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**REPORT FOR: GOVERNANCE, AUDIT AND  
RISK MANAGEMENT AND  
STANDARDS COMMITTEE**

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**Date of Meeting:** 16 July 2019

**Subject:** Committee on Standards in Public Life -  
Review of Local Government Ethical  
Standards

**Responsible Officer:** Hugh Peart, Director of Legal and  
Governance Services

**Exempt:** No

**Wards Affected:** All

**Enclosures:** A) Local Government Ethical Standards A  
Review by the Committee on Standards in  
Public Life.  
B) Code of Conduct (current)  
C) Flow Chart and Guidance Note for the  
current process.

## **Section 1 – Summary and Recommendations**

**Purpose of the Report**

To present the findings of the Committee on Standards in Public Life review of local government ethical standards and agree what action to take.

To report to members on the numbers of complaints about members that have been received in the last year.

To report to members on Regulation of Investigatory Powers (RIPA) activity in the last year

**Recommendations:**

THAT:

1. The Committee on Standards in Public Life report be noted: and
2. Steps be taken to introduce all the best practice recommendations set out in the Committee on Standards in Public Life report.
3. That members note the number of complaints about members that have been received and the nil return of RIPA authorisation.

## Section 2 – Report

### 2. Background

2.1. The Committee on Standards in Public Life (“CSPL”) advises the Prime Minister on ethical standards across the whole of public life in England. It monitors and reports on issues relating to the standards of conduct of all public office holders. CSPL is an independent advisory non-departmental public body.

2.2. During 2018, the CSPL has undertaken a review of local government ethical standards. This review was not prompted by any specific allegations of misconduct or council failure, but rather to review the effectiveness of the current arrangements for standards in local government, particularly in light of the changes made by the Localism Act 2011. The terms of reference for the review were to:

i. Examine the structures, processes and practices in local government in England for:

- Maintaining codes of conduct for local councillors
- Investigating alleged breaches fairly and with due process
- Enforcing codes and imposing sanctions for misconduct
- Declaring interests and managing conflicts of interest
- Whistleblowing

ii. Assess whether the existing structures, processes and practices are conducive to high standards of conduct in local government;

ii. Make any recommendations for how they can be improved;

iii. 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.

2.3. The review covered all local authorities in England, of which there are 353 principal authorities, with 18,111 councillors, and an estimated 10,000 parish councils, with around 80,000 parish councillors. The Committee did not take evidence relating to Combined Authorities, metro mayors, or the Mayor of London and so do not address these areas of local government in this report.

2.4. On 30 January 2019, the CSPL published its report and recommendations on ethical standards in local government, following a year-long review and wide consultation. Key recommendations include:

- a new power for local authorities to suspend councillors without allowances for up to six months with a right of appeal for suspended councillors to the Local Government Ombudsman.
- revised rules on declaring interests and gifts and hospitality
- an updated voluntary Model Code of Conduct to be introduced with local authorities to retain ownership of their own Codes of Conduct
- a strengthened role for the Independent Person

- Monitoring Officers provided with adequate training, corporate support and resources and statutory protections to be expanded
- greater transparency about the number and nature of Code complaints
- Political groups set clear expectations of behaviour by their members
- code of conduct training to be mandatory

2.5. A copy of the full CSPL report can be found at Appendix A and is available at <https://www.gov.uk/government/publications/local-governmentethical-standards-report>.

2.6. Many of the CSPL recommendations will require primary legislation; the implementation of which will be subject to Parliamentary timetabling. Some changes can be made through secondary legislation. The best practice recommendations are a matter for individual local authorities and can be introduced by the Council.

### 3. Proposal

3.1. It is proposed that the Committee notes the report and recommendations of the Committee on Standards in Public Life.

3.2. On page 18 of the report there is a list of best practice recommendations that the Council need to put in place in 2020. The Council already has some of the best practice in place:

Best practice recommendation	Harrow response
<p><b>Best practice 1:</b> 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.</p>	<p>There is a prohibition on Bullying in the code but this needs to be supplemented with a definition and list of examples.</p> <p>“Bullying may be characterised as offensive, intimidating, malicious or insulting behaviour; or an abuse or misuse of power in a way that intends to undermine, humiliate, criticise unfairly or injure someone.</p> <p>Harassment may be characterised as unwanted conduct which has the purpose or effect of violating an individual’s dignity or creating an intimidating, hostile, degrading, humiliating or offensive environment for an individual.</p> <p>Examples include: Verbal: remarks about appearance, derogatory or lewd comments, innuendoes, persistent name calling, statements which are suggestive, unwelcome, abusive and offensive.</p> <p>Behaviour: that denigrates or ridicules; intimidation or physical abuse; making threats; attempts to stir up hatred against an individual or group.”</p>

<p><b>Best practice 2:</b> 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.</p>	<p>Currently the complaints procedure includes the MO being able to filter out complaints that:</p> <ul style="list-style-type: none"> <li>• Do not fall within the code of conduct,</li> <li>• Are frivolous or vexatious,</li> <li>• Are more than 6 months old,( unless there are exceptional circumstances),</li> <li>• Are not in the public interest to pursue.</li> </ul> <p>Code will need to be updated to say that it is a breach of the code if members do not comply with the investigation.</p>
<p><b>Best practice 3:</b> 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.</p>	<p>To be implemented</p>
<p><b>Best practice 4:</b> 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.</p>	<p>The code is in the constitution and can be found on the website.</p>
<p><b>Best practice 5:</b> Local authorities should update their gifts and hospitality register at least once per quarter, and publish it in an accessible format, such as CSV.</p>	<p>This can be implemented and members will be reminded.</p>
<p><b>Best practice 6:</b> Councils should publish a clear and straightforward public interest test against which allegations are filtered.</p>	<p>There is clear guidance in the flow chart and within the process note for dealing with complaints</p>
<p><b>Best practice 7:</b> Local authorities should have access to at least two Independent Persons.</p>	<p>Harrow currently has two IP's.one has recently resigned (there were three)and it is recommended that another two are recruited so that there are four in total.</p>
<p><b>Best practice 8:</b> 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 a formal investigation on an allegation, and should be given the option</p>	<p>An IP is used through out the process at every stage and is consulted prior to decisions being made.</p>

<p>to review and comment on allegations which the responsible officer is minded to dismiss as being without merit, vexatious, or trivial.</p>	
<p><b>Best practice 9:</b> 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.</p>	<p>Currently a notice is published going forward it will contain all of the detail in the best practice recommendation.</p>
<p><b>Best practice 10:</b> 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.</p>	<p>The guidance is attached to this report and this is already on the website.</p>
<p><b>Best practice 11:</b> 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.</p>	<p>NA</p>
<p><b>Best practice 12:</b> 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.</p>	<p>NA</p>

<p><b>Best practice 13:</b> 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</p>	To be implemented
<p><b>Best practice 14:</b> 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.</p>	This can be done going forward.
<p><b>Best practice 15:</b> Senior officers should meet regularly with political group leaders or group whips to discuss standards issues.</p>	This already happens.

#### 4. Complaints against members

In the last year the council has dealt with 10 complaints against councillors. Most of them were about councillors not responding to residents. Two of them resulted in public notices and multiple breaches of the code. Sanctions have been imposed on two occasions and one hearing has taken place. Currently the council has limited powers against member who have been found to breach the code of conduct.

The sanctions are:

- To ask for an apology
- To ask the member to undergo training
- To censure the member
- To place a notice in a newspaper, website and or to be read out at Council.
- To ask for the group Leader to remove the member from committees or outside bodies.

#### 5. RIPA

The council has powers under the Regulation of investigatory powers Act to authorise covert surveillance that is likely to result in the obtaining of private information about a person.

Surveillance, for the purpose of the 2000 Act, includes monitoring, observing or listening to persons, their movements, conversations or other activities and communications. It may be conducted with or without the assistance of a surveillance device and includes the recording of any information obtained<sup>3</sup>. Surveillance is covert if, and only if, it is carried out in a manner calculated to ensure that any persons who are subject to the surveillance are unaware that it is or may be taking place.

These powers have not been used in the last year.

## 6. Further Information

The Local Government Ethical Standards A Review by the Committee on Standards in Public Life contains other recommendations which will require legislation. The committee will be kept up to date with any changes.

### Financial Implications

Any financial implications arising from implementing the best practice recommendations in section 3, will be contained within existing resources.

### Equalities implications

It is a breach of the code of conduct to do anything which may cause the Council to breach any of equality enactments. Strengthening the code and processes will have positive equalities outcomes.

### Council Priorities

This report supports the Council's vision:

**Working Together to Make a Difference for Harrow**

## Section 3 - Statutory Officer Clearance

Name Sharon Daniels:	<input checked="" type="checkbox"/>	on behalf of the Chief Financial Officer
Date: 4 July 2019		
Name: Jessica Farmer	<input checked="" type="checkbox"/>	on behalf of the Monitoring Officer
Date: 4 July 2019		

<b>Ward Councillors Notified:</b>	NO
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## **Section 4 - Contact Details and Background Papers**

**Contact:**

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**Background Papers:**

None