defined in the paragraph 1 of Part 1 of Schedule 12A to the Act”.</p>	

Part 2

Not open to the Press and Public

9.	To consider any other business, details of which have been communicated to the Solicitor to the Council before the commencement of the meeting, which the Chairman by reason of special circumstances considers to be of so urgent a nature that it cannot wait until the next meeting.	
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WYRE FOREST DISTRICT COUNCIL

ETHICS AND STANDARDS

COUNCIL CHAMBER, WYRE FOREST HOUSE, FINEPOINT WAY, KIDDERMINSTER

16TH APRIL 2018 (6PM)

Present:

Councillors: N Gale (Chairman), J R Desmond (Vice-Chairman), V Higgs and R J Vale.

Co-opted Member: Mr R Reynolds.

Observers:

There were no members present as observers.

ES.1 Apologies for Absence

Apologies for absence were received from Councillor I Hardiman and Parish Council Representatives L Green and R Hobson.

ES.2 Appointment of Substitutes

No substitutes were appointed.

ES.3 Declarations of Interests by Members

No declarations of interest were made.

ES.4 Minutes

Decision: The minutes of the meeting held on 22nd September 2016 be confirmed as a correct record and signed by the Chairman.

ES.5 Local Government Ethical Standards – Calls for Evidence

The Committee received a report from the Monitoring Officer which invited Members to consider responses to the Local Government Ethical Standards Committee calls for Evidence.

The review of Local Government Ethical Standards was currently being undertaken by the Committee on Standards in Public Life. Robust standards arrangements were needed to safeguard local democracy, maintain high standards of conduct, and to protect ethical practice in local government.

The Monitoring Officer advised that feedback on the consultation had been sought from Committee Members, and following a meeting with the Chair and Vice Chair, concerns had been raised in relation to the lack of sanctions

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available to Local Authorities when dealing with Councillors who had breached the code of conduct.

The Monitoring Officer reminded Members that prior to 2011, sanctions available under the Local Government Standards Board was suspension or partial suspension as a Councillor for up to 6 months (maximum sanction) and first-tier tribunal suspension for up to 12 months. Other sanctions included censure, apology, reconciliation or requirement to complete training. She added that the introduction of the Localism Act 2011 substantially altered the prevailing Local Government Standards regime in England, censure or removal from a committee were the only sanctions currently available to Local Authorities, and there was no enforcement mechanism behind any recommendations from Standards Committee's. The Monitoring Officer was pleased to report that Wyre Forest District Council had a strong Group Structure and was able to work with Group Leaders and the Independent Persons panel to address any potential breaches of the code of conduct.

The Chairman said that the lack of sanctions was a concern, in particular when dealing with breaches of the code as a result of the mis-use of social media. She added that there was a fine line between 'getting it right' and causing offence, she felt that there was currently no deterrent for the minority of Councillors who repeatedly disregard the guidelines set out in the Council's Social Media Policy.

The Committee discussed the issue of intimidation towards local Councillors and agreed that social media was the main platform for abuse and intimidation to take place.

The Monitoring Officer thanked the Committee for their input which would be incorporated into the consultation responses.

Agreed: Appropriate responses be sent to the Local Government Ethical Standards Review.

There being no further business, the meeting ended at 6.17pm.

Review of Local Government Ethical Standards: Stakeholder Consultation

The Committee on Standards in Public Life is undertaking a review of local government ethical standards.

Robust standards arrangements are needed to safeguard local democracy, maintain high standards of conduct, and to protect ethical practice in local government.

As part of this review, the Committee is holding a public stakeholder consultation. The consultation is open from 12:00 on Monday 29 January 2018 and closes at 17:00 on Friday 18 May 2018.

Terms of reference

The terms of reference for the review are to:

1. Examine the structures, processes and practices in local government in England for:
 - a. Maintaining codes of conduct for local councillors;
 - b. Investigating alleged breaches fairly and with due process;
 - c. Enforcing codes and imposing sanctions for misconduct;
 - d. Declaring interests and managing conflicts of interest; and
 - e. Whistleblowing.
2. Assess whether the existing structures, processes and practices are conducive to high standards of conduct in local government;
3. Make any recommendations for how they can be improved; and
4. Note any evidence of intimidation of councillors, and make recommendations for any measures that could be put in place to prevent and address such intimidation.

The review will consider all levels of local government in England, including town and parish councils, principal authorities, combined authorities (including Metro Mayors) and the Greater London Authority (including the Mayor of London).

Local government ethical standards are a devolved issue. The Committee's remit does not enable it to consider ethical standards issues in devolved nations in the UK except with the agreement of the relevant devolved administrations. However, we welcome any evidence relating to local government ethical standards in the devolved nations of the UK, particularly examples of best practice, for comparative purposes.

Submissions will be published online alongside our final report, with any contact information (for example, email addresses) removed.

Consultation questions

The Committee invites responses to the following consultation questions.

Please note that not all questions will be relevant to all respondents and that submissions do not need to respond to every question. Respondents may wish to give evidence about only one local authority, several local authorities, or local government in England as a whole. Please do let us know whether your evidence is specific to one particular authority or is a more general comment

on local government in England.

Whilst we understand submissions may be grounded in personal experience, please note that the review is not an opportunity to have specific grievances considered.

- a. Are the existing structures, processes and practices in place working to ensure high standards of conduct by local councillors? If not, please say why.
- b. What, if any, are the most significant gaps in the current ethical standards regime for local government?

Response from Wyre Forest District Council

Wyre Forest District Council takes standards very seriously – including:

- **100% member code of conduct training after elections.**
- **Six independent persons in place.**
- **A Standards Committee, that is responsible for the promotion of high standards, including member interests, gifts and hospitality, member IT use, propriety for officers including anti-fraud etc.**

The Council does not consider there to be gaps in the current regime.

Codes of conduct

- c. Are local authority adopted codes of conduct for councillors clear and easily understood? Do the codes cover an appropriate range of behaviours? What examples of good practice, including induction processes, exist?
- d. A local authority has a statutory duty to ensure that its adopted code of conduct for councillors is consistent with the Seven Principles of Public Life and that it includes appropriate provision (as decided by the local authority) for registering and declaring councillors' interests. Are these requirements appropriate as they stand? If not, please say why.

Response from Wyre Forest District Council

Wyre Forest District Council adopted a Code of Conduct in line with the former national code. It supports the use of the Seven Principles of Public Life and agrees that the code covers an appropriate range of behaviours. As mentioned above, 100% of members have Code of Conduct training with the Monitoring Officer.

Behaviours relating to on-line or social media communications provide a source of opportunities for perceived or actual misconduct. Induction of new social media code has emphasised the use of good practices in relation to social media.

Investigations and decisions on allegations

- e. Are allegations of councillor misconduct investigated and decided fairly and with due process?
 - i. What processes do local authorities have in place for investigating and deciding upon allegations? Do these processes meet requirements for due process? Should any additional safeguards be put in place to ensure due process?
 - ii. Is the current requirement that the views of an Independent Person must be sought and taken into account before deciding on an allegation sufficient to ensure the objectivity and fairness of the decision process? Should this requirement be strengthened? If so, how?
 - iii. Monitoring Officers are often involved in the process of investigating and deciding upon code breaches. Could Monitoring Officers be subject to conflicts of interest or undue pressure when doing so? How could Monitoring Officers be protected from this risk?

Response from Wyre Forest District Council

The established procedures are fair and follow due process, affording complainant and subject with access to assistance and advice from the Monitoring Officer or Investigating Officer, as well as one of the six independent persons. The majority of time is taken with preliminary approaches and resolving potential conflict at early stages. Investigations when undertaken are thorough and outcomes based on a full consideration of recorded evidence and reasons.

Sanctions

- f. Are existing sanctions for councillor misconduct sufficient?
 - i. What sanctions do local authorities use when councillors are found to have breached the code of conduct? Are these sanctions sufficient to deter breaches and, where relevant, to enforce compliance?
 - ii. Should local authorities be given the ability to use additional sanctions? If so, what should these be?

Response from Wyre Forest District Council

No.

Sanctions are woefully inadequate. This is the major flaw in the current Ethical framework.

Under the old national regime there was a wider range of sanctions

available to the Standards Committee and at the most serious level, it was possible to suspend a member. Now, the strongest sanctions are public censure and limiting a member's access to certain resources. While they can be recommended for removal from certain roles this has to be with the cooperation of the group leader and full Council. This suggests a limited set of options for more serious conduct and a reliance on party political/ group leader cooperation at a critical point if sanctions are to be effective.

Members strong view was that it is essential to revert to the sanctions under the previous regime, ie suspension (or partial suspension) as a councillor for up to 6 months and up to 12 months for serious breaches.

Declaring interests and conflicts of interest

- g. Are existing arrangements to declare councillors' interests and manage conflicts of interest satisfactory? If not please say why.
- i A local councillor is under a legal duty to register any pecuniary interests (or those of their spouse or partner), and cannot participate in discussion or votes that engage a disclosable pecuniary interest, nor take any further steps in relation to that matter, although local authorities can grant dispensations under certain circumstances. Are these statutory duties appropriate as they stand?
 - ii. What arrangements do local authorities have in place to declare councillors' interests, and manage conflicts of interest that go beyond the statutory requirements? Are these satisfactory? If not, please say why.

Response from Wyre Forest District Council

A public register of interests is held on the District Council's website. As well as disclosable pecuniary interests, this includes a wide range of 'personal interests' in a similar manner to the former national code. This can give assurance that a fuller range of things that may influence each member are shown in the public domain.

At all of the Council's meetings and whenever individual decisions are made, as part of the agenda or the decision record members are asked to declare any relevant interests. This serves as a prompt for members. In advance of all public meetings of the District Council members are given the opportunity to declare interests in writing or seek advice.

These measures in place help to promote an effective, open culture of declaring interests. There have been no complaints to the Standards Committee that involved a failure to declare or act on an interest.

The process relies upon the cooperation of members as individual members cannot be compelled to declare interests by a chairman or an officer. The

District Council has however not experienced particular problems with any lack of cooperation as members tend to err on the side of caution in relation to such declarations. Members proactively consult with the Monitoring Officer to ensure compliance.

Whistleblowing

- h. What arrangements are in place for whistleblowing, by the public, councillors, and officials? Are these satisfactory?

Response from Wyre Forest District Council

A whistleblowing policy is in place at Wyre Forest District Council. Members are entitled to raise questions, either openly or confidentially with the Monitoring Officer and the senior leadership team. The Council has no experience of any member being unable to raise and pursue such concerns. Members are provided with contact details of all relevant officers to assist them in the discharge of their work.

Improving standards

- i. What steps could *local authorities* take to improve local government ethical standards?
j. What steps could *central government* take to improve local government ethical standards?

Response from Wyre Forest District Council

Common issues and areas of good practice could be captured in guidance. More formal arrangements for exchanging experience and good practice between local authorities could be developed.

Government could introduce sanctions that would give the public and members confidence in the ability of Local Authorities to deal effectively with Code of Conduct complaints. Current perception by Members is that the ethical framework requires robust sanctions to be credible.

Intimidation of local councillors

- k. What is the nature, scale, and extent of intimidation towards local councillors?
i. What measures could be put in place to prevent and address this intimidation?

Response from Wyre Forest District Council

Social Media is the main forum for abuse. All Social Media (as per Twitter) should have a facility to report inappropriate posts and remove inappropriate posts or abusive content.

Who can respond?

Anyone with an interest may make a submission. The Committee welcomes submissions from members of the public.

However, the consultation is aimed particularly at the following stakeholders, both individually and corporately:

- Local authorities and standards committees;
- Local authority members (for example, Parish Councillors, District Councillors);
- Local authority officials (for example, Monitoring Officers);
- Think tanks with an interest or expertise in local government;
- Academics with interest or expertise in local government; and
- Representative bodies or groups related to local government.

How to make a submission

Submissions can be sent either in electronic format or in hard copy.

Submissions must:

- State clearly who the submission is from, i.e. whether from yourself or sent on behalf of an organisation;
- Include a brief introduction about yourself/your organisation and your reason for submitting evidence;
- Be in doc, docx, rtf, txt, ooxml or odt format, not PDF;
- Be concise – we recommend no more than 2,000 words in length; and
- Contain a contact email address if you are submitting by email.

Submissions should:

- Have numbered paragraphs; and
- Comprise a single document. If there are any annexes or appendices, these should be included in the same document.

It would be helpful if your submission included any factual information you have to offer from which the Committee might be able to draw conclusions, and any recommendations for action which you would like the Committee to consider.

The Committee may choose not to accept a submission as evidence, or not to publish a submission even if it is accepted as evidence. This may occur where a submission is very long or contains material which is inappropriate.

Submissions sent to the Committee after the deadline of 17:00 on Friday 18 May 2018 may not be considered.

Submissions can be sent:

1. Via email to: public@public-standards.gov.uk
2. Via post to:

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Review of Local Government Ethical Standards
Committee on Standards in Public Life
GC:07
1 Horse Guards Road
London
SW1A 2HQ

If you have any questions, please contact the Committee's Secretariat by email (public@public-standards.gov.uk) or phone (0207 271 2948).

WYRE FOREST DISTRICT COUNCILETHICS AND STANDARDS COMMITTEE
12th September 2019**Complaints to the Local Government and Social Care Ombudsman 2018/19**

OPEN	
RESPONSIBLE OFFICER:	Chief Executive
CONTACT OFFICER:	Ian Miller, Ext. 2700 Ian.Miller@wyreforestdc.gov.uk
APPENDICES:	Appendix A - Definition of decision terms Appendix B - Table showing Comparison No. of Complaints decided by Local Government Ombudsman for District Councils in Worcestershire Appendix C - List of complaints and compliments received by the Council

1. PURPOSE OF THE REPORT

- 1.1 To report the outcome of complaints to the Local Government and Social Care Ombudsman in accordance with Council Policy for the period of 1st April 2018 to 31st March 2019.

2. RECOMMENDATION

The Committee is asked to DECIDE that:

2.1 This report is to be noted.**3. BACKGROUND**

- 3.1 The Council's Corporate Complaints Procedure provides a two-stage approach for handling of customer complaints. If resolution through this process is not possible, the complainant can contact the independent Local Government and Social Care Ombudsman.
- 3.2 The Ombudsman's role is to consider whether 'injustice' has been caused by shortcomings in the administrative actions of the Council. He examines what the Council has done compared with its legal obligations, the requirements of its own policies and procedures and of good administrative practice.
- 3.3 Members of the public may contact the Ombudsman directly. However complainants who do so are always encouraged to resolve a grievance at a local level.

4. KEY ISSUES

Analysis of Complaints decided by the Ombudsman

- 4.1 The table below summarises the results of the Ombudsman's investigations into complaints decided in 2018/19. Of the 6 complaints referred to the Ombudsman, 2 were closed and 2 of them were referred back for local resolution.

Local Authority	Detailed Investigations			Advice given	Closed after initial enquiries	Incomplete/ Invalid	Referred back for local resolution	Total
	Upheld	Not Upheld	Uphold Rate					
Wyre Forest DC	0	0	0%	0	2	1	2	5

- 4.2 Explanations for the terms used to describe the different types of Ombudsman decision can be found in Appendix A.
- 4.3 Appendix B provides a comparison with other district councils in Worcestershire. It will be seen that Wyre Forest was one of three districts where no complaints were upheld; that Wyre Forest had the lowest absolute number of complaints to the Ombudsman; and that it was the only district where none of the complaints led to a full investigation (and a finding of either "upheld" or "not upheld").
- 4.4 Appendix C sets out the number of compliments and complaints received by Wyre Forest District Council during 2018-19. These data reinforce the positive picture in the Ombudsman's report.

5 FINANCIAL IMPLICATIONS

- 5.1 None.

6. LEGAL AND POLICY IMPLICATIONS

- 6.1 Section 5 & Section 5A of Local Government and Housing Act 1989 create a responsibility for the Monitoring Officer to report where there is a finding of maladministration (which now includes where there is a local settlement). There were no occasions where the Monitoring Officer was required to prepare reports during the year 2018/19.

7. RISK MANAGEMENT

- 7.1 None.

8. CONSULTEES

- 8.1 Corporate Leadership Team.

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- 8.2 Councillor Graham Ballinger, Leader of the Council and Cabinet Member for Strategy and Finance.

9. **BACKGROUND PAPERS**

- 9.1 None.

Definition of Decision Terms by the Local Government Ombudsman

- **Upheld:** These are complaints where we have decided that an authority has been at fault in how it acted and that this fault may or may not have caused an injustice to the complainant, or where an authority has accepted that it needs to remedy the complaint before we make a finding on fault. If we have decided there was fault and it caused an injustice to the complainant, usually we will have recommended the authority take some action to address it.
- **Not upheld:** Where we have investigated a complaint and decided that a council has not acted with fault, we classify these complaints as not upheld.
- **Advice given:** These are cases where we give advice about why LGO would not look at a complaint because the body complained about was not within the LGO's scope or we had previously looked at the same complaint from the complainant, or another complaints handling organisation or advice agency was best placed to help them.
- **Closed after initial enquiries:** These complaints are where we have made an early decision that we could not or should not investigate the complaint, usually because the complaint is outside LGO's jurisdiction and we either cannot lawfully investigate it or we decide that it would not be appropriate in the circumstances of the case to do so. Our early assessment of a complaint may also show there was little injustice to a complainant that would need an LGO investigation of the matter, or that an investigation could not achieve anything, either because the evidence we see shows at an early stage there was no fault, or the outcome a complainant wants is not one we could achieve, for example overturning a court order.
- **Incomplete/invalid:** These are complaints where the complainant has not provided us with enough information to be able to decide what should happen with their complaint, or where the complainant tells us at a very early stage that they no longer wish to pursue their complaint.
- **Referred back for local resolution:** We work on the principle that it is always best for complaints to be resolved by the service provider wherever possible. Furthermore, the Local Government Act 1974 requires LGO to give authorities an opportunity to try and resolve a complaint before we will get involved. Usually we tell complainants how to complain to an authority and ask them to contact it directly. In many instances, authorities are successful in resolving the complaint and the complainant does not recontact us.

Complaints & enquiries decided (by outcome) 2018-19

**Table Showing the Comparison No. Of Complaints
Decided by Local Government Ombudsman for District Councils in Worcestershire**

Authority	Invalid or incomplete	Advice given	Referred back for local resolution	Closed after initial enquiries	Not upheld	Upheld	Uphold rate (%)	Total	Upheld cases where the authority had provided a satisfactory remedy before the complaint reached the Ombudsman	% of upheld cases
Bromsgrove District Council	0	0	4	5	4	1	20	14	0	0
Malvern Hills District Council	2	0	1	1	1	3	75	8	1	33
Redditch Borough Council	1	1	3	3	1	0	0	9	0	0
Worcester City Council	0	0	3	5	5	2	29	15	1	50
Wychavon District Council	0	0	4	1	5	0	0	10	0	0
Wyre Forest District Council	1	0	2	2	0	0	0	5	0	0

**Table Showing the Compliments and Complaints
Received by Wyre Forest District Council
For the period 2018 – 2019**

	Total Number Received	Parks	Planning	Street scene	Hub	Benefits/Council Tax	Housing	Leisure/ KAF	Others	Dealt with at First Stage	Dealt with at Second Stage
Complaints	11		2				5		4	10	4
Compliments	21	7		4	5	2		3			

WYRE FOREST DISTRICT COUNCIL
ETHICS AND STANDARDS COMMITTEE

12th September 2019

Local Government Ethical Standards

OPEN	
RESPONSIBLE OFFICER:	Solicitor to the Council
CONTACT OFFICER:	Caroline Newlands
APPENDICES	1 - Proposed draft Code of Conduct

1. PURPOSE OF REPORT

- 1.1 The purpose of this report is to consider a Review by the Committee on Standards in Public Life (CSPL) into Local Government Ethical Standards.

2. RECOMMENDATION

The Committee is asked to DECIDE that:

- 2.1 **Delegated authority be given to the Solicitor to the Council to make appropriate changes to the Code of Conduct to reflect the CSPL Best Practice Recommendations.**

3. BACKGROUND

- 3.1 In January 2019 the Authority received the Review by the Committee on Standards in Public Life (CSPL) into Local Government Ethical Standards.
- 3.2 The committee concluded that high standards of conduct in local government are needed to protect the integrity of decision-making, maintain public confidence, and safeguard local democracy.
- 3.3 Their 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.
- 3.4 The committee were 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.
- 3.5 The CSPL best practice recommendations for local authorities should be considered a benchmark of good ethical practice, which they expect that all local authorities can and should implement. CSPL will review the implementation of best practice in 2020. A proposed draft Code of Conduct is attached at appendix 1 of this report.

3.6 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. The CSPL report records that many codes of conduct fail to address adequately important areas of behaviour such as social media use and bullying and harassment.

There are, however, benefits to local authorities being able to amend and have ownership of their own codes of conduct. The committee recommends that the updated model code that they intend to propose 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.

3.7 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	Government

	seek to influence opinion or public policy.	
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
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
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,	Government

	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.	
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
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

3.8 List of Best Practice

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.

The full report is attached electronically using this link

<https://www.gov.uk/government/publications/local-government-ethical-standards-report>

4. FINANCIAL IMPLICATIONS

- 4.1 None.

5. LEGAL AND POLICY IMPLICATIONS

- 5.1 The committee have made a number of recommendations and identified best practice to improve ethical standards in local government. Their recommendations are made to government and to specific groups of public officeholders. They 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 could be implemented more swiftly.
- 5.2 Wyre Forest District Council Code of Conduct (adopted July 2012).

6. EQUALITY IMPACT NEEDS ASSESSMENT

6.1 No Equality Impact Needs Assessment has been undertaken.

7. RISK MANAGEMENT

7.1 None.

8. CONCLUSION

8.1 Members are asked to consider the select Committee recommendations and decide the best way of meeting their recommendations.

9. CONSULTEES

9.1 Group Leaders.

10. BACKGROUND PAPERS

10.1 Report to Group Leaders 26th March 2019.

Section 14

WYRE FOREST DISTRICT COUNCIL

CODE OF CONDUCT

Part 1

General provisions

Introduction and interpretation

1. (1) This Code applies to **you** as a member or co-opted member of Wyre Forest District Council.
- (2) You should read this Code together with the Ten Principles of Public Life (**also known as the Nolan Principles**) which are set out in Appendix 1.
- (3) It is your responsibility to comply with the provisions of this Code.
- (4) In this Code—
"meeting" means any meeting of
 - (a) the authority (**Wyre Forest District Council**);
 - (b) any of the authority's **committees**, sub-committees, joint committees, joint sub-committees, or area committees;
 - (c) the executive (Cabinet) of the authority or its committees;
 - (d) **an external body upon which the member sits as a representative of the authority**;

"Monitoring Officer" means the Monitoring Officer **for Wyre Forest District Council**;

"bullying and harassment includes:

oppressive behaviour or the abuse of power, which makes the recipient feel threatened, humiliated or vulnerable, and which may undermine his/her self confidence and cause him/her to suffer stress."

Examples are set out at Appendix 3 to this Code.

Scope

- 2.** (1) This Code applies to you as a member of this authority when you act in your role as a Member or as a representative of the authority in the circumstances described in para 2 (b) below.
 - (2) Where you act as a representative of the authority:
 - (a) on another relevant authority, you must, when acting for that other authority, comply with that other authority's code of conduct; or
 - (b) on any other body, you must, when acting for that other body, comply with the authority's code of conduct, except and insofar as it conflicts with any other lawful obligations to which that other body may be subject.

General obligations

- 3.** (1) You must treat others with respect **in accordance with the Nolan Principles.**
- (2) You must co-operate with any standards investigations**
- (3) You must not:
 - (a) do anything which may cause your authority to breach any of the equality enactments;
 - (b) bully **or harass** any person;
 - (c) intimidate or attempt to intimidate any person who is or is likely to be:
 - (i) a complainant,
 - (ii) a witness, or
 - (iii) involved in the administration of any investigation or proceedings,in relation to an allegation that a member (including yourself) has failed to comply with the authority's Code of Conduct;
 - (d) do anything which compromises or is likely to compromise the impartiality of those who work for, or on behalf of, the authority.

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4. You must not:

- (a) do anything that is likely to cause your authority to breach Data Protection law;
- (b) disclose information given to you in confidence by anyone, or information acquired by you which you believe, or ought reasonably to be aware, is of a confidential nature, except where:
 - (i) you have the consent of a person authorised to give it;
 - (ii) you are required by law to do so;
 - (iii) the disclosure is made to a third party for the purpose of obtaining professional advice provided that the third party agrees not to disclose the information to any other person; or
 - (iv) the disclosure is:
 - (aa) reasonable and in the public interest; and
 - (bb) made in good faith and in compliance with the reasonable requirements of the authority; or
- (c) prevent another person from gaining access to information to which that person is entitled by law.

5. You must not conduct yourself in a manner which could reasonably be regarded as bringing your office or authority into disrepute.

6. You:

- (a) must not use or attempt to use your position as a member improperly to confer on or secure for yourself or any other person, an advantage or disadvantage; and
- (b) must, when using or authorising the use by others of the resources of, or under the control of, the authority:
 - (i) act in accordance with the authority's reasonable requirements **including in relation to the use of authority stationery and official logos and branding**;
 - (ii) ensure that such resources are not used improperly for political purposes (including party political purposes); and

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- (c) must have regard to any applicable Local Authority Code of Publicity.

7. You must:

- (a) when reaching decisions on any matter have regard to any relevant advice provided to you by the authority's officers and in particular by the authority's Monitoring Officer and Section 151 Officer; and
- (b) give reasons for all decisions in accordance with any statutory requirements and any reasonable additional requirements imposed by the authority

8. You must not place yourself under any financial or other obligation to outside individuals or organisations that might seek to influence you in the performance of your official duties, **and must comply with the authority's guidance on gifts and hospitality (attached as Appendix 4)**

Part 2

Interests

Disclosable Pecuniary Interests (“DPI”)

9. (1) You will have a Disclosable Pecuniary Interest (“DPI”) under this Code if:-

- (a) such interest meets the definition prescribed by the DPI regulations as amended from time to time and set out in Appendix 2 to this Code; and
- (b) it is either an interest of yourself; or it is an interest of :-
 - (i) your spouse or civil partner; or
 - (ii) a person with whom you are living as husband and wife; or
 - (iii) a person with whom you are living as if you were civil partners;

and you are aware that the other person has the interest.

Registration of DPIs

- 10.** (1) You must within 28 days of becoming a member of the authority or being re-elected notify the Monitoring Officer in writing of any DPI which you hold at the time notification is given.
- (2) You must within 28 days of becoming aware of any new DPI, or changes to existing DPIs, notify the Monitoring Officer in writing **of the detail**.

Other Disclosable Interests (ODI)

- 11.** (1) You will have a Disclosable Interest in any matter if you are aware that you or a member of your family or person or organisation with whom you are associated have a:-
- a pecuniary interest in the matter under discussion which is not de minimus; or
 - b a close connection with the matter under discussion.
- (2) If you are a member of another local authority, or public body, or you have been appointed as the Council's representative on an outside body, you do not have a Disclosable Interest unless a member of the public knowing the circumstances would reasonably regard membership of the body concerned as being likely to prejudice your judgment of what is in the public interest.

Disclosure of Interests

12.(1) Formal Meetings

Disclosable Pecuniary Interest (DPI)

If you are present at a Meeting and you have a DPI then you must:

- a disclose the nature and existence of the interest;
- b leave the meeting (including the meeting room and public gallery) and take no part in the discussion; and

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- c If the interest has not already been recorded notify the Monitoring Officer of the interest within 28 days beginning with the date of the meeting.

Other Disclosable Interest (ODI)

If you are present at a Meeting and you have an ODI then you must:

- a disclose the nature and existence of the interest; and
- b if the interest;
 - i affects your pecuniary interests or relates to the determination of a planning or regulatory matter; and
 - ii is one which a member of the public knowing the circumstances would reasonably regard as being likely to prejudice your judgment of what is in the public interest

then you must leave the Meeting (including the meeting room and public gallery) and take no part in the discussion.

(2) Informal meetings and correspondence

Disclosable Pecuniary Interest (DPI)

If you have a DPI in the matter you must not participate in informal meetings, briefings or site visits, and must disclose the DPI in any correspondence with the authority.

Other Disclosable Interest (ODI)

If you have an ODI in the matter, then you must disclose the existence and nature of that interest at informal meetings, briefings or site visits, and must disclose the ODI in any correspondence with the authority.

If the ODI is such that you would be required to leave a formal Meeting as above, then you must not participate in the informal meeting.

(3) Single Member Decisions

Disclosable Pecuniary Interest (DPI)

If when participating in single member decision-making you have a DPI in the matter being decided then you **must take no steps in relation to the**

decision other than asking for the matter to be decided in some other manner.

Other Disclosable Interest (ODI)

If you have an ODI in the matter being decided, then you must disclose the existence and nature and record it on the record of decision.

If the ODI is such that you would be required to leave a formal Meeting as set out above, then you must take no steps in relation to the decision other than asking for the matter to be decided in some other manner.

(4) Dispensations

You may take part in the discussion of **and any decision or** vote on a matter in which you have been granted **a formal** dispensation.

Sensitive Information

13. An interest will be a sensitive interest if the two following conditions apply:

- a** that you have an interest (whether or not a DPI); and
- b** the nature of the interest is such that you and the Monitoring Officer consider that disclosure of the details of the interest could lead to you or a person connected to you being subject to violence or intimidation.
- c** where it is decided that an interest is a “sensitive interest” it will be excluded from published versions of the register. The Monitoring Officer may state on the register that the member has an interest the details of which are excluded under this section.
- d** where the sensitive interest is a DPI the usual rules relating to disclosure will apply save that the member will only be required to disclose that they hold a DPI in the matter concerned.

APPENDIX 1

The Ten Principles of Public Life

APPENDIX 2

The Localism Act Definition of Disclosable Pecuniary Interests Regulations

APPENDIX 3

Examples of bullying and harassment

APPENDIX 4

Gifts and hospitality

MEMBERS CODE OF CONDUCT

THE TEN GENERAL PRINCIPLES OF PUBLIC LIFE

Selflessness – Members should serve only the public interest and should never improperly confer an advantage or disadvantage on any person.

Honesty and Integrity – Members should not place themselves in situations where their honesty and integrity may be questioned, should not behave improperly, and should on all occasions avoid the appearance of such behaviour.

Objectivity – Members should make decisions on merit, including when making appointments, awarding contracts, or recommending individuals for rewards or benefits.

Accountability – Members should be accountable to the public for their actions and the manner in which they carry out their responsibilities, and should co-operate fully and honestly with any scrutiny appropriate to their particular office.

Openness – Members should be as open as possible about their actions and those of their authority, and should be prepared to give reasons for those actions.

Personal judgement – Members may take account of the views of others, including their political groups, but should reach their own conclusions on the issues before them and act in accordance with those conclusions.

Respect for others – Members should promote equality by not discriminating unlawfully against any person, and by treating people with respect, regardless of their race, age, religion, gender, sexual orientation or disability. They should respect the impartiality and integrity of the authority's statutory officers and its other employees.

Duty to uphold the Law – Members should uphold the law and, on all occasions, act in accordance with the trust that the public is entitled to place in them.

Stewardship – Members should do whatever they are able to do to ensure that their authorities use their resources prudently and in accordance with the law.

Leadership – Members should promote and support these principles by leadership, and by example, and should act in a way that secures or preserves public confidence.

DISCLOSABLE PECUNIARY INTERESTS

This note explains the requirements of the Localism Act 2011 (Ss 29-34) in relation to disclosable pecuniary interests.

These provisions are enforced by criminal sanction.

They come into force on 1 July.

1 Notification of disclosable pecuniary interests

Within 28 days of becoming a member or co-opted member, you must notify the Monitoring Officer of any 'disclosable pecuniary interests'.

A 'disclosable pecuniary interest' is an interest of yourself or your partner (which means spouse or civil partner, a person with whom you are living as husband or wife, or a person with whom you are living as if you are civil partners) within the following descriptions:

<i>Interest</i>	<i>description</i>
Employment, office, trade, profession or vacation	Any employment, office, trade, profession or vocation carried on for profit or gain.
Sponsorship	Any payment or provision of any other financial benefit (other than from the relevant authority) made or provided within the relevant period in respect of any expenses incurred by M in carrying out duties as a member, or towards the election expenses of M. This includes any payment or financial benefit from a trade union within the meaning of the Trade Union and Labour Relations (Consolidation) Act 1992.
Contracts	Any contract which is made between the relevant person (or a body in which the relevant person has a beneficial interest) and the relevant authority— (a) under which goods or services are to be provided or works are to be executed; and (b) which has not been fully discharged.
Land	Any beneficial interest in land which is within the area of the relevant authority.
Licences	Any licence (alone or jointly with others) to occupy land in the area of the relevant authority for a month or longer.

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Corporate tenancies	Any tenancy where (to M's knowledge)— (a) the landlord is the relevant authority; and (b) the tenant is a body in which the relevant person has a beneficial interest.
Securities	Any beneficial interest in securities of a body where— (a) that body (to M's knowledge) has a place of business or land in the area of the relevant authority; and (b) either— (i) the total nominal value of the securities exceeds £25,000 or one hundredth of the total issued share capital of that body; or (ii) if the share capital of that body is of more than one class, the total nominal value of the shares of any one class in which the relevant person has a beneficial interest exceeds one hundredth of the total issued share capital of that class.

These descriptions on interests are subject to the following definitions;

“the Act” means the Localism Act 2011;

“body in which the relevant person has a beneficial interest” means a firm in which the relevant person is a partner or a body corporate of which the relevant person is a director, or in the securities of which the relevant person has a beneficial interest;

“director” includes a member of the committee of management of an industrial and provident society;

“land” includes an easement, servitude, interest or right in or over land which does not carry with it a right for the relevant person (alone or jointly with another) to occupy the land or to receive income;

“M” means the person M referred to in section 30 of the Act;

“member” includes a co-opted member;

“relevant authority” means the authority of which M is a member;

“relevant period” means the period of 12 months ending with the day on which M gives a notification for the purposes of section 30(1) of the Act;

“relevant person” means M or any other person referred to in section 30(3)(b) of the Act;

“securities” means shares, debentures, debenture stock, loan stock, bonds, units of a collective investment scheme within the meaning of the Financial Services and Markets Act 2000() and other securities of any description, other than money deposited with a building society.

EXAMPLES OF BULLYING AND HARRASSMENT

Bullying and harassment may include:

- physical contact ranging from touching to assault
- verbal and written comments through jokes, offensive language, personal comments about appearance, size, clothing etc
- innuendo, gossip and letters etc.
- malicious rumours and allegations, including fabricating complaints from clients and other members of staff.
- open aggression, threats, shouting, abuse and obscenities, persistent negative attacks.
- constant humiliation, criticism and ridicule, belittling efforts and undervaluing contribution.

Harassment is unwanted conduct on the grounds of any protected characteristic as defined by the Equality Act 2010, political or Trade Union affiliation, or take the form of victimisation, that:

- has the purpose of violating a person's dignity or creating an intimidating, hostile, degrading, humiliating or offensive environment for that person; or
- is reasonably considered by that person to have the effect of violating his/her dignity or of creating an intimidating, hostile, degrading, humiliating or offensive environment for him/her, even if this effect was not intended by the person responsible for the conduct.

This is not exhaustive and there are other examples which are equally unacceptable as set out in the Council's HR Employment Information and Guidance Dignity at Work Policy and Procedure.

GIFTS AND HOSPITALITY

1. Minor gifts and hospitality are sometimes part of the normal courtesies of life: a resident may offer a modest gift as a token of appreciation and sometimes simple items such as diaries and pens are distributed as advertising matter. In dealing with a matter in your ward you may be offered a cup of tea or light refreshments.
2. As a guideline, any gift or hospitality with a value of £25 or more is highly unlikely to be viewed as a 'token'. You must consider whether it is appropriate to accept even token gifts, especially where you are dealing with regulatory or procurement matters when it would usually be inappropriate to receive any gift from involved parties. In case of doubt you should consult the Monitoring Officer.
3. Offers of hospitality, even if seemingly minor in nature, must be treated with particular caution as they can leave individuals and the council open to allegations of impropriety. The timing of offers of hospitality, for example in relation to the award of contracts, granting of applications or other decisions, should be considered equally to the generosity of the hospitality offered. Accepting hospitality must be justified in the public interest, for example when there is a genuine need to represent the council.
4. All offers and receipt of gifts and hospitality with a value of £25 or higher must be reported to the Monitoring Officer who will ensure it is recorded in the council's register of gifts and hospitality, which will be published.