

## STANDARDS AND ETHICS COMMITTEE

**Venue:** Town Hall, The Crofts,  
Moorgate Street,  
Rotherham. S60 2TH

**Date:** Thursday 16 June 2022

**Time:** 2.00 p.m.

### A G E N D A

1. Apologies for Absence

To receive the apologies of any Member who is unable to attend today's meeting.

2. Declarations of Interest

To receive declarations of interest from Members in respect of items listed on the agenda.

3. Exclusion of Press and Public

To consider whether the press and public should be excluded from the meeting during consideration of any part of the agenda.

Agenda Items 6, and 7 are all exempt from the press and public.

4. Minutes of the previous meeting held on 10th March, 2022 (Pages 3 - 5)

To consider and approve the minutes of the previous meeting held on 10<sup>th</sup> March, 2022 as a true and correct record of the proceedings.

5. Committee on Standards in Public Life - Review of Local Government Ethical Standards - Government Response (Pages 7 - 22)

To consider the report which sets out the Government response to the Review of Local Government Ethical Standards undertaken by the Committee on Standards in Public Life.

6. A Review of Concerns Raised Pursuant to the Whistleblowing Policy (Pages 23 - 30)

To give consideration to a report regarding concerns raised pursuant to the Whistleblowing Policy and the actions taken to address these matters.

7. Review of Complaints (Pages 31 - 35)

To give consideration to a report updating the Committee on the Complaints received against Members of the Council, and Town and Parish Councillors alleging a breach of the Code of Conduct.

8. Urgent Business

To determine any item which the Chair is of the opinion should be considered as a matter of urgency.

9. Date and Time of Next Meeting

The next meeting of the Standards and Ethics Committee will take place on Thursday, 15<sup>th</sup> September, 2022, commencing at 2.00 p.m.

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**S. KEMP,**  
Chief Executive.

**STANDARDS AND ETHICS COMMITTEE**  
**10th March, 2022**

Present:- Councillor McNeely (in the Chair); Councillors Bacon, Z. Collingham, Cooksey, Tarmey, Mr. A. Buckley and Mrs. M. Carroll (Parish Council Representatives) and also Mr. P. Edler (Independent Co-optee).

Also in attendance at the invitation of the Chair was Mr. P. Beavers and Mr. D. Roper-Newman (Independent Persons).

Apologies for absence were received from Councillors Griffin, Hughes and Mr. R. Swann (Parish Council Representative) and Mrs. A. Bingham, Mrs. M. Evers and Mrs. K. Penney (Independent Co-optees).

**26. DECLARATIONS OF INTEREST**

There were no declarations of interest.

**27. EXCLUSION OF PRESS AND PUBLIC**

**Resolved:-** That, under Section 100A(4) of the Local Government Act 1972, the press and public be excluded from the meeting for Minute Nos. 30, 31 and 32 on the grounds that it involves the likely disclosure of exempt information as defined in Paragraph 3 of Part 1 of Schedule 12A to the Local Government Act 1972.

**28. MINUTES OF THE PREVIOUS MEETING HELD ON 18TH NOVEMBER, 2021**

**Resolved:-** That the minutes of the previous meeting held on 18<sup>th</sup> November, 2021 were approved as a true and correct record of the proceedings.

It was noted that in terms of reports with any acronyms, a list of definition would be incorporated into future reports.

**29. TRAINING UPDATE**

Stuart Fletcher, Legal Manager, updated the Committee on recent training provided to Parish Councils on the use of social media, which was very positively received. Those Parish Councils who did attend would be thanked for their attendance with a further session being arranged later in the year.

In terms of the model Code of Conduct produced by the LGA and which had been adopted by the Council, training resources have been provided by the LGA to ensure consistency and these would be delivered to Members in further training sessions.

It was assumed the changes to any future sanctions legislation by the Government would be delayed, due to restrictions on Parliamentary time caused initially by the pandemic and now due to the ongoing conflict.

**Resolved:-** That the training updated be received and noted.

**30. WHISTLEBLOWING POLICY AUDIT**

Consideration was given to the report presented by Stuart Fletcher, Legal Manager, which detailed the outcome of an audit into the Whistleblowing Policy by Internal Audit.

The risks identified and the actions implemented were set out in detail as part of the report and provided assurance that the operation of the Whistleblowing Policy was working as it should.

The Committee sought clarification on a couple of points relating to inclusion of links to the Whistleblowing Policy in procurement and partnership documentation and the actions in place to track audit recommendations.

It was suggested that the Committee receive a further report in a year's time on the progress of the recommendations.

**Resolved:-** (1) That the outcome of an audit in respect of the operation of the Whistleblowing Policy be received and noted.

(2) That the Committee receive a further report in a year's time on the progress of the recommendations.

**31. A REVIEW OF CONCERNS RAISED PURSUANT TO THE WHISTLEBLOWING POLICY**

Consideration was given to the report and appendix presented by Stuart Fletcher, Legal Manager, which provided an overview of the Whistleblowing cases which have been received over the past year.

Particular reference was made to the appendix to the report which set out clearly the description of the concerns received and action taken.

**Resolved:-** That the Whistleblowing concerns raised over the previous year and the actions taken to address these matters be received and noted.

**32. REVIEW OF COMPLAINTS**

Consideration was given to the report presented by Stuart Fletcher, Legal Manager, detailing the progress with the handling of complaints relating to breaches of the Council's Code of Conduct for Members and Town and

Parish Councillors. The report listed the current cases of complaint and the action being taken in respect of each one.

Reference was made to each related case and recommended outcomes/actions identified were highlighted.

The Committee particularly welcomed the support of the Independent Persons who regarded the administration of complaints to be timely and effective.

**Resolved:-** That the report be received and the contents noted.

**33. URGENT BUSINESS**

The Chair advised that there were no urgent items of business requiring the Committee's consideration.

**34. DATE AND TIME OF NEXT MEETING**

**Resolved:-** That the next meeting of the Standards and Ethics Committee be held on Thursday, 16<sup>th</sup> June, 2022, commencing at 2.00 p.m. at the Town Hall.

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**Committee Name and Date of Committee Meeting**

Standards and Ethics Committee - 16 June 2022

**Report Title**

Committee on Standards in Public Life – Review of Local Government Ethical Standards – Government Response

**Is this a Key Decision and has it been included on the Forward Plan?**

No

**Strategic Director Approving Submission of the Report**

N/A

**Report Author(s)**Stuart Fletcher, Service Manager (Commercial and Property)  
01709 823523  
stuart.fletcher@rotherham.gov.uk**Ward(s) Affected**

Borough-Wide

**Report Summary**

A report setting out the government response to the Review of Local Government Ethical Standards undertaken by the Committee on Standards in Public Life.

**Recommendations**

1. That the Committee consider the Government's response to the CSPL Review of Local Government Ethical Standards and as such consider whether any amendments to the Council's Code of Conduct are necessary.

**List of Appendices Included**

Appendix 1 - Government response to the Committee's individual recommendations that were directed at Government

**Background Papers**

Report of the Committee on Standards in Public Life Local Government Ethical Standards - A Review by the Committee on Standards in Public Life

**Consideration by any other Council Committee, Scrutiny or Advisory Panel**

None

**Council Approval Required**

No

**Exempt from the Press and Public**

No

**Committee on Standards in Public Life – Review of Local Government Ethical Standards – Government Response**

**1. Background**

- 1.1 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.
- 1.2 As some Members will recall, during 2018, the CSPL undertook a review of local government ethical standards. This Committee contributed to the consultation which was undertaken in respect of the review. The CSPL report was published in January 2019 and reported to this Committee in March 2019 and subsequently in terms of implementation of recommendations. A copy of the full CSPL report is a background paper to this report, and is available on the following link [Local Government Ethical Standards January 2019 \(publishing.service.gov.uk\)](https://publishing.service.gov.uk)
- 1.3 Many of the recommendations within the CSPL review, for example in relation to the sanctions available to local authorities for breaches of the Code of Conduct, required amendments to legislation and as such were directed to the Government. The Government’s response to the report has recently been published, and appears at Appendix 1.
- 1.4 The Committee is asked to consider the Government response to the CSPL Review, and in particular the Government response to those Recommendations which refer to the Code of Conduct. As such the Committee is asked to consider whether any amendments to the adopted model Code of Conduct should be recommended to Council.
- 1.5 Further the Committee may wish to consider the Government responses to the recommendations made to it, and consider whether any further action is appropriate, such as making comments on the Government’s position to the LGA or the CSPL as the Committee has done previously.

**2. Key Issues**

- 2.1 The key issues are set out above.

**3. Options considered and recommended proposal**

- 3.1 The recommended proposals are set out above.

**4. Consultation on proposal**



- 4.1 A comprehensive consultation exercise was undertaken by the CSPL when undertaking the Review of Local Government Ethical Standards.

**5. Timetable and Accountability for Implementing this Decision**

Any potential amendments to the Code of Conduct would be reported to the September meeting of the Standards and Ethics Committee for subsequent consideration by Council.

**6. Financial and Procurement Advice and Implications**

- 6.1 None

**7. Legal Advice and Implications**

- 7.1 The Council and the Standards and Ethics Committee have a statutory duty to promote and maintain high standards of conduct. The CSPL review and any action taken as a result and consequential amendments to the relevant legislation which the Government implements will contribute to the maintenance of those high standards of conduct.

**8. Human Resources Advice and Implications**

None

**9. Implications for Children and Young People and Vulnerable Adults**

None

**10. Equalities and Human Rights Advice and Implications**

None

**11. Implications for Partners**

- 11.1 The CSPL review and consequential amendments to the relevant legislation which the Government implements are relevant to Parish and Town Council members.

**12. Risks and Mitigation**

None

**13. Accountable Officer(s)**

Bal Nahal, Head of Legal Services

*Report Author:* Stuart Fletcher, Service Manager (Commercial and Property)  
01709 823523 - [stuart.fletcher@rotherham.gov.uk](mailto:stuart.fletcher@rotherham.gov.uk)

This report is published on the Council's [website](#).

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Department for Levelling Up,  
Housing & Communities

**Kemi Badenoch MP**

*Minister of State for Equalities and Levelling Up  
Communities*

***Department for Levelling up, Housing and  
Communities***

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Dear Lord Evans,

On behalf of the Government, I would like to thank the Committee on Standards in Public Life for its report and the recommendations arising from its review of Local Government Ethical Standards, and to all those who engaged with the Committee's work. Attached is the Government response to the Committee's individual recommendations that were directed at Government.

Vibrant local democracies flourish where the reputation of the local authority is held in high regard, where councillors' decision-making is transparent, valued and trusted by the communities they serve, and where people are willing and confident to put themselves forward as potential candidates. The standards and conduct framework within which local authorities operate must drive out corruption and promote commitment to the principles on standards in public life, and tolerance to the differing views of others. In responding to the review, the Government has taken into account the importance of protecting free speech and freedom of association within the law.

The Government is committed to working with local authorities and their representative organisations to ensure that local government is supported in reinforcing its reputation for ethical local standards.

The fact that this review had been conducted in such a collaborative way with the sector has been apparent from the outset and is borne out in the final report. I am keen that Government builds on the sector-wide enthusiasm for improvement.

The Government agrees with the Committee's conclusion that there have been benefits from local authorities being responsible for ethical standards, including the flexibility and

discretion to resolve standards issues informally. However, we also recognise the role of Government in ensuring that the system is robust.

The number of requests for legislation in the Committee's recommendations to strengthen the standards and conduct framework and its safeguards is considerable. As indicated in this response, the Government believes that some of these suggestions do not need a legislative response but can be more appropriately, effectively, and swiftly taken forward by local authorities as best practice. The Committee will recognise that the Government and Parliament has taken a different view on these matters when it legislated for the Localism Act 2011.

I thank the Committee for their work on the review and for their patience whilst Government carefully considered their recommendations, and I personally look forward to continuing to work with you as Government progresses the commitments made in this response with the sector.

Yours sincerely,

A handwritten signature in black ink that reads "Kemi Badenoch". The signature is written in a cursive, flowing style.

**KEMI BADENOCH MP**

**Minister of State for Equalities  
and Levelling Up Communities**

## Government response to the Committee on Standards in Public Life review of local government ethical standards

This Government response confines itself to the Committee's recommendations directed at Government, other than with regards to the first recommendation. The response to recommendations 10, 12, 13, 14 and 16 have been grouped together and therefore appear out of numerical order below.

### **Recommendation 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.**

The Localism Act 2011 states that relevant authorities must promote and maintain high standards of conduct by members and co-opted members. It requires these authorities to adopt a code of conduct for their councillors.<sup>1</sup> Authorities can determine the content of their own code of conduct. However, codes must conform to the seven 'Nolan' principles of standards in public life: selflessness, integrity, objectivity, accountability, openness, honesty, and leadership. Relevant authorities for the purposes of these requirements include local authorities in England, namely county councils, district councils, London borough councils and parish and town councils.

It is for individual councils to set their own local code, in line with the Act. The Government has previously published a light-touch illustrative code of conduct.

The Local Government Association has worked with sector representative bodies to update its own suggested code of conduct, with the intention that this new suggested code could establish a consistent benchmark that local authorities can amend or add to as they see fit to reflect local circumstances and priorities. The Local Government Association published the updated code of conduct in January 2021. However, it remains a local decision on whether this model code is adopted.

### **Recommendation 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.**

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<sup>1</sup> References to councillors in this document also should be deemed to include elected mayors.

This issue was brought up in the Committee's work on intimidation in public life, and the Government has already taken forward several steps in this regard. The Government is open and receptive to further steps to help prevent intimidation.

The Government agrees with the principle behind this recommendation – which safeguards elected representatives - and considers amending the Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012 would be an option to achieve it.

The Government will engage with interested parties on the best means to ensure that candidates and councillors are not required publicly to disclose their home address.

Notwithstanding, it is important that home addresses are internally registered with monitoring officers, to help avoid conflicts of interest.

### **Recommendation 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.**

The Government's view is that it is for individual local authorities to consider if their code of conduct is adequate in addressing the issue of inappropriate use of social media.

As the Government outlined to Parliament in March 2021 on tackling intimidation in public life: 'It is important to distinguish between strongly felt political debate on the one hand, and unacceptable acts of abuse, intimidation and violence on the other. British democracy has always been robust and oppositional. Free speech within the law can sometimes involve the expression of political views that some may find offensive': a point that the Government has recognised in a Department for Education policy paper<sup>2</sup>. But a line is crossed when disagreement mutates into intimidation, which refuses to tolerate other opinions and seeks to deprive others from exercising their free speech and freedom of association.'

It is important to recognise that there is a boundary between an elected representative's public life and their private or personal life. Automatically presuming (irrespective of the context and circumstances) that any comment is in an official capacity risks conflating the two.

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<sup>2</sup> Higher education: free speech and academic freedom Feb 2021  
<https://www.gov.uk/government/publications/higher-education-free-speech-and-academic-freedom>

#### **Recommendation 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.**

The Government agrees that local authority elected representatives should act in good faith in the public interest and not seek to influence decisions for personal gain, for malicious intent or to further the interests of any business or any other organisations which they may be affiliated with.

The Local Government Association have updated their [own suggested code of conduct](#) to state that the code applies when “[a member’s] actions could give the impression to a reasonable member of the public with knowledge of all the facts that [they] are acting as a [member]”.

It is for individual local authorities to ensure that their codes of conducts are regularly updated, comprehensive and fit for purpose. Elected members receive the necessary training to make them aware of their personal responsibilities in upholding the code.

The Government will keep this matter under review but has no immediate plans to amend the regulations.

#### **Recommendation 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 seek to influence opinion or public policy.**

The electorate must have confidence that the decisions of their elected representatives are being made in the best interests of the community they have been elected to serve. Unpaid roles may need to be declared if it is relevant to council business, and councillors should recuse themselves if necessary if discussions relate to private bodies, they are involved in.

The Government is mindful that councillors have a right to a private life, and rights of freedom of association outside their role as a councillor. It is frequently the case that people in public life have a complex pattern of interests and play a variety of roles with different types of organisations, including community interest groups and charities.

The Government will keep this matter under review but has no immediate plans to amend the regulations.

## **Recommendation 6**

**Local authorities should be required to establish a register of gifts and hospitality, with councillors required to record 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.**

The Local Government Association's suggested code of conduct published in January 2021 includes a requirement for members to "register... any gift or hospitality with an estimated value of at least £50". However, it did not contain any requirements relating to the total value of gifts or hospitality received from the same source over a sustained period.

Local authorities have the autonomy to set gifts and hospitality requirements in their own codes of conduct. The Government accepts that there is merit in best practice guidance on the thresholds for gifts and hospitality and agrees that a register of gifts and hospitality should be publicly available.

## **Recommendation 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 the matter".**

Section 31 of the Localism Act 2011 requires that a councillor must not participate in a discussion or vote on a matter where they have a disclosable pecuniary interest in any matter to be considered at the meeting. Section 30(3) of the Localism Act 2011 further provides that any relevant pecuniary interests of a councillor's spouse or partner are considered as a disclosable pecuniary interest of the councillor.

The Committee's report reflects concerns that the disclosable pecuniary interest arrangements infringe on the privacy of a councillor's spouse or partner. Where there would be a potential conflict of interest, the principle of integrity requires that any such interests should nevertheless be declared and resolved.

The Government will keep this matter under review but has no immediate plans to repeal Section 31 of the Localism Act 2011.



### **Recommendation 8**

**The Localism Act 2011 should be amended to require that Independent Persons are appointed for a fixed term of two years, renewable once.**

The Government does not accept this recommendation as appropriate for legislation on the basis that it would be likely to be unworkable. The Government's view is that it would be more appropriately implemented as a best practice recommendation for local authorities.

In principle, it may be attractive to limit the terms Independent Persons serve to keep their role and contribution "fresh" and avoid them becoming too closely affiliated with the overriding organisational culture. However, discussions with Monitoring Officers indicate that in practice most local authorities would likely find servicing this rate of turnover unachievable. There is frequently a small pool of people capable and willing to undertake the role, who also fit the stringent specifications of being amongst the electorate, having no political affiliation, no current or previous association with the council, and no friends or family members associated with the council.

When local authorities have found effective Independent Persons who demonstrate the capability, judgement and integrity required for this quite demanding yet unpaid role, it is understandable that they may be reluctant to place limitations on the appointment.

### **Recommendation 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.**

The Government does not agree with this. The Local Government Transparency Code is a statutory requirement to publish information; it does not regulate the content of councils' minutes or decision notices.

The substantive policy suggestion has merit but will depend on circumstances. In cases where there is no case to answer from an unfounded complaint, it should not necessarily be a legal requirement to publish details of that unfounded complaint.

### **Recommendation 10**

**A local authority should only be able to suspend a councillor where the authority's Independent Person agrees both with the finding or a breach and that suspending the councillor would be a proportionate sanction.**

### **Recommendation 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.**

### **Recommendation 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.**

### **Recommendation 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, and the appropriate sanction, an appeal by a councillor who has had a suspension imposed. The Ombudsman's decision should be binding on the local authority.**

### **Recommendation 16**

**Local authorities should be given the power to suspend councillors, without allowances, for up to six months.**

There is no provision in current legislation for a sanction to suspend a councillor found to have breached the code of conduct, and this was a deliberate policy decision by the Coalition Government at the time of the Localism Act 2011 to differentiate from the previous, failed Standards Board regime. The Standards Board regime allowed politically motivated and vexatious complaints and had a chilling effect on free speech within local government. These proposals would effectively reinstate that flawed regime.

It would be undesirable to have a government quango to police the free speech of councillors; it would be equally undesirable to have a council body (appointed by councillors, and/or made up of councillors) sitting in judgment on the political comments of fellow councillors.

On the rare occasions where notable breaches of the code of conduct have occurred, local authorities are not without sanctions under the current regime. Councillors can be barred from Cabinet, Committees, or representative roles, and may be publicly criticised. If the elected member is a member of a political group, they would also expect to be subject to party discipline, including being removed from that group or their party. Political parties are unlikely to reselect councillors who have brought their group or party into disrepute. All councillors are ultimately held to account via the ballot box.

As part of the Government's response to the Committee's report on intimidation in public life, the Government recommended that every political party establish their own code of conduct for party members, including elected representatives.

The Government will engage with sector representative bodies of councillors and officers of all tiers of local government to seek views on options to strengthen sanctions to address breaches of the code which fall below the bar of criminal activity and related sanctions but involve serious incidents of bullying and harassment or disruptive behaviour.

### **Recommendation 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.**

The Government agrees in principle.

Initial soundings with the sector indicate that some local authorities already provide legal indemnity for Independent Persons.

The Government endorses providing legal indemnity for Independent Person as local authority best practice but does not currently see the need to require this through secondary legislation.

### **Recommendation 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.**

The Government believes that this is better addressed through the sector adopting as best practice a regular pattern of annual reporting by Standard Committees of the cases and complaints handled and would encourage this as best practice by the sector.

The Government does not believe that there is a requirement to prescribe to local authorities the form and content of such Standard Committee annual reports.

### **Recommendation 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.**

The criminal law, overseen by the police and courts, provides for more appropriate and effective action against breaches of public order, for anti-social behaviour, and against harassment.

The occasion where councils would seek to bar councillors from council premises are thought to be extremely rare. We will consider this further.

### **Recommendation 18**

**The criminal offences in the Localism Act 2011 relating to Disclosable Pecuniary Interests should be abolished.**

It is a criminal offence to fail to declare pecuniary interests, which acts as a strong deterrent against corruption.

The Government does not agree with this recommendation, but rather believes the criminal offence of a non-disclosure of pecuniary interest to be a necessary and proportionate safeguard and deterrent against corruption.

The high bar of police involvement has served to discourage politically motivated and unfounded complaints.

### **Recommendation 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.**

The Government does not agree that this is necessary and has no plans to repeal Section 27(3) of the Localism Act 2011.

The Government considers that the adoption of the principal authority's code or the new model code is a matter for local determination.

There are merits in achieving consistency within principal authority areas to eliminate potential confusion amongst constituents and elected members but there may be instances where a parish council may want to add to the code of their principal authority to reflect local circumstances.

### **Recommendation 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.**

The Government has no current plans to repeal Section 28 (11) of the Localism Act 2011 but will give this matter further consideration.

### **Recommendation 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.**

The three statutory officers in local government are the Monitoring Officer, the Head of Paid Service (Chief Executive) and the Chief Finance Officer (often referred to as the Section 151 Officer).

Under the current disciplinary arrangements for statutory officers, any decision to dismiss a statutory officer must be taken by full council, following a hearing by a panel that must include at least two Independent Persons. The Committee consider that the disciplinary protections for statutory officers should be enhanced, by extending disciplinary protections to all disciplinary actions (such as suspension or formal warnings), not just dismissal.

The Government agrees in principle with this recommendation and recognises this will be pertinent to Monitoring Officers who may not necessarily be afforded the same seniority in the organisational hierarchy of a local authority as the two other statutory officers (Head of Paid Service and the Section 151 Officer), and who may be subject to personal pressures when conducting high profile breach of conduct investigations.

The Government will engage with sector representative bodies of all tiers of local government to seek views on amending the Local Authorities (Standing Orders) (England)(Amendment) Regulations to provide disciplinary protections for statutory officers.

### **Recommendation 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.**

The Government agrees with the principle that openness is essential.

Most local authorities already publish their whistleblowing policy, procedures and a named contact on their websites, and Government is recommending that this is adopted as a best practice recommendation.

The Government published the UK National Action Plan for Open Government 2021 – 2023 in January 2022. This includes a commitment on local transparency.<sup>3</sup> The Department for Levelling Up Housing and Communities (DLUHC) will work with the local government community to develop a set of specific actions to advance transparency in the sector. DLUHC will support local government to solidify their transparency policies and processes and encourage proactive publication of open data across councils.

## **Recommendation 24**

### **Councillors should be listed as ‘prescribed persons’ for the purposes of the Public Interest Disclosure Act 1998.**

Prescribed persons are individuals or organisations that a worker may approach outside their workplace to report suspected or known wrongdoing and still be protected by the rights afforded to them under whistleblowing legislation. They are prescribed by an order made by the Secretary of State (for Business, Energy and Industrial Strategy) for this purpose. A complete list of prescribed persons is available here: <https://www.gov.uk/government/publications/blowing-the-whistle-list-of-prescribed-people-and-bodies--2>.

Local councillors would not meet the criteria of being external to an individual’s workplace in relation to matters affecting the council and could therefore not be considered as a ‘prescribed person’ for the purposes of the Public Interest Disclosure Act 1998. Disclosures relating to local authorities can be made to the external auditor of the relevant authority, the Comptroller and Auditor General (National Audit Office), or a Member of Parliament.

However, the Government recognises that this may provide a further check and balance against council corruption or wrongdoing and is open to further representations on the matter on how local accountability can be strengthened in this regard.

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<sup>3</sup> <https://www.gov.uk/government/publications/uk-national-action-plan-for-open-government-2021-2023/uk-national-action-plan-for-open-government-2021-2023#local-transparency>

By virtue of paragraph(s) 1, 2 of Part 1 of Schedule 12A  
of the Local Government Act 1972.

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