

South Lakeland District Council

Standards Committee

Tuesday, 20 April 2021

South Lakeland District Council Code of Conduct, Arrangements and Guidance Revision

Portfolio:	Cllr Philip Dixon - Customer and Commercial Services and People Portfolio Holder
Report from:	Linda Fisher – Legal, Governance and Democracy Lead Specialist (Monitoring Officer)
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Wards:	(All Wards);
Forward Plan:	N/A

1.0 Expected Outcome

- 1.1 In December 2020 the Local Government Association published its Model Code of Conduct for Local Authority Members. This Report recommends adopting the said Code (with suitable local revisions) together with revisions to the Council's Arrangements for Dealing with Code of Conduct Matters and Guidance so as to implement the Committee for Standards in Public Life's Best Practice Recommendations.

2.0 Recommendation

- 2.1 **It is recommended that the Standards Committee recommends to Council that it adopts the LGA Code of Conduct (as amended), the Arrangements for Dealing with Standards Matters and the Code of Conduct Guidance, as set out in the Report.**

3.0 Background and Proposals

- 3.1 Members will be aware that in 2019 the Committee on Standards in Public Life published a Report which reviewed ethical standards in Local Government and set out several statements of best practice which it recommended should be implemented. The best practice recommendations are set out in Appendix 1 and the full report can be accessed by the link in the background papers.
- 3.2 Many of the recommendations in the Report require changes to legislation and so are the responsibility of Central Government to implement, however, a number are within our gift.
- 3.3 The first recommendation was that the Local Government Association ("LGA") should create an updated Model Code of Conduct. The LGA has been working on this (Members will recall that they had the opportunity to contribute to this via a consultation process) and the LGA Model Code was published in December 2020. The Council's existing Code of Conduct was adopted in 2012 and is broadly similar across all of the Councils in Cumbria. The county wide consistency worked well so the Cumbrian

Monitoring Officers have worked together on the Model Code to make appropriate local amendments (the Model Code is promoted as a template to be amended for local circumstances).

- 3.4 This Report contains sections on the Best Practice Recommendations and then deals with how our documentation may be amended. If the recommendations suggested are approved then the Council will be fully compliant with all of the best practice recommendations.

4.0 Best practice recommendations and our response

	Recommendation	Response
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.	The existing code dealt with this but the proposed revisions do so more explicitly.
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.	The proposed Code does this and there is a filtration process to stop trivial and malicious allegations by any person.
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.	We will do this in future.
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.	It is.
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.	The Council's register is maintained on an ongoing basis. We will be improving communications regarding this and awareness.
6	Councils should publish a clear and straightforward public interest test against which allegations are filtered.	Included in the proposed revisions.
7	Local authorities should have access to at least two Independent Persons.	The Council has one Independent Persons.
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.	The Council's arrangements for dealing with Code of Conduct matters already includes this provision.
9	Where a local authority makes a decision on an allegation of misconduct following a formal	The Council's arrangements currently deal with

	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.	publication but are recommended to be extended so as to comply with the additional suggestions.
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.	This information is on the Council's website.
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.	This needs to be addressed.
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.	The Council's Monitoring Officer fulfils this role.
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.	The suggested arrangements deal with this recommendation.
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.	This will be addressed. Nolan Principles 1. Selflessness. Holders of public office should act solely in terms of the public interest. ... 2. Integrity. Holders of public office must avoid placing themselves under any obligation to people or organisations that might try inappropriately to influence them in their work. 3. Objectivity. ... 4. Accountability. ... 5. Openness. ... 6. Honesty. ... 7. Leadership.

15	Senior officers should meet regularly with political group leaders or group whips to discuss standards issues.	This will be addressed.
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5.0 Code of Conduct (Appendix 2)

- 5.1 The Model Code of Conduct with suggested amendments is shown as Appendix 2 of the Report. The amendments are shown via tracked changes to make it easier for Members to see where the suggestions have been made.
- 5.2 Hopefully the changes are self explanatory but providing some additional detail:
- 5.3 Paragraph 7.2 deals with the use of Council resources for political purposes. At the moment the position is clear, Members may not use Council resources to promote any particular political party. The Cumbrian Monitoring Officers are of the opinion that the suggested wording in the LGA Model Code would introduce ambiguity where none currently exists, hence the suggested amendment.
- 5.4 Paragraph 10.2 covers the value of gifts/hospitality to be recorded. Members have previously discussed this and felt £25 was an appropriate amount. Members may wish to revisit or reaffirm the amount.
- 5.5 In relation to matters where Members disclose a disclosable pecuniary interest, the amendment to the proposed code continues the current arrangement whereby if the public has the right to speak then so does the Member. The Member, having spoken, then must leave the room/meeting. This ensures that Members do not have fewer rights than they would do as ordinary members of the public.
- 5.6 In relation to other declarations of interest (non-pecuniary) the LGA Code requires the Member to leave the room/meeting. However, this goes further than the law requires and is unnecessary; not participating when it would be inappropriate to do so is the more important point.
- 5.7 In paragraph 9 on page 13 of the Code, the LGA attempts to revert to the pre 2012 Statutory Code of Conduct. The test as to whether a Member's financial position is affected "to a greater extent than it affects the financial interests of the majority of inhabitants of the ward affected by the decision" is too imprecise a test to apply. The suggested local amendment of whether an ordinary member of the public would believe the Member's judgement be affected is a far clearer, objective judgement and should be easier to apply and use.

6.0 Arrangements for dealing with Standards Matters (Appendix 3)

- 6.1 Section 28(6) of the Localism Act 2011 requires that the Council must have in place arrangements under which investigations can be investigated and under which decisions on allegations can be made. This will be to follow.

7.0 Code of Conduct Guidance (Appendix 4)

- 7.1 The suggested Guidance includes new sections on Bullying and Harassment

8.0 Consultation

- 8.1 The Local Government Association carried out a wide consultation when formulating its proposed Code of Conduct. This was promoted with Members at the time in order

that they could contribute. The suggested Code and amendments have been consulted upon and discussed by the Cumbrian Monitoring Officers. The Council's appointed Independent Person has also been consulted and their advice will be given via the Monitoring Officer at the Meeting.

8.2 The report has been submitted to the Chairman of the Council and the Leaders of the Political Groups.

9.0 Alternative Options

9.1 There are not considered to be other alternatives to consideration of the revisions to the code and guidance.

10.0 Links to Council Priorities

10.1 The Code of Conduct and guidance is an integral part of ensuring that the Council has strong ethical standards and behaviour required to deliver the Council's Corporate Priorities.

11.0 Implications

Financial, Resources and Procurement

11.1 There are no financial implications arising from this report.

Human Resources

11.2 There are no Human Resources implications arising from this report.

Legal

11.3 The Council is required to ensure that it accords with the requirements of the Localism Act 2011.

Health, Social, Economic and Environmental

11.4 Have you completed a Health, Social, Economic and Environmental Impact Assessment? No

11.5 If you have not completed an Impact Assessment, please explain your reasons: This is not considered to be required.

Equality and Diversity

11.6 Have you completed an Equality Impact Analysis? No

11.7 If you have not completed an Impact Assessment, please explain your reasons: This is not considered to be required.

Risk

11.8 The risk to the Council in not implementing the proposed changes is that it will fall behind the recommended best practice in the area of our ethical conduct practice, policies and procedures.

Contact Officers

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Appendices Attached to this Report

Appendix No.	Name of Appendix
1	Recommendations of the Committee for Standards in Public Life
2	Proposed Code of Conduct
3	Proposed Arrangements for Dealing with Standards Matters.
4	Proposed revised Guidance for Standards Matters

Background Documents Available

Name of Background document	Where it is available
Local Government Ethical Standards Report	https://www.gov.uk/government/publications/local-government-ethical-standards-report

Tracking Information

Signed off by	Date sent	Date Signed off
Legal Services	01/04/2021	01/04/2021
Section 151 Officer	01/04/2021	01/04/2021
Monitoring Officer	Report Author	01/04/2021
CMT	01/04/2021	08/04/2021

Circulated to	Date sent
Lead Specialist	N/A
Human Resources Lead Specialist	N/A
Communications Team	N/A
Leader	01/04/2021
Committee Chairman	01/04/2021
Portfolio Holder	01/04/2021
Ward Councillor(s)	N/A
Committee	N/A
Executive (Cabinet)	N/A
Council	N/A