

Report of	Meeting	Date
Monitoring Officer	Governance Committee	5 June 2019

ETHICAL GOVERNANCE REVIEW - REPORT FROM WORKING GROUP

PURPOSE OF REPORT

1. To advise members of the Governance Committee as to the recommendations of the Working Group and to seek agreement for the presenting of the recommendations to Full Council for adoption.

RECOMMENDATION(S)

2. That Members of the Governance Committee accept the recommendations of the Working Group on the implementation of changes to the Council's Code of Conduct and associated processes for presenting to Full Council for approval and implementation.

EXECUTIVE SUMMARY OF REPORT

3. Governance Committee received on 20 March a copy of the report Local Government Ethical Standards by the Committee for Standards in Public Life (The Review).
4. The report contained 26 formal recommendations and 15 best practice recommendations. Governance Committee resolved to set up a working group to consider the best practice recommendations further with a view to incorporating them into the Council's code of conduct and associated procedures. Governance Committee also noted that the formal recommendations would generally require changes to national legislation or be beyond the vires of the Council to adopt without other changes.
5. This report details the best practice recommendations and provides details of how they have already been or can be adopted by the council.
6. The Working Group considered the proposals and made recommendations for their adoption and implementation. These can be found in the body of this report.

Confidential report Please bold as appropriate	Yes	No
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CORPORATE PRIORITIES

7. This report relates to the following Strategic Objectives:

Involving residents in improving their local area and equality of access for all		A strong local economy	
Clean, safe and healthy homes and communities		An ambitious council that does more to meet the needs of residents and the local area	X

BACKGROUND

8. The Working Group met on 11 April and appointed Cllr S Holgate to the Chair. In attendance were Cllrs Hargreaves and K. Snape and the Independent Person Peter Ripley. The Working Group received a report from the Monitoring Officer and considered proposals regarding the implementation of the Best Practice Recommendations. The views of the Working Group are expressed below.

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.

8. It is recommended that the Code of Conduct be amended to include the following:-

I will not bully or harass any person (including any council employee) and will not intimidate or improperly seek to influence any person.

(Note: 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. 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.)

Best Practice 2

Council's 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.

9. It is proposed to amend the council's Code of Conduct to include the following

I will co-operate with all investigations of complaints made under the councils code of conduct.

I will not make any trivial or malicious allegations against another councillor.

10. The procedure on consideration of complaints will confirm that trivial or malicious complaints be excluded at the discretion of the Monitoring Officer with the agreement of the Independent Person.

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.

11. The suggested reviews and consultations will be undertaken annually with a view to presenting the results to Governance Committee at the first meeting in each calendar year.

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.

12. The Code of Conduct is already available on the Council's website. Consideration will be done to improve its prominence. However, this may be delayed while a wider piece of work on the website is undertaken.

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.

13. The hospitality and gifts register, like the register of interests, is updated by members with

the current declarations being published contemporaneously. It is suggested however that members are reminded of the obligation to disclose gifts and hospitality quarterly through In The Know.

Best Practice 6

Council's should publish a clear and straightforward public interest test against which allegations are filtered.

14. It is proposed to have the following public interest test within the complaints procedure:-
 - a. Is there evidence which supports the complaint?
 - b. Is the conduct something which is possible to investigate?
 - c. Is an investigation proportionate and in the public interest?
15. The following considerations will be included to provide context on how the test will be applied:-
 - a. Complaints older than 6 months will not normally be investigated;
 - b. Whether the incident was witnessed by a third party and the independence or otherwise of the third party;
 - c. Cost of the investigation including officer time;
 - d. Any other relevant factor such as previous complaints brought either by the complainant or against the councillor.

Best Practice 7

Local authorities should have access to at least two Independent Persons.

16. An appointment exercise will be undertaken this summer in order to try to identify a second independent person.
17. Members are reminded that it is formally recommended that the appointment to the role of Independent Person be fixed for 2 years with an option of a 2 year extension. This change will require a change in legislation, but any such change will exacerbate the recruitment issue. The current Independent Person has been in post for 6 ½ years and this has not caused any issues for the council. But it is recognised that if there is a move to a single national approach or where councils have more complaints to address the familiarity of the Independent Person with councillors and complainants may cause difficulties.

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.

18. The Council have already adopted this as part of our investigation process with the Independent Person reviewing the results of all filtering and being able to comment on them.

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.

19. Again, this forms part of the Council's process and will not require any amendment to our procedure document.

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.

20. These documents are already available on the council's website. They will be reviewed as part of the annual process adopted pursuant to best practice 3.

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.

21. Whilst this relates to Parish Council business it is proposed to change the complaints procedure document to include
"Complaints in relation to conduct by Parish Councillors towards the Parish Clerk
Where a complaint relates to the conduct of a Parish Councillor towards the Parish Clerk, the complaint should be submitted by the chair or the parish council as a whole. In exceptional circumstances complaints will be accepted when made by the Clerk themselves."

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.

22. Although not documented it has been the practice of the Monitoring Officer to support parish council's and in particular clerks in relation to standards matters. There is no intention to change this. It is proposed to document this in an additional document that relates specifically to Parish Council related complaints. At present it is not envisaged that there will be any further resources required to meet this change, however should this change the support will have to be qualified in some way or additional resources be provided.

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.

23. The council's procedure already provides for investigations to be done by either the Deputy Monitoring Officer or a solicitor from the legal team. Were the matter to be more serious or lead to allegations of conflict of interest then the Council will instruct an independent investigator.

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.

24. This proposal is particularly relevant given the intention to establish the Housing Company. It has to be recognised that the Company would have a distinct legal identity. However, there are no legal issues which would prevent the company making a decision to implement the proposal itself. It is proposed therefore to incorporate this recommendation into any governance arrangements adopted by the company (or indeed any company established going forward).

Best Practice 15

Senior officers should meet regularly with political group leaders or group whips to discuss standards issues.

25. Briefing meetings with group leaders are already held. It is suggested that quarterly, the Monitoring Officer attend these meetings for this purpose. Should any issues arise between the scheduled attendances then this can be added as an agenda item at the meetings as required.

IMPLICATIONS OF REPORT

9. This report has implications in the following areas and the relevant Directors' comments are included:

Finance		Customer Services	
Human Resources		Equality and Diversity	
Legal		Integrated Impact Assessment required?	
No significant implications in this area		Policy and Communications	

10. There are no specific risk areas in relation to the recommendations in this report although it should be noted that adoption of the recommendations will form part of any peer or similar review in the future.

COMMENTS OF THE INDEPENDENT PERSON

11. The recommendations by the Working Group meeting which I was pleased to be invited to attend seem an appropriate way to respond locally to the Review. It is reassuring that in many cases Chorley had already adopted the recommended Best Practice or can move quickly to adoption.
12. It is disappointing, however, that changes seen to be necessary to the Chorley website to comply with Best Practice may be delayed while a wider piece of work on the website is undertaken; it would be helpful to have some indication as to the possible timescale for the changes to be implemented.

COMMENTS OF THE STATUTORY FINANCE OFFICER

13. No Comment.

COMMENTS OF THE MONITORING OFFICER

14. Contained in the body of the report.

CHRIS MOISTER
MONITORING OFFICER

Background Papers		
Document	Date	File
Ethical Standards Working Group Report		http://mod/ieListDocuments.aspx?CId=963&MId=7509&Ver=4
Report Author	Ext	Date
Chris Moister	5160	28 May 2019