

PROPOSED RESPONSE

a. Are the existing structures, processes and practices in place working to ensure high standards of conduct by local councillors? If not, please say why.

The Code of Conduct adopted by the Borough Council (and by our local Parish Councils) is modelled on the former national code and was well received by both Borough and Parish members upon introduction. The overwhelming majority of members take their duties under the Code extremely seriously and have a very real desire to achieve the highest standards of conduct in the discharge of their democratic duties.

Save for the issue of limited sanctions (which appears also to be of concern to other local authorities) the Borough Council's Procedure for the Assessment of Complaints is considered to be robust and operating fairly to both the complainant and the subject member.

b. What, if any, are the most significant gaps in the current ethical standards regime for local government?

It is considered that the existing legislation gives rise to a lack of meaningful sanctions where a more serious breach of the Code of Conduct is established.

See further the response to f. below.

Codes of conduct

c. Are local authority adopted codes of conduct for councillors clear and easily understood? Do the codes cover an appropriate range of behaviours? What examples of good practice, including induction processes, exist?

As part of their induction all new Borough members are given training on the requirements of the Code. In addition the Council holds an annual Code of Conduct Training Seminar to which all Borough and Parish Members (including Parish clerks) are invited to attend. As well as covering the Code of Conduct in detail, the seminar also provides advice to members on wider ethical matters such as the Code of Recommended Practice on Publicity (purdah guidance) and Probity in Planning. In recent years the training has been interactive and participative through the use of fictional cases studies and standards quizzes. Generally it is considered that the Code is well understood by members.

However, the wording of the statutory provisions relating to Disclosable Pecuniary Interests (DPIs) could be improved so as to clarify when a Councillor will have a DPI in a matter to be voted on or discussed at a meeting.

Although the Code adopted by the Borough Council (and the Parish Councils within West Lancashire) is modelled on the former national code it is noted that other authorities have departed somewhat from the former standard provisions. The removal of the single national code may have led to inconsistencies between codes which members of the public may find difficult to understand.

d. A local authority has a statutory duty to ensure that its adopted code of conduct for councillors is consistent with the Seven Principles of Public Life and that it includes appropriate provision (as decided by the local authority) for registering and declaring councillors' interests. Are these requirements appropriate as they stand? If not, please say why.

Yes. The requirements allow sufficient flexibility for local authorities to decide what

matters should be addressed within their adopted Code.

Investigations and decisions on allegations

e. Are allegations of councillor misconduct investigated and decided fairly and with due process?

i. What processes do local authorities have in place for investigating and deciding upon allegations? Do these processes meet requirements for due process? Should any additional safeguards be put in place to ensure due process?

The Borough Council has adopted detailed arrangements for handling standards complaints. It is considered that these processes operate well. In particular, the arrangements allow for complaints to be dealt with more quickly than before, particularly in relation to the initial assessment process.

During 2017/18 the Borough Council received 4 complaints and 1 complaint from the previous year had been carried forward. Of these:-

3 have resulted in no further action;
1 was considered by the Standards Hearings Sub-Committee
1 complaint pending
1 of the complaints was made against a Parish Councillor, 4 against Borough Councillors

ii. Is the current requirement that the views of an Independent Person must be sought and taken into account before deciding on an allegation sufficient to ensure the objectivity and fairness of the decision process? Should this requirement be strengthened? If so, how?

The role of the Independent Person(s) (IP) is well-regarded within West Lancashire and forms an integral part of current processes.

The input of the IP is important and gives confidence to the general public and members. The Borough Council has adopted a comprehensive Independent Person Protocol to help clarify how the role will be performed. The IP is consulted at all stages of a complaint from initial assessment to a final decision as to whether there been a breach of the Code.

iii. Monitoring Officers are often involved in the process of investigating and deciding upon code breaches. Could Monitoring Officers be subject to conflicts of interest or undue pressure when doing so? How could Monitoring Officers be protected from this risk?

The Borough Council's procedures provide that pre-assessment reports and investigatory reports are prepared with the assistance of an external advisor where appropriate.

Whilst it would be rare for there to be a conflict of interest, MOs (and Deputy MOs) may have some unease in handling complaints against senior members at their own authority. These issues are managed in West Lancashire through robust procedures and the use of external advisors where appropriate.

Sanctions

f. Are existing sanctions for councillor misconduct sufficient?

Nationally, the absence of meaningful sanctions is considered a weakness of the existing arrangements and this has also been echoed at a local level.

Whilst a Councillor who fails to meet the statutory obligations relating to DPIs may be subject to criminal proceedings, in respect of other misconduct the sanctions available to Standards Committees are much weaker than those available to Standards for England under the former regime. This may undermine the confidence held by the public that more serious allegations are met with appropriate sanctions.

What sanctions do local authorities use when councillors are found to have breached the code of conduct? Are these sanctions sufficient to deter breaches and, where relevant, to enforce compliance?

There are a range of possible sanctions within the existing law and the locally adopted procedures including:

Borough Council

- A. Reporting its findings to Council for information;
- B. Recommending to the member's Group Leader (or in the case of un-grouped members, recommend to Council or to Committees) that he/she be removed from any or all Committees or Sub-Committees of the Council;
- C. Recommending to the Leader of the Council that the member be removed from the Cabinet, or removed from particular Portfolio responsibilities;
- D. Instructing the Borough Solicitor to arrange training for the member;
- E. Recommending to the Council the member be removed from all outside appointments to which he/she has been appointed or nominated by the authority.
- F. Recommending to the Council that it withdraws facilities provided to the member by the Council, such as a computer, website and/or email and Internet access; or
- G. Recommending that the Council excludes the member from the Council's offices or other premises, with the exception of meeting rooms as necessary for attending Council, Committee and Sub-Committee meetings.

Parish Councils

- A. Reporting its findings to the Parish Council for information;
- B. Recommending the Parish Council arrange training for the member;
- C. Recommending to the Parish Council the member be removed from all outside appointments to which he/she has been appointed or nominated by the authority.
- D. Recommending to the Parish Council that it withdraws facilities provided to the member by the Parish Council, such as a computer, website and/or email and Internet access.

Should local authorities be given the ability to use additional sanctions? If so, what should these be?

Consideration should be given to Standards Committees having the power to suspend a member for a period of time depending on the seriousness of the breach of the Code.

Declaring interests and conflicts of interest

g. Are existing arrangements to declare councillors' interests and manage conflicts of interest satisfactory? If not please say why.

The existing arrangements to declare interests are considered satisfactory.

A local councillor is under a legal duty to register any pecuniary interests (or those of their spouse or partner), and cannot participate in discussion or votes that engage a disclosable pecuniary interest, nor take any further steps in relation to that matter, although local authorities can grant dispensations under certain circumstances. Are these statutory duties appropriate as they stand?

The existing arrangements are considered satisfactory.

What arrangements do local authorities have in place to declare councillors' interests, and manage conflicts of interest that go beyond the statutory requirements? Are these satisfactory? If not, please say why.

The Borough Council's Code mirrors the former national code in that it provides for additional categories of interests: non-pecuniary interests which must be declared, and pecuniary interests, which must also be declared and would prevent participation in relevant matters by the member concerned. The operation of non-pecuniary and pecuniary interests has not caused any difficulties.

Whistleblowing

h. What arrangements are in place for whistleblowing, by the public, councillors, and officials? Are these satisfactory?

The Borough Council has an adopted policy on whistleblowing. It is not considered that any changes are required to these arrangements.

Improving standards

i. What steps could local authorities take to improve local government ethical standards?

It is suggested that all local authorities should be required to establish a Standards Committee.

j. What steps could central government take to improve local government ethical standards?

As set out above, the most fundamental weakness of the existing regime is the absence of meaningful sanctions. It is considered that this should be addressed.

Intimidation of local councillors

k. What is the nature, scale, and extent of intimidation towards local councillors? What measures could be put in place to prevent and address this intimidation?

The MO is not aware of any concerns being raised by local councillors in relation to intimidation.

Local Borough and Parish Members have been made aware of the consultation and are invited to reply as appropriate regarding this issue.