

WBC Code of Conduct Consultation - Consultation Feedback

Response from: Charvil Parish Council

The consultation document was considered at our recent Council meeting, and they were happy with it (after a long discussion about the maximum amount for gifts before having to declare – which is purely academic as none of them have ever been offered anything!!!).

The only point that we had was that No. 15 is irrelevant to us as a non-political council, so we would just delete it when adopting a revised code.

Finchampstead Parish Council

Best practice 1: Agree with proposed change.

Best practice 5: No strong view as it rarely affects us, but £100 seems very high. A compromise position of £50 could be appropriate.

Best practice 9: There should still be an informal route for resolving breaches of the code, provided this can progress to a formal review if it cannot be resolved informally. No strong view on whether the outcomes of these informal reviews should be published. Should complaints lodged but not investigated be published, along with the reasons – ref Best Practice 6?

Best practice 11: Agree that there should be a more specific approach rather than leaving it to the Town or Parish Council's discretion. However, it is imperative that a Clerk is able to make a complaint direct rather than having to get the backing of the Chair or the Council, unless the Clerk wishes to do this. Likewise a Councillor should be able to make a complaint direct.

Agree that Town/Parish Councils should take corporate responsibility rather than leaving it to the Clerk, but there has to be some confidentiality, at least at an early stage. It would be unreasonable for a whole Council to know about a complaint against a Councillor at an early stage, particularly if the complaint was from the Clerk. It could be up to the Town or Parish Council how they deal with this, it would be difficult for a Clerk to act independently – they would at least have to involve the Chair, or if the complaint was against the Chair, the Vice Chair. In Finchampstead we would probably use our Finance & General Management Committee, or a Sub-Committee which reports to that Committee.

Ruscombe Parish Council

Ruscombe Parish Council acknowledge this Code of Conduct and agree with it.

Twyford Parish Council

The Council have reviewed the Code of Conduct potential changes and agreed the following:

Best practice 1 – agreed to the proposed changes.

Best practice 5 – a £25 value of declarable gifts.

Best practice 9 – select option 2.

Best practice 11 – approved.

Winnersh Parish Council

Best practice 1 - Winnersh Parish Council fully support that guidance on the use and potential misuse of Social Media should also be included in the Code of Conduct with the statement above.

Best practice 5 - Winnersh Parish Council have concern that raising the limit to £100 and remaining unlimited could result in a large financial sum over a year. The Parish Council recognise that £25 may be deemed as 'low value' and suggest a mid-range of £50 should be introduced with a maximum cumulative limit of £200 in any municipal year.

Best practice 9 - Winnersh Parish Council have concluded that all misconduct should be made public. However, if a Member admits the misconduct then there is no need for an investigation providing the Council is happy that the Member has made a full disclosure.

Best practice 11 - At Winnersh Parish Council the current practice is that Parish Council will take responsibility for all reports of misconduct and has procedures in place through a Committee.

Wokingham Town Council

Best Practice 1 - Agreed

Best Practice 5 - WTC did not feel it needed raising at all, and if it were to be raised, £100 seemed far too high. Based on WTC's discussions, I believe they would support the compromise suggestion of £50. (£100 is notably higher than the equivalent in private companies.)

Best Practice 9 - WTC felt very strongly that not publishing outcomes of confirmed breaches was counter to the Nolan principles, and strongly preferred Option 2.

Best Practice 11 - Agreed with the principle that Town/Parish Councils should take corporate responsibility in general, but that in the case of Clerks making complaints about members of their council, this must absolutely remain as a right of the Clerk to raise their own complaint, rather than requiring the 'sponsorship' of the Council or an individual Councillor.

Woodley Town Council

The Council's Strategy and Resources Committee Members agreed to the proposed Code.

Best Practice 9 - the Committee agreed that it would support option 3. That is "Removing the informal route from the Code of Conduct so that all complaints are resolved via a formal investigation."

WBC Liberal Democrat Group

Best practice 1 - Yes. Social Media behaviour should be treated in the same way as being face to face with people. If you would not do/say something in real life, don't say it on social media.

Best practice 2 - Yes – but what sanctions are available if a Councillor doesn't comply? One of the concerns is that the standards process does not have any ability to apply sanctions to a Councillor.

Best practice 4 - The Complaints process should be clear in assisting the complainant in specifying from the outset, which part of the Code of Conduct has been breached.

Best practice 5 - £100 seems very high. What if you got 3 bottles of wine a month from someone - or an expensive meal out? Ordinarily, a gift from a resident would be a cup of tea and a biscuit – and nowhere near the current £25 limit.

Best practice 6 - The fact that the complaint happened should still be published along with why it was not taken further. We should review the criteria.

Best practice 8 - OK. But, we would consider that elected Councillors should not be involved in this decision, at all.

Best practice 9 – We should not continue with Option 1.

Option 2 should only be taken if it included consultation and agreement by the complainants. It should always include reporting to Council as well along with the names of any guilty Councillors.

Option 3 could prolong things and add work, making things confrontational when they don't need to be. However, a formal investigation must be an option, if the informal process fails.

Best practice 10 - Needs to be reviewed by someone who is neither an officer nor a Councillor to see if it makes sense. No complaint should be processed without specifying what points of the Code of Conduct have been breached.

Best practice 11 - Clerks should continue to be able to make their own complaints directly, along with individual Councillors.

Best practice 13 – OK, but are we clear about when this might need to be invoked e.g. if complaint is about Cabinet member or leader?

Best practice 14 - These should be published on the main Council website in a section on Council-owned companies.

Best practice 15 - There is already a Standards Committee meeting – this is where these things should be discussed, perhaps in a Part II.

Councillor Keith Baker

Best practice 1 – Agree.

Best practice 5 – I am quite neutral on this. Possibly better to leave it at £25.

Best practice 9: I have ranked by preference:

- Option 1 – No.
- Option 2 – Second best option.
- Option 3 – Preferred option.

Best practice 11 – I fully support the proposal.

Councillor Pauline Jorgensen

Best practice 1 - I am not sure why this is necessary, surely the issue is about what is said rather than the medium used? The guidelines should be equally applicable to any public statement including written literature and social media.

Best practice 2 - They should prohibit trivial and malicious allegations by anyone not just councillors, it should include members of public and officers. We need to make that clearer. I am also not in favour of publishing complaints unless they are found proven.

Best practice 5 - No strong opinion, everyone should have to disclose gifts in public not just Councillors, e.g. officers as well.

Best practice 8 - Ok, but I don't think the decision should be just down to one independent person, there is a possibility that they are also biased.

Best practice 9 – Option 1 - would agree with this, if things can be resolved with a retraction or apology which is accepted I see no reason to publish.

Best practice 11 - Is there an appeal process when a Clerk feels they have been badly treated by the Council as a whole or the majority group?

Best practice 13 - I was listening to a debate in the House of Lords. I wonder if officers should also have to declare interests and gifts in the same way as Councillors. They are able to make procurement decisions and I think it would be more transparent if they also had a register of interests.

Councillor Daniel Sargeant

Best Practice 9 - I think that our current position on this is unsustainable. A complaint against a Councillor could be related to a public statement or action. Informal resolution may often be the best way to resolve this, but if the finding is never made public then there is no method to provide a correction to the original discourse.

An example may be Councillor A misrepresenting the actions of Councillor B on social media. The complaint may be upheld, but without being made public, the original comments by Councillor A are never able to be officially refuted. There seems no justice to this and little incentive for Councillor A not to repeat the offence.

Councillor Imogen Shepherd-Dubey

I am largely in favour of the proposed changes to the Constitution.

However, on **best practice 9** - I certainly believe that the informal route should be removed and if someone is guilty, it should be made public.

Our processes should be there to protect the innocent, not the guilty - otherwise the standards process has no threat and Councillors can get away with bad behaviour.

A Parish Councillor

I have one comment on the Code of Conduct, but I'm not so sure it is covered in this remit. Anyway, here goes! When a Councillor moves out of a Parish, or the qualifying area, to be elected a Councillor, then they should resign. This is not covered per se but probably covered indirectly under the 7 areas of Code of Conduct. I would like to see it written down explicitly. It is in the best interests of

our residents that they are represented by people who also live locally and not, for example, live in Devon.

A Parish Councillor

I have a couple of thoughts for the record - when you refer to Best Practice and an "Independent Person " who are or is the adjudication on "conduct" and" best practice" ? That is who will be judge and jury exactly in all this?

Secondly, we are in the midst of revelations of absolutely shocking misconduct by both politicians and officers in positions of high office in the USA. These revelations are coming out fast and furious. So, under such circumstances and if such things were discovered in the UK to be happening too - and unfortunately there might be some indications that this might possibly be the case (though to be fair we don't yet know how much the UK government was involved with the USA related activities) - then for any governmental system, national and local in the UK (or elsewhere too of course) it would be important to refer to the Nuremberg Code - which ignores hierarchy in government and places on everyone who comes across wrong or immoral "orders from on high" to challenge such wrongness no matter where it originated in any hierarchical structure in government (or in society at large of course).

That is to say just "following orders" was no defence in the Nuremberg Tribunals of course. The Nuremberg Code enshrines that principle and the code places great moral responsibility on all.

I personally think it would be intelligent and essential to make reference to the morality of the code in your Best Practice.

The code of course lies above any document you might issue - but I still think it intelligent and essential to make reference to it - as that would show that WBC understands the importance of the code and its enshrined morality with regard to all in public service in the Borough.

A Town Councillor

Further to the recent consultation, I will mull the more complex elements. I agree that the complaints issue is a tricky one and the current situation is unsatisfactory.

In regard to section 5, I firmly disagree that lifting the gifts declaration to £100 is sensible, nor can I think of an argument to raise the cap (but I am open to suggestion). I actually think that the cap should be lowered, I believe that any gift valued at £5 or more should be declared on the basis that we should not be receiving gifts at all.

A Resident

I write, as a Wokingham resident, to provide some feedback on your consultation request on changes to the Code of Conduct for Elected Councillors.

Best practice 1 - I absolutely think that adherence to the Code of Conduct applies to all media, including social media. I would therefore support the change.

Best practice 5 - I find it highly objectionable that the suggested changes proposed include an increase to the threshold for declaration. No justification is given for this change, which in itself comes across as odd - why is this change being proposed? I would have imagined that Councillors would be keen to be, and wanted to be seen to be, promoting the utmost propriety. This proposed change feels at odds with this.

I recognise that it is impractical and inefficient to declare every cup of coffee or sandwich but the £25 rule is easily high enough to accommodate this. One might imagine a case could be constructed to justify an inflationary increase. Even so, £100 today was £25 way back in 1980, accounting for inflation!

Best practice 9 - I would prefer Option 2: that informally resolved complaints are reported at some level. No great detail would be needed, but it would be helpful to know a little more about a topic that is currently insufficiently transparent. Again, this step could go a long way to helping Wokingham Councillors demonstrate their commitment to Nolan's public life principles.

I could not easily find the existing code of conduct. I'd invite you to feed back that:

- a) Its web location should be more easily discoverable, and
- b) If it does not, it should take a view on rights, duties and standards expected with respect to whistleblowing, including related legislation.

A Resident

I would be grateful if you would draw the Committee's attention to the following issues, described below, arising from the Lingard Report, published in 2019, titled "Report of a Review of Planning Enforcement Procedures with regard to Hare Hatch Sheeplands for WBC". An un-redacted version of the report was released by WBC in October 2019, replacing the heavily redacted version published in August 2019.

In fulfilling **best practice 9** - what steps did the Committee take to ensure the recommendation of the Lingard Report for particular Councillors to undergo training related to their role in enforcement activities was properly undertaken?

What training did, in fact, take place? Which Councillors took part? Who conducted the training?

With regard to **best practice 7 and 8**, will the Committee in future ensure that when an investigation is initiated, the Independent Person leading the investigation will not have had any prior role in investigating the same person or organisation?

The author of the Lingard Report, Richard Lingard, conducted his second investigation over the failed prosecution, confirmed by the Court of Appeal, of the

owners of Hare Hatch Sheeplands within 18 months of an earlier investigation by Mr Lingard which had been triggered by criticisms of WBC by the Judge in an earlier hearing at Reading Crown Court. Natural Justice can only be served if the principle of independent review is unswervingly upheld.