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DATE: 1st July 2019

To: Members of the
STANDARDS COMMITTEE

Councillor Vanessa Allen, Councillor Will Harmer, Councillor Melanie Stevens,
Councillor Michael Tickner and Councillor Stephen Wells
Dr Simon Davey

A meeting of the Standards Committee will be held at Bromley Civic Centre on
TUESDAY 9 JULY 2019 AT 7.00 PM

MARK BOWEN
Director of Corporate Services

A G E N D A

- 1 **TO APPOINT A CHAIRMAN AND VICE-CHAIRMAN FOR 2019/20**
- 2 **APOLOGIES FOR ABSENCE**
- 3 **DECLARATIONS OF INTEREST**
- 4 **MINUTES OF THE MEETING HELD ON 22 JANUARY 2019**
(Pages 1 - 6)
- 5 **QUESTIONS**

In accordance with the Council's Constitution, questions that are not specific to reports on the agenda must have been received in writing 10 working days before the date of the meeting.

Questions specifically on reports on the agenda should be received within two working days of the normal publication date of the agenda. Please ensure that questions specifically on reports on the agenda are received by the Democratic Services Team by 5pm on Wednesday 3rd July 2019.

- 6 **MONITORING OFFICER'S GENERAL REPORT**
(Pages 7 - 32)

7 LOCAL GOVERNMENT ACT 1972 AS SUBSEQUENTLY AMENDED

The Chairman to move that the Press and public be excluded during consideration of the items of business listed below as it is likely in view of the nature of the business to be transacted or the nature of the proceedings that if members of the Press and public were present there would be disclosure to them of confidential information.

Items of Business

Schedule 12A Description

- | | |
|--|---|
| 8 MONITORING OFFICER'S GENERAL REPORT:
APPENDICES
(Pages 33 - 36) | Information relating to any individual. |
|--|---|

STANDARDS COMMITTEE

Minutes of the meeting held at 7.00 pm on 22 January 2019

Present:

Councillor Michael Tickner (Chairman)
Councillor Vanessa Allen (Vice-Chairman)
Councillor Nicholas Bennett J.P., Councillor Melanie
Stevens and Councillor Stephen Wells

1 TO APPOINT A CHAIRMAN AND VICE-CHAIRMAN FOR 2018/19

Councillor Michael Tickner was appointed chairman for the 2018/19 Council year, and took the chair. Councillor Vanessa Allen was appointed vice-chairman for the 2018/19 Council year.

2 APOLOGIES FOR ABSENCE

Apologies for absence were received from Dr Simon Davey.

Councillor Nicholas Bennett apologised for having to leave the meeting early.

3 DECLARATIONS OF INTEREST

Councillor Melanie Stevens declared in relation to agenda item 11 that she knew one of the complainants.

Councillor Nicholas Bennett declared in relation to agenda item 11 that he had been the subject of a complaint.

Councillor Michael Tickner declared an interest as the majority group whip.

4 QUESTIONS FROM MEMBERS OF THE PUBLIC ATTENDING THE MEETING

No questions had been received.

5 MINUTES OF THE MEETING HELD ON 22nd FEBRUARY 2018 AND MATTERS ARISING

It was confirmed that new Councillors had been given a copy of the Council's Code of Conduct after the local elections in May.

The Committee decided to keep the three proposed dates per year proposed in the draft 2019/20 programme of meetings.

RESOLVED that the minutes of the meeting held on 22nd February 2018 (excluding exempt information) be confirmed.

6 DISCUSSION WITH HEAD OF AUDIT

The Council's Head of Audit, David Hogan, attended the meeting to brief the Committee on his Team's work, which involved reviewing systems of risk, governance and internal control. Mr Hogan was relatively new to Bromley, but had worked at a number of London boroughs, including at LB Bexley. His impression of Bromley was of a transparent and self-aware organisation.

Mr Hogan responded to some of the comments made about the 2017/18 annual Governance Statement as recorded in the minutes of the last meeting. He confirmed that a detailed check of the effectiveness of the governance framework had been carried out, and commented that the statement that Internal Audit was "generally compliant" reflected his profession's stringent standards.

As well as providing challenge and accountability, the Internal Audit Team provided a service to management, and Mr Hogan concluded by assuring the Committee that his team was given unfettered access to records and documents. He was confident of support from the Chairman of the Audit Sub-Committee and the Leader of the Council should any issues arise.

7 ANNUAL GOVERNANCE STATEMENT Report CSD19020

The Annual Governance Statement (AGS) formed a part of the Council's statutory accounts, and was coordinated by Internal Audit following CIPFA guidance. The AGS was approved by General Purposes and Licensing Committee each year alongside the annual accounts. Members received a copy of the final AGS for 2017/18 and were invited to provide comments at the start of the process for developing the AGS for 2018/19.

Members made the following comments –

Councillor Allen emphasised that it was important that senior posts were filled and not left vacant (page 3).

Councillor Allen commented that although a meeting had been held to consult with representatives of residents associations on budget priorities, there were no longer any similar meetings open to residents (Page 5). Officers responded that this consultation was now conducted primarily online, and Members commented on whether this was an effective way to consult, and on the cost of holding the public meetings.

Councillor Wells commented that he was pleased that the Constitution Improvement Working Group had recommended that the time allowed for public questions at Council meetings should be increased from fifteen minutes to thirty minutes, which improved transparency.

Councillor Wells stated that it was important that there was a culture where Internal Audit could do their work; he was concerned that there should be a process to ensure that Portfolio Holders addressed all Priority 1 audit recommendations. The Head of Audit explained that his Team always agreed an action plan with management to address all recommendations, which his Team followed up rigorously. This was now also tied in with the risk management process and managed more closely.

Councillor Tickner asked about the reference to “other key postholders” being able to fulfil their responsibilities in the final bullet point of Principle A (page 5). Officers responded that this was about senior officers being able and willing to raise concerns, and having an atmosphere and culture where this could happen. The Director of Corporate Services stated that he had never felt unable to give hard advice to Members or officers.

Councillor Bennett asked whether Internal Audit was free from political pressure. He suggested that Members should only be allowed to comment once Internal Audit reports were published and should explain their concerns. The Director of Corporate Services stated that he had not seen any evidence of undue political pressure; in fact, Members had considerable rights to free speech so any rules which attempted to restrict this could potentially be unlawful. The Head of Audit stated that his Team checked their reports very carefully for accuracy. He was not aware of recommendations being challenged by Members, and felt able to assert his independence.

Councillor Tickner raised the issue of the Council supporting the voluntary/third sector (page 9). The Contracts and Commissioning Sub-Committee would be considering how the Council contracted with third sector organisations at a forthcoming meeting.

Councillor Wells suggested that the bullet point relating to key controls over systems and processes (page 13) should refer more specifically to the financial management system, the contracts database system and risk registers.

Councillor Tickner commented on the previous practice at Audit Sub-Committee where files of paper invoices were available once a year, and each Member could chose an invoice at random for investigation. The Head of Audit confirmed that all invoicing was now online, but sample checks were still carried out as part of regular audits on the payment system.

Councillor Stevens asked whether the Council had a complete list of its own buildings, and whether this was used to ensure that all assets were properly maintained. The Head of Audit confirmed that the Council did have this information, which was used, for example, for insurance purposes, and the Council ensured that fire risk assessments were carried out for all properties.

RESOLVED that the Committee’s comments as set out above be considered in drawing up the 2018/19 Annual Governance Statement.

8 MONITORING OFFICER'S GENERAL REPORT
Report CSD19010

The Committee received a report from the Monitoring Officer setting out a number of issues for consideration.

(A) Independent Persons

Every principal local authority had to appoint at least one independent person to be consulted by the authority, or by members of the authority on standards issues. Mr Nicolas Marcar had recently resigned from this role, leaving Bromley with just one independent person, Dr Simon Davey. The Council could continue with one independent person, but it was useful to have at least two independent persons, not only to have a broad input at the Committee's meetings, but also so that different parties were not depending on the same party for independent advice. Another possibility was to try to share independent persons with a neighbouring authority. The appointment could be made by the Committee, and it was proposed that the Chairman and Vice-Chairman carry out the interviews.

RESOLVED that adverts be placed to recruit a new independent person.

(B) Whistle-blowing procedures

The Committee was provided with a copy of the Council's Whistle-blowing procedures. It was proposed that the Committee look at the procedure and how effective it was in more detail at the next meeting – Members asked for information about the number and types of reports. The procedures could be used by agency staff, consultants and contractors – it was confirmed that major contractors had been provided with copies of posters advertising the procedure.

RESOLVED that a more detailed report be considered at the next meeting.

(C) Committee for Standards in Public Life

Members noted that the Committee on Standards in Public life was expected to publish its report on local government ethical standards on 30th January 2019.

(D) Dispensations

Members noted the schedule of dispensations granted by the Monitoring Officer.

(E) Gifts and Hospitality

Under the Code of Conduct, Members were required to declare gifts and hospitality received due to their role as councillors over the value of £25. This threshold had been in place for many years, and the Committee considered whether it was appropriate to raise it.

Gifts and hospitality received by the Mayor were not usually declared on the Register of Interests as they usually related to the office of Mayor rather than to the individual concerned (although a record was still kept through the Mayor's Office.) The Committee considered whether the Mayor's Consort, in circumstances when they were also a serving councillor, should be required to register gifts and hospitality received while acting as consort. Members concluded that it would still be safer and more transparent if a consort who was also a councillor continued to declare gifts and hospitality in these circumstances.

RESOLVED that

(1) The threshold for declaring gifts and hospitality should remain at £25.

(2) The Mayor's Consort, if a serving Councillor, should continue to declare gifts and hospitality received in his role as consort.

(F) Register of Interests

A paper copy of the Register of Interests was available for inspection at the meeting.

(G) Work Programme

The Committee considered its work programme for future meetings. At the next meeting they expected to consider the whistle-blowing procedure, the report of the Committee on Standards in Public Life on local government ethical standards, the appointment of a new independent person and a potential change to disqualification rules by the Government.

9 LOCAL GOVERNMENT ACT 1972 AS SUBSEQUENTLY AMENDED

RESOLVED that the Press and public be excluded during consideration of the items of business referred to below as it is likely in view of the nature of the business to be transacted or the nature of the proceedings that if members of the Press and public were present there would be disclosure to them of exempt information.

**The following summaries
refer to matters
involving exempt information**

**10 EXEMPT MINUTES OF THE MEETING HELD ON 22nd
FEBRUARY 2018**

RESOLVED that the exempt minutes of the meeting held on 22nd February 2018 be confirmed.

**11 MONITORING OFFICER'S GENERAL REPORT: APPENDIX -
COMPLAINTS**

The Committee considered a part 2 appendix containing details of complaints received about individual councillors since the Committee's last meeting on 22nd February 2018. The Director of Corporate Services explained that where he was considering referring a complaint to the Committee he had to consult with the independent person. However, there were few complaints that reached this threshold.

The Meeting ended at 8.25 pm

Chairman

Report No.
CSD19098

London Borough of Bromley

PART ONE - PUBLIC

Decision Maker: **STANDARDS COMMITTEE**

Date: **Wednesday 19 June 2019**

Decision Type: Non-Urgent Non-Executive Non-Key

Title: **MONITORING OFFICER'S GENERAL REPORT**

Contact Officer: Graham Walton, Democratic Services Manager
Tel: 0208 461 7743 E-mail: graham.walton@bromley.gov.uk

Chief Officer: Mark Bowen, Director of Corporate Services

Ward: All Wards

1. Reason for report

1.1 To update the Committee on a number of standards issues -

- Independent Persons
 - Report of the Committee for Standards in Public Life
 - Dispensations granted
 - Gifts and Hospitality declarations
 - Register of Interests
 - Substitution
 - Work Programme and Matters Outstanding
 - Whistle-blowing procedures
 - Complaints (see part 2 appendix)
-

2. **RECOMMENDATION**

That the Committee notes and comments on the Monitoring Officer's report.

Impact on Vulnerable Adults and Children

1. Summary of Impact: Not Applicable
-

Corporate Policy

1. Policy Status: Existing Policy:
 2. BBB Priority: Excellent Council:
-

Financial

1. Cost of proposal: No Cost:
 2. Ongoing costs: Not Applicable:
 3. Budget head/performance centre: Democratic Services
 4. Total current budget for this head: £358,740.
 5. Source of funding: 2019/20 revenue budget
-

Personnel

1. Number of staff (current and additional): 6.79fte
 2. If from existing staff resources, number of staff hours: Not Applicable
-

Legal

1. Legal Requirement: Statutory Requirement: Local Government Acts 1972 and 2000 and subsequent legislation.
 2. Call-in: Not Applicable: This report does not involve an executive decision.
-

Procurement

1. Summary of Procurement Implications: Not Applicable
-

Customer Impact

1. Estimated number of users/beneficiaries (current and projected): The standards system affects all Members of the Council, and potentially any member of the public who considers that a member may have breached the Code of Conduct.
-

Ward Councillor Views

1. Have Ward Councillors been asked for comments? No
2. Summary of Ward Councillors comments: Not Applicable

3. COMMENTARY

Independent Persons

- 3.1 Every principal local authority must appoint at least one independent person to be consulted by the authority or by members of the authority on standards issues. The changes to the Standards system brought about by the Localism Act 2011 have greatly reduced the involvement of Independent Persons compared to the former arrangements where there were several co-opted members of the Standards Committee, a need for frequent Sub-Committee meetings and the Chairman was an co-opted member. However, it is still useful to have two Independent Persons, not only to have a broader input at Committee meetings, but so that different parties on a particular issue are not dependent on the same person for independent advice and also to avoid conflicts of interest.
- 3.2 When Mr Nicholas Marcar resigned as an Independent Person the Council was left with just one Independent Person - Dr Simon Davey. If Dr Davey were also resign, the authority could potentially be without an Independent Person for a period. The role was advertised for a period earlier this year, but no applications were received. Subject to any further comments from Members, it is proposed that further attempts are made to advertise the role and obtain applications from suitable candidates.

Committee for Standards in Public Life

- 3.3 At its meeting on 22nd February 2018 the Committee provided some comments for a public consultation on local government ethical standards being carried out by the Committee for Standards in Public Life. The Committee's submission focussed on the need for a range of effective sanctions to be available for Standards Committees where there were breaches of the Code of Conduct.
- 3.4 The report of the Committee for Standards in Public Life was published on 30th January 2019. The report makes 26 formal recommendations, most of which are addressed to Government, and also includes a further 15 "best practice" recommendations which can be implemented by local authorities. These cover a range of issues including the content of the Code of Conduct, accessibility of information about the Code, gifts and hospitality and how to make a standards complaint, and procedures for conducting formal investigations. These are being assessed and will be fed into a review of the Code of Conduct. The Executive summary, List of Recommendations and List of Best Practice are attached as [Appendix 1](#). The full report has been sent to members of the Committee and is available on the Government website here -
- [Local Government Ethical Standards Report January 2019](#)
- 3.5 This Committee's concerns about the lack of effective sanctions in the current Standards regime are reflected in the report. The Committee for Standards in Public Life recommends both that the current criminal sanctions relating to Declarable Pecuniary Interests are disproportionate and ineffective and should be abolished, and also that local authorities should be given power to suspend councillors, without allowances, for up to six months.
- 3.6 At present, there is no indication about whether the recommendations will be accepted by the Government and passed into legislation.

Dispensations Granted

- 3.7 The Council has delegated to the Monitoring Officer, in consultation with members of the Urgency Committee, the authority to grant dispensations to Councillors to attend and speak at meetings of the authority in circumstances where, under the Code of Conduct, they have a

disclosable pecuniary interest (Scheme of Delegation to Officer, Part 2A, 3 (xxv)). Where these dispensations have been sought, they are typically about town planning issues, where the Code of Conduct means that councillors have less opportunity to assert their interests than other residents, or about employment, where technically there is a disclosable pecuniary interest, but in practice that interest is not significant. In order to be transparent, applications for dispensations since the last meeting are now presented to this Committee - the latest list is at [Appendix 2](#) - this contains only one dispensation, granted to Councillors Robert Mcilveen and Michael Rutherford in relation to a planning application.

Gifts and Hospitality Register

- 3.8 Under the Code of Conduct, Councillors are required to declare gifts and hospitality received due to their role as Councillors over the value of £25. These are published on the Council website, with a link from each Member's page. A schedule of the gifts and hospitality declarations made in 2019 so far, and since the Committee's last meeting, is attached as [Appendix 3](#). Only two declarations have been registered in this period.

Register of Interests

- 3.9 Under the Localism Act 2011, the Register of Interests is required to be published on the Council's website, and a link to each Councillor's declaration is provided on their page. At its meeting in February 2018 the Committee suggested that a print-out of these declarations should be available at each meeting of the Committee for inspection by members of the public, and this will be done.

Substitution

- 3.10 Until 2011 substitution on the Standards Committee was unlawful. The Localism Act 2011 removed the need for a Standards Committee and membership, substitution etc became a matter for local choice.
- 3.11 There is a suggestion that the Constitution Improvement Working Group is asked to recommend permitting substitution on the Committee. A key reason behind the original position arose because Committee Members undertook key work in respect of filtering and hearing matters where there were allegations of a breach of the Member's Code which is as valid now as it was under the previous system. Allowing observers where a Member is unable to attend would ensure broad representation – although the Committee is an “a-political” body.

Work Programme and Matters Outstanding from Previous Meetings

- 3.12 Full Council at its meeting on 8th April 2019 decided that all Council Committees and Sub-Committees should include provision at scheduled meetings to consider matters outstanding from previous meetings. These matters will often form part of the future work programme. A table of matters outstanding is attached at [Appendix 4](#).
- 3.13 The Council's 2019/20 programme of meetings now includes three scheduled meetings of this Committee. The following dates have been scheduled -

- Wednesday 19th June 2019
- Thursday 31st October 2019
- Thursday 12th March 2020

Members of the Committee are requested to consider what issues they wish to consider at future meetings.

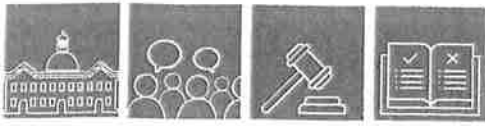
3.14 It is suggested that the Committee may want to review Bromley's Code of Conduct and in particular its requirements for declaring non-pecuniary interests. The Localism Act 2011 introduced a new standards regime in 2012, which included a statutory requirement for each Member to register the Disclosable Pecuniary Interests (DPIs) of themselves and those of any spouse or partner. At the same time, the statutory requirement to register a range of non-pecuniary interests was removed. Bromley took the view that these non-pecuniary interests should continue to be registered in addition to the statutory requirements. However, Bromley has never required the interests of other close family members or associates to be registered, and as a consequence has relied on individual judgement rather than setting specific rules on Member participation/involvement where such interests exist. This is one area that the Committee could consider.

Complaints

3.15 A summary of recent complaints against Councillors, since the Committee's last meeting, is included at [Appendix 7](#). As these complaints contain personal details about Councillors and complainants, and also as the Councillors concerned have not necessarily done anything that is clearly against the Code of Conduct, this information is included on the part 2 (private) agenda. There are no formal standards investigations at present.

Non-Applicable Sections:	Impact on Vulnerable Adults and Children/Policy/ Financial/Personnel/Legal/Procurement
Background Documents: (Access via Contact Officer)	None

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Executive summary

Local government impacts the lives of citizens every day. Local authorities are responsible for a wide range of important services: social care, education, housing, planning and waste collection, as well as services such as licensing, registering births, marriages and deaths, and pest control. Their proximity to local people means that their decisions can directly affect citizens' quality of life.

High standards of conduct in local government are therefore needed to protect the integrity of decision-making, maintain public confidence, and safeguard local democracy.

Our evidence supports the view that the vast majority of councillors and officers maintain high standards of conduct. There is, however, clear evidence of misconduct by some councillors. The majority of these cases relate to bullying or harassment, or other disruptive behaviour. There is also evidence of persistent or repeated misconduct by a minority of councillors.

We are also concerned about a risk to standards under the current arrangements, as a result of the current rules around declaring interests, gifts and hospitality, and the increased complexity of local government decision-making.

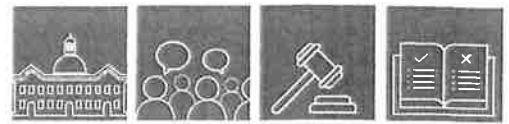
Giving local authorities responsibility for ethical standards has a number of benefits. It allows for flexibility and the discretion to resolve standards issues informally. We have considered whether there is a need for a centralised body to govern and adjudicate on standards. We have concluded that whilst the consistency and independence of the system could be enhanced, there is no reason to reintroduce a centralised body, and that local

authorities should retain ultimate responsibility for implementing and applying the Seven Principles of Public Life in local government.

We have made a number of recommendations and identified best practice to improve ethical standards in local government. Our recommendations are made to government and to specific groups of public office-holders. We recommend a number of changes to primary legislation, which would be subject to Parliamentary timetabling; but also to secondary legislation and the Local Government Transparency Code, which we expect could be implemented more swiftly. Our best practice recommendations for local authorities should be considered a benchmark of good ethical practice, which we expect that all local authorities can and should implement. We will review the implementation of our best practice in 2020.

Codes of conduct

Local authorities are currently required to have in place a code of conduct of their choosing which outlines the behaviour required of councillors. There is considerable variation in the length, quality and clarity of codes of conduct. This creates confusion among members of the public, and among councillors who represent more than one tier of local government. Many codes of conduct fail to address adequately important areas of behaviour such as social media use and bullying and harassment. An updated model code of conduct should therefore be available to local authorities in order to enhance the consistency and quality of local authority codes.



There are, however, benefits to local authorities being able to amend and have ownership of their own codes of conduct. The updated model code should therefore be voluntary and able to be adapted by local authorities. The scope of the code of conduct should also be widened, with a rebuttable presumption that a councillor's public behaviour, including comments made on publicly accessible social media, is in their official capacity.

Declaring and managing interests

The current arrangements for declaring and managing interests are unclear, too narrow and do not meet the expectations of councillors or the public. The current requirements for registering interests should be updated to include categories of non-pecuniary interests. The current rules on declaring and managing interests should be repealed and replaced with an objective test, in line with the devolved standards bodies in Scotland, Wales and Northern Ireland.

Investigations and safeguards

Monitoring Officers have responsibility for filtering complaints and undertaking investigations into alleged breaches of the code of conduct. A local authority should maintain a standards committee. This committee may advise on standards issues, decide on alleged breaches and sanctions, or a combination of these. Independent members of decision-making standards committees should be able to vote.

Any standards process needs to have safeguards in place to ensure that decisions are made fairly and impartially, and that councillors are protected against politically-motivated, malicious, or unfounded allegations of misconduct. The Independent Person is an important safeguard in the current system. This safeguard should be strengthened and clarified: a local authority should only be able to suspend a councillor where the Independent

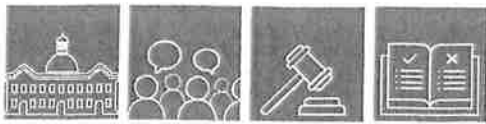
Person agrees both that there has been a breach and that suspension is a proportionate sanction. Independent Persons should have fixed terms and legal protections. The view of the Independent Person in relation to a decision on which they are consulted should be published in any formal decision notice.

Sanctions

The current sanctions available to local authorities are insufficient. Party discipline, whilst it has an important role to play in maintaining high standards, lacks the necessary independence and transparency to play the central role in a standards system. The current lack of robust sanctions damages public confidence in the standards system and leaves local authorities with no means of enforcing lower level sanctions, nor of addressing serious or repeated misconduct.

Local authorities should therefore be given the power to suspend councillors without allowances for up to six months. Councillors, including parish councillors, who are suspended should be given the right to appeal to the Local Government Ombudsman, who should be given the power to investigate allegations of code breaches on appeal. The decision of the Ombudsman should be binding.

The current criminal offences relating to Disclosable Pecuniary Interests are disproportionate in principle and ineffective in practice, and should be abolished.



Town and parish councils

Principal authorities have responsibility for undertaking formal investigations of code breaches by parish councillors. This should remain the case. This responsibility, however, can be a disproportionate burden for principal authorities. Parish councils should be required to adopt the code of their principal authority (or the new model code), and a principal authority's decision on sanctions for a parish councillor should be binding. Monitoring Officers should be provided with adequate training, corporate support and resources to undertake their role in providing support on standards issues to parish councils, including in undertaking investigations and recommending sanctions. Clerks should also hold an appropriate qualification to support them to uphold governance within their parish council.

Supporting officers

The Monitoring Officer is the lynchpin of the current standards arrangements. The role is challenging and broad, with a number of practical tensions and the potential for conflicts of interest. Local authorities should put in place arrangements to manage any potential conflicts. We have concluded, however, that the role is not unique in its tensions and can be made coherent and manageable with the support of other statutory officers. Employment protections for statutory officers should be extended, and statutory officers should be supported through training on local authority governance.

Councils' corporate arrangements

At a time of rapid change in local government, decision-making in local councils is getting more complex, with increased commercial activity and partnership working. This complexity risks putting governance under strain. Local authorities setting up separate bodies risk a governance 'illusion', and should

take steps to prevent and manage potential conflicts of interest, particularly if councillors sit on these bodies. They should also ensure that these bodies are transparent and accountable to the council and to the public.

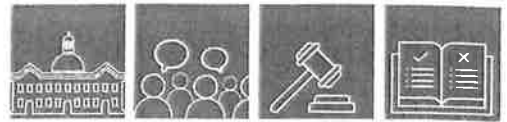
Our analysis of a number of high-profile cases of corporate failure in local government shows that standards risks, where they are not addressed, can become risks of corporate failure. This underlines the importance of establishing and maintaining an ethical culture.

Leadership and culture

An ethical culture requires leadership. Given the multi-faceted nature of local government, leadership is needed from a range of individuals and groups: an authority's standards committee, the Chief Executive, political group leaders, and the chair of the council.

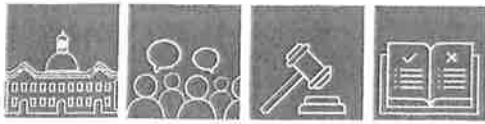
Political groups have an important role to play in maintaining an ethical culture. They should be seen as a semi-formal institution sitting between direct advice from officers and formal processes by the council, rather than a parallel system to the local authority's standards processes. Political groups should set clear expectations of behaviour by their members, and senior officers should maintain effective relationships with political groups, working with them informally to resolve standards issues where appropriate.

The aim of a standards system is ultimately to maintain an ethical culture and ethical practice. An ethical culture starts with tone. Whilst there will always be robust disagreement in a political arena, the tone of engagement should be civil and constructive. Expected standards of behaviour should be embedded through effective induction and ongoing training. Political groups should require their members to attend code of conduct training provided by a local authority, and this should also be



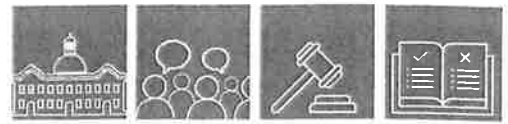
written into national party model group rules. Maintaining an ethical culture day-to-day relies on an impartial, objective Monitoring Officer who has the confidence of all councillors and who is professionally supported by the Chief Executive.

An ethical culture will be an open culture. Local authorities should welcome and foster opportunities for scrutiny, and see it as a way to improve decision making. They should not rely unduly on commercial confidentiality provisions, or circumvent open decision-making processes. Whilst local press can play an important role in scrutinising local government, openness must be facilitated by authorities' own processes and practices.

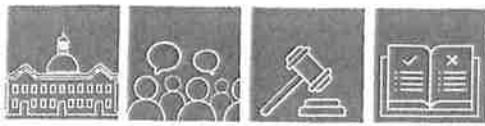


List of recommendations

Number	Recommendation	Responsible body
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.	Local Government Association
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.	Government
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.	Government
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.	Government
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.	Government
6	Local authorities should be required to establish a register of gifts and hospitality, with councillors required to record any 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.	Government

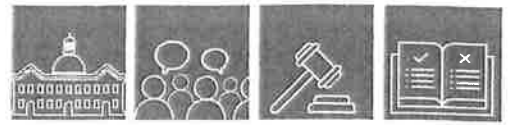


Number	Recommendation	Responsible body
7	Section 31 of the Localism Act 2011 should be repealed, and replaced with a requirement that councils include in their code of conduct that a councillor must not participate in a discussion or vote in a matter to be considered at a meeting if they have any interest, 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 that matter".	Government
8	The Localism Act 2011 should be amended to require that Independent Persons are appointed for a fixed term of two years, renewable once.	Government
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.	Government
10	A local authority should only be able to suspend a councillor where the authority's Independent Person agrees both with the finding of a breach and that suspending the councillor would be a proportionate sanction.	Government
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.	Government / all local authorities
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.	Government
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.	Government

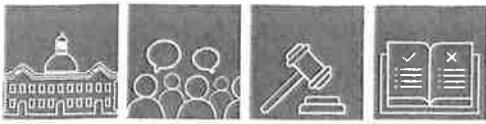


List of recommendations

Number	Recommendation	Responsible body
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, on appeal by a councillor who has had a suspension imposed. The Ombudsman's decision should be binding on the local authority.	Government
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.	Government
16	Local authorities should be given the power to suspend councillors, without allowances, for up to six months.	Government
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.	Government
18	The criminal offences in the Localism Act 2011 relating to Disclosable Pecuniary Interests should be abolished.	Government
19	Parish council clerks should hold an appropriate qualification, such as those provided by the Society of Local Council Clerks.	Parish councils
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.	Government
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.	Government
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.	Government



Number	Recommendation	Responsible body
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.	Government
24	Councillors should be listed as 'prescribed persons' for the purposes of the Public Interest Disclosure Act 1998.	Government
25	Councillors should be required to attend formal induction training by their political groups. National parties should add such a requirement to their model group rules.	Political groups National political parties
26	Local Government Association corporate peer reviews should also include consideration of a local authority's processes for maintaining ethical standards.	Local Government Association



List of best practice

Our best practice recommendations are directed to local authorities, and we expect that any local authority can and should implement them. We intend to review the implementation of our best practice in 2020.

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.

Best practice 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.

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.

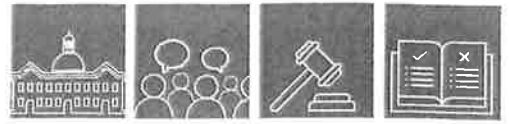
Best practice 4: An authority's code should be readily accessible to both councillors and the public, in a prominent position on a council's website and available in council premises.

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.

Best practice 6: Councils should publish a clear and straightforward public interest test against which allegations are filtered.

Best practice 7: Local authorities should have access to at least two Independent Persons.

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.



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.

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.

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.

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.

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.

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.

Best practice 15: Senior officers should meet regularly with political group leaders or group whips to discuss standards issues.

Dispensations granted by the Monitoring Officer**(since January 2019)**

<u>Cllr</u>	<u>Request Received</u>	<u>Date of Decision</u>	<u>Decision</u>	<u>Notes</u>
Robert Mcilveen and Michael Rutherford	28/5/19	3/6/19	That an unconditional dispensation be granted to Cllr Robert Mcilveen and to Michael Rutherford to be allowed to attend Plans Sub-Committee No. 3 on 6 th June 2019 for their planning application for 49 Forde Avenue, Bromley BR1 3EU, and for Cllr Robert Mcilveen, or if he is unavailable, Cllr Michael Rutherford, to speak as a member of the public in support of the application. The dispensation applies to any subsequent meetings on the same or similar application until the end of the municipal year.	Planning application was considered by Plans Sub-Committee No. 3 on 6 th June 2019.

LBB Constitution**Appendix 10 - Scheme of Delegation to Officers****Part II A. General Authorities**

“To the Director of Corporate Services, authority to:-

(xxv) where written applications are received from Members of the Council, to grant dispensations to members to take part in the business of the Authority if the Member has a disclosable pecuniary interest in that business, subject to consultation with Members of the Urgency Committee.” *(Approved by full Council, 13/5/15)*

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Appendix 3

Gifts and Hospitality Declarations (since January 2019)

Councillor	Date	Provider	Gift or hospitality
Charles Joel	6/1/19	A Farnborough & Crofton ward resident	Payment for a meal for Cllr Joel and Mrs Joel
Russell Mellor	21/5/19	Kent County Cricket Club	Tickets for match and lunchtime refreshments with wine.
Angela Wilkins	10/6/19	Attic Arts Club, Upper Norwood	Two tickets for a performance (worth about £25)

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Minute No.	Issue	Update
5	Committee requested three meetings to be scheduled per annum in the Council's Programme of Meetings	Three meetings are now being scheduled each year (see Monitoring Officer's General Report.)
7	Cllr Wells noted that it was proposed that the time allowed for public questions would be extended from 15 to 30 minutes, the same as for questions from Councillors	This was agreed by full Council on 8 th April 2019
7	Cllr Tickner raised the issue of the Council working with the voluntary sector.	The Contracts and Commissioning Sub-Committee considered the issues around contracts and commissioning with the voluntary and community sector at its meeting on 2 nd April 2019. Subsequently, a report was also made to the Executive, Resources and Contracts PDS Committee on 14 th May 2019. The Chief Executive of Community Links Bromley, Colin Maclean, attended both meetings.
8 (A)	Appointment of an Independent Person	See Monitoring Officer's General Report.
8 (B)	Whistle-blowing Procedures - The Committee requested further details on the number and types of report for this meeting	This information is provided in a part 2 appendix.
8 (C)	Report of the Committee for Standards in Public Life	See Monitoring Officer's General Report.
8 (G)	Work Programme - The Committee expected to consider a potential change to disqualification rules from the Government	There has been no change announced so far.

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Raising concerns (Whistleblowing) Policy

INTRODUCTION

1. Employees are often the first to realise that there may be something wrong within the Council. Usually these concerns are easily resolved. However, when the concern feels serious because it is about a possible fraud, corruption or misuse of position that might affect others or the Council itself, it can be difficult to know what to do.

2. You may be worried about raising such a concern and may think it best to keep it to yourself, perhaps feeling it's none of your business or that it's only a suspicion. You may feel that raising the matter would be disloyal to colleagues, managers or to the Council. You may decide to say something but find that you have spoken to the wrong person or raised the issue in the wrong way and are not sure what to do next.

3. The Public Interest Disclosure Act provides workers with protection from dismissal or other damage as a result of making a disclosure of information in the public interest about wrongdoing at work. The Chief Executive, Chief Officers and Members are committed to adhering to the Public Interest Disclosure Act and to provisions contained therein. Provided you are acting honestly and reasonably believe it to be in the public interest, it does not matter if you are mistaken.

4. The Council is committed to running the organisation in the best way possible and to do so we need your help. We have introduced this policy to reassure you that it is safe and acceptable to speak up and to enable you to raise any concern you may have about malpractice at an early stage and in the right way. Rather than wait for proof, we would prefer you to raise the matter when it is still a concern.

5. This Raising Concerns Policy is intended to encourage and enable employees and members to raise serious concerns. This policy applies to all those who work for us; whether full-time or part-time, employed through an agency, contractors or as a volunteer. If you have a concern, please let us know.

6. These procedures are in addition to the Council's complaints procedures and other statutory reporting procedures applying to some departments. If, however, you wish to make a complaint about your employment or how you have been treated, please use the grievance procedure - which you can get from One Bromley or HR officer. This Raising Concerns Policy is primarily for concerns where the interests of others or of the organisation itself are at risk. These include:

- conduct which is an offence or a breach of law
- disclosures related to miscarriages of justice
- health and safety risks, including risks to the public as well as other employees
- the unauthorised use of public funds
- possible fraud and corruption
- sexual, physical, verbal or financial abuse of clients

If in doubt - raise it!

OUR ASSURANCES TO YOU

7. The Chief Executive, Chief Officers and Members are committed to this policy. If you raise a genuine concern under this policy, you will not be at risk of losing your job or suffering any form of retribution as a result. We will not tolerate the harassment or victimisation of anyone raising a genuine concern. Provided you are acting honestly and reasonably believe it to be in the public interest, it does not matter if you are mistaken or if there is an innocent explanation for your concerns. Of course we do not extend this assurance to someone who maliciously raises a matter they know is untrue.

8. With these assurances, we hope you will raise your concern openly. However, we recognise that there may be circumstances when you would prefer to speak to someone in confidence first. If this is the case, please say so at the outset. If you ask us not to disclose your identity, we will not do so without your consent unless required by law. You should understand that there may be times when we are unable to resolve a concern without revealing your identity, for example where your personal evidence is essential. In such cases, we will discuss with you whether and how the matter can best proceed.

9. Please remember that if you do not tell us who you are it will be much more difficult for us to look into the matter. We will not be able to protect your position or to give you feedback. Accordingly you should not assume we can provide the assurances we offer in the same way if you report a concern anonymously.

10. If you are unsure about raising a concern you can get independent advice from Protect- *formerly Public Concern at Work* which is an independent charity on 020 3117 2520 or by email at whistle@protect-advice.org.uk. Their lawyers can talk you through your options and help you raise a concern about malpractice at work.

HOW TO RAISE A CONCERN INTERNALLY

11. As a first step, you should normally raise concerns with your immediate manager or team leader. This depends, however, on the seriousness and sensitivity of the issues involved and who is suspected of the malpractice.

12. If you are unable to raise the matter with your manager, for whatever reason, please raise the matter with:

Mark Bowen

Director of Corporate Services
Bromley Civic Centre,
Stockwell Close,
Bromley, Kent.

T: 020 8313 4355

F: 020 8290 0608

mark.bowen@bromley.gov.uk

OR

David Hogan

Head of Audit
Bromley Civic Centre,
Stockwell Close,
Bromley, Kent.

T: 020 8313 4886

david.hogan@bromley.gov.uk

13. If these channels have been followed and you still have concerns, or if you feel that the matter is so serious that you cannot discuss it with any of the above, please contact

Ade Adetosoye OBE

Interim Chief Executive
Bromley Civic Centre,
Stockwell Close,
Bromley, Kent.
T: 020 8313 4652

ade.adetosoye@bromley.gov.uk

Cllr Neil Reddin - Chairman,

Audit Sub-Committee
c/o Members' Room,
Bromley Civic Centre,
Stockwell Close,
Bromley, Kent.
BR1 3UH
T: 07850 921767

neil.reddin@bromley.gov.uk

OR Cllr Robert Evans - Vice Chairman,

Audit Sub-Committee
c/o Members' Room,
Bromley Civic Centre,
Stockwell Close
Bromley, Kent.
BR1 3UH
T: 07733116799

robert.evans@bromley.gov.uk

14. The concern could be raised verbally or in writing. If you want to raise the matter in confidence, please say so at the outset so that appropriate arrangements can be made.

HOW THE COUNCIL WILL RESPOND

15. Once you have told us of your concern, we will assess it and consider what action may be appropriate. This may involve an informal review, an internal inquiry or a more formal investigation. We will tell you who will be handling the matter, how you can contact them, and what further assistance we may need from you.

16. If you ask, we will write to you summarising your concern and setting out how we propose to handle it and provide a timetable for feedback. If we have misunderstood the concern or there is any information missing please let us know.

17. When you raise the concern it will be helpful to know how you think the matter might best be resolved. If you have any personal interest in the matter, we do ask that you tell us at the outset. If we think your concern falls more properly within our grievance, bullying and harassment or other relevant procedure, we will let you know.

18. Whenever possible, we will give you feedback on the outcome of any investigation. Please note, however, that we may not be able to tell you about the precise actions we take where this would infringe a duty of confidence we owe to another person.

MONITORING / OVERSIGHT

19. The Monitoring Officer (who is the Director of Corporate Services) has overall responsibility for the maintenance and operation of this policy. That officer maintains a record of concerns raised and the outcomes (but in a form which does not endanger your confidentiality) and will report as necessary to the Council.

HOW THE MATTER CAN BE TAKEN FURTHER

20. While we hope this policy gives you the reassurance you need to raise such matters internally, we recognise that there may be circumstances where you can properly report matters to outside bodies, such as regulators or the police. Public Concern at Work (see paragraph 10) or your union will be able to advise you on such an option and on the circumstances in which you may be able to contact an outside body safely.

Agenda Item 8

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

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of the Local Government Act 1972.

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