

## Consultation on the Code of Conduct for Elected Councillors

### Deadline date for responses

Friday 11 December 2020

### Details of consultation

The consultation seeks views on proposed changes to the Council's Code of Conduct for elected Councillors. The Borough Council's Code of Conduct covers Borough, Town and Parish Councillors. In voting for local Councillors residents place the successful candidates in positions of responsibility and trust. The Code of Conduct sets out the behaviours that are expected of Councillors in order to maintain that trust. The behaviours include acting with integrity and honesty, treating people with civility and impartiality, avoiding conflicts of interest and ensuring that public resources are used prudently in the public interest. The Code of Conduct sets out the procedure for Councillors to register and declare financial and other interests. It also states that Councillors must not do anything which may cause the Council to breach any of the provisions of the Equality Act 2010.

The Committee on Standards in Public Life has published a set of Best Practice principles relating to standards in local government. These principles are set out below together with a summary of the current position in the Council's Code of Conduct. Also set out below are proposed changes to parts of the Code of Conduct. We would welcome your overall views on the Code of Conduct and your specific views on the proposed changes highlighted below.

### How to respond

Please send your response to Neil Carr - [neil.carr@wokingham.gov.uk](mailto:neil.carr@wokingham.gov.uk) or by post to Democratic Services, Wokingham Borough Council, PO Box 151, Shute End, Wokingham, RG40 1WH.

### Consultation

**Best practice** recommendations and the **current situation** are set out below – potential changes to the Code of Conduct are **highlighted**.

**Best practice 1:** Councils 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.

**Current situation** - Guidance on Bullying and Intimidation is set out in the Borough Council's Code of Conduct. ***Views are sought on a proposal that guidance on the use and potential misuse of Social Media also be included in the Code of Conduct together with the following statement:***

***“Councillors should be aware that their behaviour in public is, rightly, under public scrutiny and should adhere to the provisions of the Code of Conduct. This includes statements on publicly accessible social media”.***

**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.

**Current situation** – Appropriate provisions are included within the Borough Council’s Constitution.

**Best practice 3:** Councils should review their Code of Conduct each year and regularly seek, where possible, the views of the public, community organisations and neighbouring authorities.

**Current situation** – an annual review of the Code of Conduct will be undertaken by the Standards Committee, with public consultation on significant changes.

**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.

**Current situation** – Officers are reviewing Code of Conduct information on the Council’s website and the effectiveness of the online process for registering complaints.

**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 (a data record format).

**Current situation** – The gifts and hospitality register is being updated and will be published in line with Best Practice 5. ***Views are sought on a proposal to amend the value of declarable gifts from £25 to £100 per annum.***

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

**Current situation** – The public interest test is set out within the Council’s Constitution. Each complaint received is considered by the Monitoring Officer, Independent Person and Chairman of the Standards Committee against a number of criteria including Public Interest – is the public interest served in referring the complaint further.

**Best practice 7:** Local authorities should have access to at least two Independent Persons who provide independent input and comment into the complaints process.

**Current situation** – WBC currently retains three Independent Persons.

**Best practice 8:** An Independent Person should be consulted as to whether to undertake a formal investigation into a complaint 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.

**Current situation** – All Code of Conduct complaints are subject to consultation with an Independent Person.

**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 of Conduct engaged by the allegations, the view of the Independent Person, the reasoning of the decision-maker, and any sanction applied.

**Current situation** – Breaches of the Code of Conduct resolved following a formal investigation are published on the Borough Council's website and reported to the Council. Breaches which are resolved informally (e.g. through mediation or a written apology) are not reported publicly. ***Views are sought on three possible options:***

- 1. Maintaining the current position whereby complaints resolved informally are not reported publicly on the Council website;***
- 2. Publishing the outcome of complaints which are resolved informally on the Council's website.***
- 3. Removing the informal route from the Code of Conduct so that all complaints are resolved via a formal investigation.***

**Best practice 10:** Councils should have straightforward and accessible guidance on their website on how to make a complaint under the Code of Conduct, the process for handling complaints, and estimated timescales for investigations and outcomes.

**Current situation** – Guidance is provided on the Council's website. Officers are reviewing the guidance in line with Best Practice 10.

**Best practice 11:** The Committee on Standards in Public Life found ongoing difficulties in resolving standards matters where Town/Parish Council Clerks were not well supported by the relevant Council in making and resolving complaints. It concluded that Town/Parish Councils should take corporate responsibility rather than leaving these matters to the Clerk. Formal complaints about the conduct of a Town/Parish Councillor towards a Clerk should be made by the Chair or by the Town/Parish Council as a whole, rather than the Clerk, in all but exceptional circumstances.

**Current situation** – The initial handling of complaints of this nature are currently a matter for individual Town and Parish Councils' discretion. ***Views are sought, especially from Town and Parish Councils, on the adoption of the procedure set out in Best Practice 11.***

**Best practice 12:** Monitoring Officers' roles should include providing advice, support and management of investigations and adjudications on alleged breaches to Town and Parish Councils within the remit of the principal authority (WBC). They should be provided with adequate training, corporate support and resources to undertake this work.

**Current situation** – This is part of the Borough Council Monitoring Officer's role. Training and support are provided.

**Best practice 13:** A local authority should have procedures in place to address any conflicts of interest when undertaking a Code of Conduct investigation. Possible steps should include asking the Monitoring Officer from a different authority to undertake the investigation.

**Current situation** – Procedures are currently in place in line with Best Practice 13.

**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.

**Current situation** – Regular reports are currently submitted to the Borough Council's Executive which provide updates on finance, operational matters and changes to company directors. Officers will review the accessibility of company agendas, minutes and reports in line with Best Practice 14.

**Best practice 15:** Senior Officers should meet regularly with political Group Leaders or Group Whips to discuss Code of Conduct issues.

**Current situation** - Best Practice 15 will be formalised through more regular meetings between senior Officers and political Group Leaders/Whips, including an annual meeting.