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Date: 22 January 2020

## **Notice of meeting**

### **Members' Code of Conduct Committee**

**Date:** Thursday, 30 January 2020

**Time:** 7.30 pm

**Place:** Goddard Room, Council Offices, Knowle Green, Staines-upon-Thames

#### **To the members of the Members' Code of Conduct Committee**

##### **Councillors:**

C.F. Barnard  
C. Bateson  
J.T.F. Doran  
R.D. Dunn  
A.C. Harman  
V.J. Leighton  
R.W. Sider BEM  
R.A. Smith-Ainsley

##### **Independent Members**

Mr Murray Litvak (Chairman)

*Councillors are reminded that the Gifts and Hospitality Declaration book will be available outside the meeting room for you to record any gifts or hospitality offered to you since the last Committee meeting.*

**Spelthorne Borough Council, Council Offices, Knowle Green**

**Staines-upon-Thames TW18 1XB**

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## **AGENDA**

**Page nos.**

- 1. Apologies**  
To receive any apologies for absence.
- 2. Minutes** **3 - 6**  
To agree the minutes of the meeting held on 27 November 2019 as a correct record.
- 3. Disclosures of Interest**  
To receive any disclosures of interest from councillors in accordance with the Council's Code of Conduct for members.
- 4. Review of Planning Code** **To Follow**  
To consider proposed changes to the Planning Code.
- 5. Substitutions Policy** **To Follow**  
To consider a report on a Substitutions Policy.
- 6. Standards in Public Life - Best Practice Recommendations** **7 - 14**  
To consider a report on the best practice recommendations arising from the report of the Committee on Standards in Public Life.
- 7. Exclusion of the Press and Public**  
To move the exclusion of the Press/Public for the following item, in view of the likely disclosure of exempt information within the meaning of Part 1 of Schedule 12A to the Local Government Act 1972, as amended by the Local Government (Access to Information) Act 1985 and by the Local Government (Access to information) (Variation) Order 2006.
- 8. Member Conduct**  
To receive a verbal report from the Monitoring Officer in relation to the conduct of members. The three members to which this item refers have been invited to attend the meeting.

**Minutes of the Members' Code of Conduct Committee  
27 November 2019**

**Present:**

Murray Litvak (Chairman)

Councillors:

C.F. Barnard

V.J. Leighton

C. Bateson

R.W. Sider BEM

J.T.F. Doran

R.A. Smith-Ainsley

R.D. Dunn

**Apologies:** Councillor A.C. Harman

**314/19 Minutes**

The minutes of the meeting held on 24 September 2019 were agreed as a correct record.

**315/19 Disclosures of Interest**

Councillor Smith-Ainsley declared that he had an interest in the Investigation Report to be considered by the Committee in Part II of the Agenda.

**316/19 Review of Planning Code**

The Head of Corporate Governance, in consultation with the Planning Development Manager, had reviewed the Planning Code and presented a draft code for consideration. The Committee thoroughly discussed the proposals and suggested some further changes and amendments to the code.

It was also agreed that in view of recent legal decisions, additional training should be arranged for all members on the need for clear reasons, linked to planning policies, when refusing an application or applying conditions to an application.

**Resolved that:**

1. The Head of Corporate Governance make further amendments to the Planning Code as discussed.
2. Training is arranged for all members on the need to align their decision making with planning policies

### **317/19 Members' Induction training**

This item is to be considered by the Members' Development Steering Group.

### **318/19 Exempt Business**

The Panel considered whether the press and public should be excluded from the meeting during consideration of the following matter on the grounds that it was likely to involve the disclosure of exempt information as defined in Paragraph 2 of Part 1 of Schedule 12A of the Local Government Act.

The Panel in making its decision had regard to all circumstances and was satisfied that the public interest in maintaining the exemption outweighed the public interest in disclosing the information.

**Resolved** that in the interest of having a frank and open discussion about the matter, the press and public are excluded from the meeting.

### **319/19 Investigation Report**

The Committee received a report from an independent investigator following a complaint against a councillor. It was considered to be a very thorough and comprehensive investigation conducted in a professional manner. The report found that there was no breach of the Code of Conduct. The outcome of the investigation had already been communicated to the Complainant and to the subject councillor.

Concern was expressed at the length of time the investigation had taken. Whilst this was regrettable, some witnesses had been required to be interviewed a number of times to ensure complete clarity and understanding.

The Committee accepted the content of the reports and unanimously accepted the recommendations made by the investigator and

#### **Resolved that**

1. Mandatory training should be arranged for all members on lobbying to ensure understanding of what is acceptable practice and what is not. This is to be completed by February 2020. The Head of Corporate Governance is to write to all group leaders to advise them of the Committee's decision and to request their assistance in ensuring that all councillors attend the training.
2. The Head of Corporate Governance and the Chairman of the Planning Committee will identify a suitable training opportunity as recommended by the investigator.
3. The Head of Corporate Governance to identify a suitable review for the Planning Committee (such as the Local Government Association Planning Advisory Service) to consider the Planning Committee process in Spelthorne and report back on their findings.

4. The Head of Corporate Governance refers the issue detailed in paragraph 8.1.5 to the relevant Group Leader for action.

**320/19 AOB**

Councillor Sider wished to record a vote of thanks to Michael Graham, Head of Corporate Governance, and wished him well in his future role.

Michael Graham thanked Councillor Sider for his good wishes.

It was also agreed that a further meeting of the Committee will be held in January to discuss:

- (a) a proposed substitution policy for the Planning Committee,
- (b) the amended Planning Code and
- (c) to address any outstanding conduct issues where councillors have not responded to requests to meet with the Monitoring Officer.

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# Members' Code of Conduct Committee

30 January 2020



<b>Title</b>	Standards in Public Life – Best Practice Recommendations		
<b>Purpose of the report</b>	To make a decision		
<b>Report Author</b>	Michael Graham, Head of Corporate Governance		
<b>Cabinet Member</b>	Not applicable	<b>Confidential</b>	No
<b>Corporate Priority</b>	This item is not in the current list of Corporate priorities but still requires a Cabinet decision		
<b>Recommendations</b>	<ol style="list-style-type: none"> <li>1. That the Committee on Standards in Public Life report is noted</li> <li>2. Steps are taken to introduce some or all of the best practice recommendations as set out in Appendix 1 to this report</li> </ol>		
<b>Reason for Recommendation</b>	To comply with best practice and demonstrate commitment to promote and maintain high standards of conduct by members and co-opted members of the Council		

## 1. Key issues

- 1.1 On the 30th January 2019, The Committee on Standards in Public Life (CSPL) released its report: Local Government Ethical Standards. The CSPL review was across the breadth of local government in England.
- 1.2 The purpose of the review was to assess the effectiveness of the current arrangements in supporting and safeguarding local democracy, maintaining high standards of conduct, and protecting ethical practice in local government, particularly in light of the changes made by the Localism Act 2011. The terms of reference for the review were to examine the structures, processes and practices in local government in England for:
  - Maintaining codes of conduct for local councillors
  - Investigating alleged breaches fairly and with due process
  - Enforcing codes and imposing sanctions for misconduct
  - Declaring interests and managing conflicts of interest
  - Whistleblowing
  - Assessment of the existing structures, processes and practices and if these were conducive to high standards of conduct in local government;
  - Making any recommendations for how they can be improved;

- Noting evidence of intimidation of councillors, and proposing recommendations for measures that could be put in place to prevent and address such intimidation.
- 1.3 The key recommendations of the report include:
- A new power for local authorities to suspend councillors without allowances for up to six months with a right of appeal for suspended councillors to the Local Government Ombudsman
  - Revised rules on declaring interests and gifts and hospitality
  - An updated voluntary Model Code of Conduct to be introduced with local authorities to retain ownership of their own Codes of Conduct
  - A strengthened role for the Independent Person
  - Monitoring Officers provided with adequate training, corporate support and resources and statutory protections to be expanded
  - Greater transparency about the number and nature of Code complaints
  - Political groups set clear expectations of behaviour by their members and code of conduct training to be mandatory
- 1.4 A copy of the full CSPL report is a background paper to this report.
- 1.5 Many of the CSPL recommendations will require primary legislation. Some changes can be made through secondary legislation or amendments to the Local Government Transparency Code, which could be implemented by government relatively quickly. The best practice is a matter for individual local authorities and can be introduced by the Council straightaway.
- 1.6 Spelthorne Borough Council (SBC) already has some of the best practice recommendations in place. Attached at Appendix 1 is a table showing the CSPL best practice recommendations, SBC's current arrangements and proposed changes for the Committee's consideration.

## **2. Options analysis and proposal**

### **2.1 To note the report and take steps to introduce some or all of the best practice recommendations**

- 2.1.1 It is proposed that the Committee agrees to take those steps indicated to introduce the best practice recommendations as set out in Appendix 1 to this report. This will demonstrate continued commitment to promote and maintain high standards of conduct by members and co-opted members of the Council.
- 2.1.2 Members are asked to provide their views on the suggestions in Best Practice 14. and 15. as to whether the Council should introduce these.

### **2.2 To note the report but not implement any of the best practice recommendations**

- 2.2.1 This could lead to a loss of confidence in the standards exhibited by councillors and potentially damage the Council's reputation.

## **3. Financial implications**

- 3.1 There are none.



#### **4. Other considerations**

4.1 None.

#### **5. Timetable for implementation**

5.1 If the Committee wishes to review the Code of Conduct and Arrangements as a result of the Best Practice advice, a further report will be brought to this Committee to consider these documents specifically.

#### **Reference papers:**

Report of the Committee on Standards in Public Life

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

<https://www.gov.uk/government/publications/local-government-ethical-standards-report>

#### **Appendices:**

Appendix 1: List of Best Practice, current arrangements and proposals

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## Appendix 1

Best Practice Advice	Current arrangements	Proposed
<p>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.</p>	<p>Code of Conduct No. 9. prescribes that:</p> <p>You must treat others with respect. This means treating people fairly and equitably and with courtesy, compassion and sensitivity. You should treat other people equally as you yourself would expect to be treated. You must never use behaviour which a reasonable person would consider as offensive, overbearing, intimidating, malicious, insulting or humiliating.</p>	<p>Inclusion of more specific reference to bullying and harassment including definitions and examples of behaviour within those definitions.</p>
<p>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.</p>	<p>Code of Conduct No. 13 prescribes that:</p> <p>“If a complaint is made under this Code of Conduct then you must not interfere with the administration or investigation of the complaint and you must not intimidate any complainant, witness or likely witness or engage with them in any way which undermines the investigation.”</p> <p>There is no requirement in either the Code of Conduct or the adopted Arrangements for dealing with allegations of misconduct, to comply with any standards investigation.</p> <p>Paragraph 25 of the Arrangements provide for “the Monitoring Officer to reject complaints which are vexatious, frivolous or malicious or which are politically motivated or in some other way an abuse of process.” There is no reference at all to ‘trivial allegations’.</p>	<p>Review Arrangements and Code of Conduct to consider whether to include provisions requiring councillors to comply with any formal standards investigation, and prohibiting trivial or malicious allegations by councillors.</p>
<p>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.</p>	<p>The Code of Conduct was last reviewed in April 2016.</p>	<p>A review is overdue and needs to be scheduled.</p>

## Appendix 1

Best Practice Advice	Current arrangements	Proposed
<p>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.</p>	<p>The Code of Conduct is available for viewing on the Council's website: <a href="https://www.spelthorne.gov.uk/article/16516/Making-a-complaint-against-a-councillor">https://www.spelthorne.gov.uk/article/16516/Making-a-complaint-against-a-councillor</a></p> <p>It is also available on request at the Council offices.</p>	<p>No changes required.</p>
<p>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.</p>	<p>Proposals to publish monthly register were agreed at Council on 21/2/19 and this has been implemented from August 2019.</p>	<p>No changes required.</p>
<p>Best practice 6: Councils should publish a clear and straightforward public interest test against which allegations are filtered.</p>	<p>Clear and straightforward Arrangements process is published on the website (the same link above) to explain how allegations are dealt with.</p> <p>Allegations are filtered by Monitoring Officer in consultation with the Independent Person for those that are vexatious, frivolous or malicious or politically motivated, that can be resolved informally, that relate to a service, policy or Council decision.</p> <p>A public interest test is not explicitly stated in our Arrangements.</p>	<p>Review the Assessment Criteria to see whether it should include a more specific reference to a public interest test.</p>
<p>Best practice 7: Local authorities should have access to at least two Independent Persons.</p>	<p>We have access to a Panel of 7 shared Independent Persons across Surrey Authorities.</p>	<p>No changes required.</p>
<p>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.</p>	<p>This is included in the Council's Arrangements.</p> <p>The Independent Person is consulted on both formal investigations and all allegations the MO is minded to dismiss.</p>	<p>No changes required.</p>

## Appendix 1

Best Practice Advice	Current arrangements	Proposed
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.	A decision notice is currently prepared as soon as reasonably practicable and sent to all parties. It is made available on the Council's website if required by the Hearings Panel. Our decision notices include all areas identified by best practice.	No changes required.
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.	Guidance on how to make a complaint, including the process for handling complaints is available for viewing on the Council's website:  <a href="https://www.spelthorne.gov.uk/article/16516/Making-a-complaint-against-a-councillor">https://www.spelthorne.gov.uk/article/16516/Making-a-complaint-against-a-councillor</a>	No changes required.
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.	N/A	N/A
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.	N/A	N/A

## Appendix 1

Best Practice Advice	Current arrangements	Proposed
<p>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.</p>	<p>Our current arrangements provide that:</p> <ul style="list-style-type: none"> <li>a) in .. circumstances where the Monitoring Officer may have a conflict of interests, then the Deputy Monitoring Officer will undertake functions of the Monitoring Officer as set out in these arrangements.</li> <li>b) If a complaint merits formal investigation, the Monitoring Officer will appoint an Investigating Officer in consultation with Chairman, who may be another senior officer of the Council, an officer of another Council or an external investigator</li> </ul>	<p>No changes required.</p>
<p>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.</p>	<p>No provision made.</p>	<p>Members' views sought on issues raised by this suggestion for consultation with KGE Board.</p>
<p>Best practice 15: Senior officers should meet regularly with political group leaders or group whips to discuss standards issues</p>	<p>Whilst the Chief Executive meets regularly with group leaders, meetings are not exclusively about standards issues.</p>	<p>Members' to consider this suggestion.</p>