

Appendix 1

Review of Members' Code of Conduct

Best practice recommendation	Assessment and/or Comment
<p>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>There is no specific obligation to not bully any person etc. However, the code says that:</p> <p><i>"Members will be expected to comply with the Council's policies on Equality in Employment, Equality in Service Provision and Harassment and Bullying at Work."</i></p> <p>In addition, Members are required to:</p> <p><i>"Always [treat] people with respect, including the organisations and public they engage with and those they work alongside."; and</i></p> <p><i>"[value] colleagues and staff and [engage] with them in an appropriate manner and one that underpins the mutual respect between Members and staff that is essential to good local government."</i></p> <p>Although bullying and harassing conduct will inevitably amount to a breach of the obligation to treat others with respect, they are probably at opposite ends of the spectrum in terms of the range of unacceptable behaviour. Therefore, arguably, it is best practice to impose a specific obligation to not bully or harass any person to better reflect the severity of wrong-doing and the consequences of breach.</p> <p>There is no legal definition of bullying. It may be characterised as offensive, intimidating, malicious, insulting or humiliating behaviour. Such behaviour may happen once or be part of a pattern of behaviour. Amongst other things, bullying behaviour attempts to undermine an individual or group of individuals and it can have a damaging effect on a person's confidence, capability and health.</p> <p>The Equality Act 2010, for example, defines harassment. In broad terms, it is unwanted conduct which has the purpose or effect of violating an individual's dignity and creating an intimidating,</p>

	<p>hostile, degrading, humiliating or offensive environment for that individual.</p> <p>Careful thought would need to be given to listing examples of the sort of behaviour covered by bullying and harassing as, by its very nature, such behaviour can manifest itself in various ways and is highly fact and context sensitive. It is also important to ensure that the examples do not limit the scope of the behaviour intended to be covered by bullying and harassment.</p>
<p>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>The code does not specifically require Members to comply with any formal standards investigations but does require Members to:</p> <p><i>“... co-operate fully with whatever scrutiny is appropriate to their office”;</i></p> <p><i>“be open as possible about their decisions and actions, and those of the Council, be prepared to explain the reasons for those decisions and actions”;</i> and</p> <p><i>“[be] accountable for their decisions and [co-operate] when scrutinised internally and externally, including by local residents”.</i></p> <p>There is no prohibition on making trivial or malicious allegations but there is an obligation to <i>“make all decisions on merit alone”</i>.</p> <p>Consideration should be given to prohibiting vexatious or repeated complaints too.</p>
<p>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 was most recently reviewed in 2017.</p> <p>The Governance Committee is authorised “to advise the authority on the adoption or revision of a code of conduct”. In other words, it is authorised to review the content and operation of the code as and when the need arises.</p>
<p>4. An authority’s code should be readily accessible to both councillors and the public, in a prominent position on a council’s</p>	<p>The code is briefly mentioned on the Council’s website and a link is provided to the code itself.</p> <p>A hard copy of the code can be made available for inspection at Council offices on request.</p>

website and available in council premises.	
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>Gifts and hospitality are published on the Council's website as and when they are registered by Members.</p> <p>Gifts and hospitality declared by Members can be viewed on an individual councillor basis but are not published in a single document.</p>
6. Councils should publish a clear and straightforward public interest test against which allegations are filtered.	The Council's complaints procedure (which is set out in Part 5 of the Constitution) sets out the criteria for assessing or filtering allegations.
7. Local authorities should have access to at least two Independent Persons.	The Council has access to two Independent Persons.
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.	The Council's complaint procedure Code allows (but does not require) the Monitoring Officer to consult an Independent Person before taking a decision as to whether or not an allegation merits reference to an Adjudication and Review Assessment Panel. If the Monitoring Officer decides not to consult, there is no option for the Independent Person to review and comment on allegations which the Monitoring Officer is minded to dismiss as being without merit.
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	The redacted or anonymised minutes of the Adjudication and Review Committee are published on the Council's website.

provisions of the code engaged by the allegations, the view of the Independent Person, the reasoning of the decision-maker, and any sanction applied.	
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.	<p>The code is briefly mentioned on the Council's website and a link is provided to the code itself.</p> <p>The complaints procedure is not mentioned on the Council's website and is only indirectly accessible via the publication of the Constitution.</p>
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.
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.

<p>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>The Council's complaints procedure does not refer to conflicts of interest in terms but does make provision for managing such situations by authorising the Monitoring Officer to conduct an investigation personally or to appoint an investigating officer who may be an officer of another council or an external investigator.</p>
<p>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>The Council's annual governance statement contains a link to the Council's Code of Governance which references Mercury Land Holding.</p> <p>The publication of company documents is a matter for the company. Currently, board agendas and minutes and annual reports are not routinely published by the Council.</p>
<p>15. Senior officers should meet regularly with political group leaders or group whips to discuss standards issues.</p>	<p>The Chief Executive and/or the Monitoring Officer meet with groups leaders (either individually or collectively) to discuss relevant matters (including standards issues) on an ad hoc basis as when the need arises.</p>