

AUDIT & GOVERNANCE COMMITTEE

Thursday 7 March 2019

**STANDARDS REVIEW, INCLUDING DECLARATIONS OF GIFTS / HOSPITALITY,
COMPLAINTS RECEIVED AND OUTSTANDING REGISTER OF INTERESTS FORMS
(REP1900 AND REP1919)**

EXECUTIVE SUMMARY

To consider an update report on standards related matters including offers of gifts / hospitality received by Members and Officers, complaints received, together with outstanding Town and Parish Councillors Register of Interests forms.

Is the report Open or Exempt?	Open
Wards Affected:	All Wards within the District
Cabinet Member:	Councillor Bee Leader of the Council
Supporting Officer:	Hilary Slater Head of Legal and Democratic Services & Monitoring Officer (01394) 444336 hilary.slater@eastsoffolk.gov.uk

1 INTRODUCTION

- 1.1 On 23 May 2012, Full Council agreed that delegated authority be given to the Audit & Risk Management Committee (as it was known at that time – now the Audit & Governance Committee) to agree revised Terms of Reference. The revised Terms of Reference would include the taking on of additional responsibilities related to the demise of the former standards regime and new standards requirements introduced by the Localism Act 2011. Revised Terms of Reference for the Audit, Risk Management & Standards Committee were subsequently approved on 27 November 2012. It was agreed at that time that six monthly update reports on standards issues would be submitted to the Committee. The Audit and Governance Committee of the new, East Suffolk Council will receive a further update report in July 2019.

2 REVIEW OF COMPLAINTS MADE UNDER THE SUFFOLK CODE

- 2.1 The Council adopted the Suffolk Code of Conduct on 25 July 2012. The Suffolk Code was adopted district and county wide. Written complaints may be made to the Monitoring Officer ('MO'), that a Parish, Town or District Councillor has breached the Suffolk Code. A report to the Audit, Risk Management & Standards Committee on 27 November 2012 approved, under delegated powers, a complaints process as to how standards complaints should be handled.
- 2.2 A total of 17 formal complaints have been received since the adoption of the Suffolk Code of Conduct. This was the same number reported to this Committee, in July last year (Report REP1660 refers), and so, no new complaints have been received, since then.
- 2.3 Of all the complaints closed since 2012, only 3 represented potential breaches of the Code of Conduct. These were all managed through informal action via the Monitoring Officer.
- 2.4 In looking at standards and conduct issues, generally, Members may be aware of the Committee on Standards in Public Life (the Committee). This is a national committee which maintains a watching brief on standards, ethics and conduct in the public sector. It takes an interest in local government standards, amongst other things, and regularly receives correspondence on the issue. The Committee published their Annual Report and I include a link to it, below;-
- [https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/626271/Setting the Standard - Strategic Plan Annual Report 2016-17 Forward Plan 2017-18.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/626271/Setting_the_Standard_-_Strategic_Plan_Annual_Report_2016-17_Fwd_Plan_2017-18.pdf)
- 2.5 In their Annual Report 2017-18, the Committee refer to their report of 2013, called "Standards Matter", where they outlined their concerns at the time about the issues that may arise in local government standards following the introduction of the Localism Act of 2011. The Committee has commented that 'The new, slimmed down arrangements (under the Localism Act 2011) have yet to prove themselves sufficient for their purpose. We have considerable doubt that they will succeed in doing so and intend to monitor the situation closely'.

- 2.6 In view of these comments, the Committee carried out a review of local government standards during 2017-18. I said that I would report any outcomes from it. The Committee published its Report on Local Government Ethical Standards on 30.1.19. A link to the report is here:-

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/777315/6.4896_CO_CSPL_Command_Paper_on_Local_Government_Standards_v4_WEB.PDF

- 2.7 The Committee has made a number of recommendations in relation to ethical standards, as a result of their review. The person or body who is responsible for implementing each recommendation (the “Responsible Body” (RB)) is listed after the recommendation. The recommendations are set out in paragraph 11 below.

- 2.8 In launching the Report, Lord Evans, the Chairman of the Committee said:-

“Local government impacts the lives of citizens every day, providing front-line services to those it serves. Its decisions directly affect the quality of life of local people. High standards of conduct in local government are needed to demonstrate that those decisions are taken in the public interest and to maintain the public’s confidence”.

“The evidence we received supports the view that the vast majority of councillors and officers maintain high standards of conduct. There is, however, clear evidence of misconduct by some councillors. Most of these cases relate to bullying or harassment, or other disruptive behaviour. There is also evidence of persistent or repeated misconduct by a minority of councillors.”

“We are also concerned about a risk to standards under the current arrangements, as a result of the current rules around declaring interests, gifts and hospitality, and the increased complexity of local government decision-making.”

“We believe that the benefits of devolved arrangements should be retained, but that more robust safeguards are needed to strengthen a locally determined system. We are also clear that all local authorities need to develop and maintain an organisational culture which is supportive of high ethical standards. A system which is solely punitive is not desirable or effective; but, in an environment with limited external regulation, councils need the appropriate mechanisms in place to address problems when they arise”.

“Our recommendations would enable councillors to be held to account effectively and would enhance the fairness and transparency of the standards process. Introducing a power of suspension and a model code of conduct will enable councillors to be held to account for the most serious or repeated breaches and support officers to address such behaviour, including in parish councils. Strengthening the role of the Independent Person and introducing a right of appeal for suspended councillors will enhance the impartiality and fairness of the process, which is vital to ensure that councillors are protected from malicious or unfounded complaints. And greater transparency on how complaints are assessed and decided in a system which is currently too reliant on internal political party discipline will provide a safeguard against opaque decision-making and provide reassurance to the public”.

- 2.9 For Members' interest and ease of reference, all of the recommendations of the Committee, numbered 1-26, are set out below. It will be interesting to see which, if any, are followed up by the Government, and if so, when.
- 1) The Local Government Association should create an updated model code of conduct, in consultation with representative bodies of councillors and officers of all tiers of local government. RB-Local Government Association
 - 2) The government should ensure that candidates standing for or accepting public offices are not required publicly to disclose their home address. The Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012 should be amended to clarify that a councillor does not need to register their home address on an authority's register of interests. RB-Government
 - 3) Councillors should be presumed to be acting in an official capacity in their public conduct, including statements on publicly-accessible social media. Section 27(2) of the Localism Act 2011 should be amended to permit local authorities to presume so when deciding upon code of conduct breaches. RB-Government
 - 4) Section 27(2) of the Localism Act 2011 should be amended to state that a local authority's code of conduct applies to a member when they claim to act, or give the impression they are acting, in their capacity as a member or as a representative of the local authority. RB-Government
 - 5) The Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012 should be amended to include: unpaid directorships; trusteeships; management roles in a charity or a body of a public nature; and membership of any organisations that seek to influence opinion or public policy. RB-Government
 - 6) Local authorities should be required to establish a register of gifts and hospitality, with councillors required to record any gifts and hospitality received over a value of £50, or totalling £100 over a year from a single source. This requirement should be included in an updated model code of conduct. RB-Government
 - 7) Section 31 of the Localism Act 2011 should be repealed, and replaced with a requirement that councils include in their code of conduct that a councillor must not participate in a discussion or vote in a matter to be considered at a meeting if they have any interest, whether registered or not, "if a member of the public, with knowledge of the relevant facts, would reasonably regard the interest as so significant that it is likely to prejudice your consideration or decision-making in relation to that matter". RB-Government
 - 8) The Localism Act 2011 should be amended to require that Independent Persons are appointed for a fixed term of two years, renewable once. RB-Government
 - 9) The Local Government Transparency Code should be updated to provide that the view of the Independent Person in relation to a decision on which they are consulted should be formally recorded in any decision notice or minutes. RB-Government
 - 10) A local authority should only be able to suspend a councillor where the authority's Independent Person agrees both with the finding of a breach and that suspending the councillor would be a proportionate sanction. RB-Government
 - 11) Local authorities should provide legal indemnity to Independent Persons if their views or advice are disclosed. The government should require this through secondary legislation if needed. RB-Government / all local authorities
 - 12) Local authorities should be given the discretionary power to establish a decision-making standards committee with voting independent members and voting

- members from dependent parishes, to decide on allegations and impose sanctions. RB-Government
- 13) Councillors should be given the right to appeal to the Local Government Ombudsman if their local authority imposes a period of suspension for breaching the code of conduct. RB-Government
 - 14) The Local Government Ombudsman should be given the power to investigate and decide upon an allegation of a code of conduct breach by a councillor, and the appropriate sanction, on appeal by a councillor who has had a suspension imposed. The Ombudsman's decision should be binding on the local authority. RB-Government
 - 15) The Local Government Transparency Code should be updated to require councils to publish annually: the number of code of conduct complaints they receive; what the complaints broadly relate to (e.g. bullying; conflict of interest); the outcome of those complaints, including if they are rejected as trivial or vexatious; and any sanctions applied. RB-Government
 - 16) Local authorities should be given the power to suspend councillors, without allowances, for up to six months. RB-Government
 - 17) The government should clarify if councils may lawfully bar councillors from council premises or withdraw facilities as sanctions. These powers should be put beyond doubt in legislation if necessary. RB-Government
 - 18) The criminal offences in the Localism Act 2011 relating to Disclosable Pecuniary Interests should be abolished. RB-Government
 - 19) Parish council clerks should hold an appropriate qualification, such as those provided by the Society of Local Council Clerks. RB-Parish councils
 - 20) Section 27(3) of the Localism Act 2011 should be amended to state that parish councils must adopt the code of conduct of their principal authority, with the necessary amendments, or the new model code. RB-Government
 - 21) Section 28(11) of the Localism Act 2011 should be amended to state that any sanction imposed on a parish councillor following the finding of a breach is to be determined by the relevant principal authority. RB-Government
 - 22) The Local Authorities (Standing Orders) (England) (Amendment) Regulations 2015 should be amended to provide that disciplinary protections for statutory officers extend to all disciplinary action, not just dismissal. RB-Government
 - 23) The Local Government Transparency Code should be updated to provide that local authorities must ensure that their whistleblowing policy specifies a named contact for the external auditor alongside their contact details, which should be available on the authority's website. RB-Government
 - 24) Councillors should be listed as 'prescribed persons' for the purposes of the Public Interest Disclosure Act 1998. RB-Government
 - 25) Councillors should be required to attend formal induction training by their political groups. National parties should add such a requirement to their model group rules. RB-Political groups National political parties
 - 26) Local Government Association corporate peer reviews should also include consideration of a local authority's processes for maintaining ethical standards. RB-LGA

3 REGISTER OF GIFTS AND HOSPITALITY

- 3.1 The Suffolk Code requires that Councillors declare gifts and hospitality which they have received that are worth at least £25. Under the previous regime, such declarations formed part of the Members' Register of Interests forms and were, therefore, available

for public inspection. In order to make such receipts of gifts and hospitality transparent, the Suffolk Code also requires that the person from whom the Councillor receives the gift or hospitality worth at least £25 be declared as a Local Non-Pecuniary Interest.

3.2 The declarations of gifts and hospitality received are set out in each Councillor’s online Register of Interest.

3.3 In addition, officers are required by the Joint Officer Code of Conduct to declare all gifts and hospitality that they have been offered, declined or accepted. Those relevant to the Waveney District which have been declared since the last report to the Committee in July 2018 are set out below. They do not cause me any concern, as Monitoring Officer.

3.4 Please note that on the advice of the Council’s internal Audit team, we have removed any personal or sensitive data from the information contained below.

Date	Job Title	Hospitality/ Gift to declare	Interested Parties	Value (£)	Additional Info	Declined/ Accepted
07/08/18	Assistant Economic Development Officer	Working breakfast incl hot drinks and buffet lunch	Sponsors of event	£16.50	Part of the REAF Conference, which the East Suffolk Economic Development Team helped organise and set up. Involved briefing the Leader of the council.	Accepted
18/12/18	Senior Housing Needs Officer	Bottle of wine	Contractor who provides gas and electrical checks	£5.00	The wine was left on the officer’s desk so could not be declined immediately. It remains unopened in the office.	Declined
18/12/18	Housing Needs Officer	Bottle of prosecco	Contractor who provides gas and electrical checks	£7.00	The contractor would not allow the officer to decline the gift. HoS confirmed the officer could accept.	Accepted
20/12/18	Programme Manager	Invitation to Norfolk Property Dinner	Consultant	Not known	HoS confirmed event would be good networking opportunity	Accepted

4 TOWN AND PARISH COUNCILLOR REGISTER OF INTEREST FORMS

4.1 Town and Parish Councillors are required to complete Register of Interests forms which must then be displayed on the Waveney District Council website, as well as the Town or Parish’s own website if they have one.

4.2 In August 2018, the Monitoring Officer wrote directly to the 141 Town and Parish Councillors who had not completed a form. The letter was copied to the relevant Town and Parish Clerks. The letter advised Councillors that it was a criminal offence not to complete their Register of Interest forms, and asked them to complete the form within 28 days of receipt of the letter.

- 4.3 The Monitoring Officer will provide an update at the meeting in relation to the number of outstanding Register of Interests forms.

RECOMMENDATION

That the report on standards issues be received and noted.

BACKGROUND PAPERS

Date	Type	Available From
25 July 2012	Council Report - Councillor Code of Conduct and Appointment of Independent Persons	Democratic Services
27 Nov 2012	Audit & Governance Committee Report - Revised Terms of Reference for the Audit and Governance committee	Democratic Services
23 July 2014	Council Report - Appointment of Independent Persons	Democratic Services
Various	Waveney District Councillors' On-line Register of Interests Forms	http://www.waveney.gov.uk/councillors