

South Lakeland District Council
Council

Tuesday, 27 July 2021

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

Portfolio: Customer and Locality Services Portfolio Holder

Report from: Monitoring Officer

Report Author: Linda Fisher– Legal, Governance and Democracy Lead Specialist
(Monitoring Officer)
Adam Moffatt - Legal, Governance and Democracy Specialist

Wards: (All Wards);

Forward Plan: Not applicable

Links to Council Plan Priorities:

Working across boundaries – N/A

Delivering a balanced community – N/A

A fairer South Lakeland – 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.

Addressing the climate emergency – N/A

1.0 Expected Outcome and Measures of Success

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's

2.1 **that the Council notes the best practice recommendations and adopts the LGA Code of Conduct (as amended), the Arrangements for Dealing with Standards Matters and the Code of Conduct Guidance, as attached at Appendices 2 , 3 and 4.**

2.2 **that the Gifts and Hospitality declaration threshold remains at £50.**

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. This is for information only.

- 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.

3.5 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. This was reviewed recently at the Standards Committee and it was agreed we only require one.
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 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.	The Council's arrangements currently deal with 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 will be discussed with CALC and our Parish Councils.
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 and discussed with the S151 officer. 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 discussed.

3.6 Code of Conduct (Appendix 2)

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.

3.6.1 Hopefully the changes are self-explanatory but providing some additional detail:

3.6.2 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.

3.6.3 Paragraph 10.2 covers the value of gifts/hospitality to be recorded. Members have of the Standards Committee discussed this and asked what the position of other Cumbrian Authorities was. There are a mixture of figures from those who responded. .

Carlisle	£25 (new code approved)
Barrow	£50 (code to be approved)
Copeland	£25 (code to be approved)

3.6.4 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.

3.6.5 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.

3.6.6 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.

3.7 Arrangements for dealing with Standards Matters (Appendix 3)

3.7.1 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.

3.8 Code of Conduct Guidance (Appendix 4)

3.8.1 The suggested Guidance includes new sections on Bullying and Harassment.

4.0 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

5.0 Consultation

5.1 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 Cumbria Monitoring Officers. The Council's

appointed Independent Person has also been consulted and gave the following advice:-

- 5.2 The report has been submitted to the Chairman of the Council and the Leaders of the Political Groups. Also to the Member Support Steering Group.
- 5.3 Both the Standards Committee and the Constitutional Working Group have considered and approved the updated Code of Conduct.
- 5.4 The Standards Committee requested the figures from the other Cumbrian Authorities for gifts and hospitality, appreciating that consistency would be required for LGR, they raised questions relating to the Parish Clerks and the Best Practice recommendations. Other suggested amendments have been picked up and are included within the report. The automation of the declaration of interest form was also raised and will be reported to the next Standards Committee.

6.0 Alternative Options

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

7.0 Implications

Financial, Resources and Procurement

- 7.1 There are no financial implications arising from this report.

Human Resources

- 7.2 There are no Human Resources implications arising from this report.

Legal

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

Health and Sustainability Impact Assessment

- 7.4 Have you completed a Health and Sustainability Impact Assessment? No
- 7.5 If you have not completed an Impact Assessment, please explain your reasons: This is not considered to be required.
- 7.6 Summary of Health and Sustainability Impacts

		Positive	Neutral	Negative	Unknown
Environment and Health	Greenhouse gases emissions		x		
	Air Quality		x		
	Biodiversity		x		
	Impacts of Climate Change		x		
	Reduced or zero requirement for energy, building space, materials or travel		x		
	Active Travel		x		
Economy and Culture	Inclusive and sustainable development		x		

	Jobs and levels of pay		x		
	Healthier high streets		x		
	Culture, creativity and heritage		x		
Housing and Communities	Standard of housing		x		
	Access to housing		x		
	Crime		x		
	Social connectedness		x		

Equality and Diversity

7.7 Have you completed an Equality Impact Analysis? No

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

7.9 Summary of Equality and Diversity impacts

Please indicate: P = Positive impact; 0 = Neutral; N = Negative; Enter "X"					
Age	P		0	x	N
Disability	P		0	x	N
Gender reassignment (transgender)	P		0	x	N
Marriage & civil partnership	P		0	x	N
Pregnancy & maternity	P		0	x	N
Race/ethnicity	P		0	x	N
Religion or belief	P		0	x	N
Sex/gender	P		0	x	N
Sexual orientation	P		0	x	N
Armed forces families	P		0	x	N
Rurality	P		0	x	N
Socio-economic disadvantage	P		0	x	N

Risk Management	Consequence	Controls required
Not implementing the proposed changes	The Council could fall behind the recommended best practice in the area of our ethical conduct practice, policies and procedures.	Considering and implementing the proposed changes

Contact Officers

Linda Fisher – Legal, Governance and Democracy Lead Specialist (Monitoring Officer)
Linda.Fisher@southlakeland.gov.uk

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
Standards Committee Minutes – Minute No. S/24	Standard Committee 20.04.2021 Minutes (southlakeland.gov.uk)

Tracking Information

Signed off by	Date sent	Date Signed off
Section 151 Officer	01/04/2021	19/06/2021
Monitoring Officer	Report Author	Report Author
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