

NORTH HERTFORDSHIRE DISTRICT COUNCIL



10 June 2022

Our Ref Standards Committee/22 June 2022
Contact. Committee Services
Direct Dial. (01462) 474655
Email. committee.services@north-herts.gov.uk

To: The Chair and Members of the Standards Committee of North Hertfordshire District Council

District Councillors	Councillor Judi Billing MBE (Chair), Councillor Ruth Brown (Vice-Chair), Councillor Claire Strong, Councillor Clare Billing, Councillor David Levett, Councillor James Denselow, Councillor Mandi Tandi, Councillor Raj Bhakar, Councillor Ralph Muncer, Councillor Simon Bloxham and Councillor Val Bryant.
(Substitutes: Councillors	Councillor Alistair Willoughby, Councillor George Davies, Councillor Gerald Morris, Councillor Ian Albert, Councillor Richard Thake and Councillor Sean Prendergast
Parish Councillors	Parish Councillor Rebecca Elliott and Parish Councillor Martin Griffin (Co-opted non-voting Members)
Independent Persons	Nicholas Moss OBE (Independent Person) Peter Chapman and John Richardson (Reserve – Independent Person) – advisory roles

NOTICE IS HEREBY GIVEN OF A

MEETING OF THE STANDARDS COMMITTEE

to be held in the

**COUNCIL CHAMBER, DISTRICT COUNCIL OFFICES,
LETCHWORTH GARDEN CITY**

On

WEDNESDAY, 22ND JUNE, 2022 AT 7.30 PM

Yours sincerely,

Jeanette Thompson
Service Director – Legal and Community

****MEMBERS PLEASE ENSURE THAT YOU DOWNLOAD ALL
AGENDAS AND REPORTS VIA THE MOD.GOV APPLICATION
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Agenda Part I

Item		Page
1. APOLOGIES FOR ABSENCE	Members are required to notify any substitutions by midday on the day of the meeting. Late substitutions will not be accepted and Members attending as a substitute without having given the due notice will not be able to take part in the meeting.	
2. MINUTES - 19 OCTOBER 2021	To take as read and approve as a true record the minutes of the meeting of the Committee held on the 19 October 2021.	(Pages 5 - 8)
3. NOTIFICATION OF OTHER BUSINESS	Members should notify the Chair of other business which they wish to be discussed at the end of either Part I or Part II business set out in the agenda. They must state the circumstances which they consider justify the business being considered as a matter of urgency. The Chair will decide whether any item(s) raised will be considered.	
4. CHAIR'S ANNOUNCEMENTS	Members are reminded that any declarations of interest in respect of any business set out in the agenda, should be declared as either a Disclosable Pecuniary Interest or Declarable Interest and are required to notify the Chair of the nature of any interest declared at the commencement of the relevant item on the agenda. Members declaring a Disclosable Pecuniary Interest must withdraw from the meeting for the duration of the item. Members declaring a Declarable Interest, wishing to exercise a 'Councillor Speaking Right', must declare this at the same time as the interest, move to the public area before speaking to the item and then must leave the room before the debate and vote.	
5. PUBLIC PARTICIPATION	To receive petitions, comments and questions from the public.	
6. STANDARDS MATTERS REPORT REPORT OF THE MONITORING OFFICER	To update the Committee on standards issues.	(Pages 9 - 30)

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Public Document Pack Agenda Item 2

NORTH HERTFORDSHIRE DISTRICT COUNCIL

STANDARDS COMMITTEE

MEETING HELD IN THE COUNCIL CHAMBER, DISTRICT COUNCIL OFFICES, GERNO
ROAD, LETCHWORTH GARDEN CITY
ON TUESDAY, 19TH OCTOBER, 2021 AT 7.30 PM

MINUTES

Present: *Councillors: Councillor Judi Billing MBE (Chair), Clare Billing, Elizabeth Dennis-Harburg, Mike Rice, Claire Strong, Mandi Tandi, Richard Thake*

Town/Parish/Community Councillors: Parish Councillor Rebecca Elliott

Nicholas Moss OBE (Independent Person), Peter Chapman (Reserve Independent Person), non-voting advisory roles

In Attendance: *Jeanette Thompson (Monitoring Officer), William Edwards (Committee, Member and Scrutiny Manager)*

15 APOLOGIES FOR ABSENCE

Audio recording – 1:42

Apologies for absence were received from Councillors Kate Aspinwall, David Levett, Sean Prendergast, Ruth Brown and Sam Collins.

Apologies for absence were also received from John Richardson, Reserve Independent Person, and Parish Councillor Martin Griffin.

Councillor Simon Bloxham advised he would be substituting for Councillor David Levett and Councillor Ian Albert advised he would be substituting for Councillor Kate Aspinwall.

16 MINUTES - 3 MARCH 2021

Audio Recording – 2:26

Councillor Judi Billing proposed, Councillor Mike Rice seconded and it was:

RESOLVED: That the Minutes of the Meeting of the Committee held on 3 March 2021 be approved as a true record of the proceedings and be signed by the Chair.

17 NOTIFICATION OF OTHER BUSINESS

Audio recording – 3:58

There was no other business notified.

18 CHAIR'S ANNOUNCEMENTS

Audio Recording – 4:00

- (1) The Chair welcomed those present at the meeting, especially those who had attended to give a presentation;
- (2) The Chair advised that, in accordance with Council Policy, the meeting would be audio recorded;
- (3) The Chair drew attention to the item on the agenda front pages regarding Declarations of Interest and reminded Members that, in line with the Code of Conduct, any Declarations of Interest needed to be declared immediately prior to the item in question.
- (4) The Chair advised Members that the Council was consulting on its electoral cycle and that details of the consultation could be found on the Council's website.

19 PUBLIC PARTICIPATION

Audio recording – 9:30

There was no public participation at this meeting.

20 STANDARDS MATTERS REPORT

Audio Recording – 10:00

The Monitoring Officer presented the Standards Matters report and drew attention to the following:

- The report covered complaint volume, training undertaken by Members, and the adoption of the new LGA Code of Conduct;
- At the point of upload there had been 41 complaints; there were now 45 complaints;
- These complaints were in relation to Great Ashby Community Council (GACC)
- Five District Councillors had not completed compulsory training and group leaders had been made aware.

The following Members asked questions:

- Councillor Judi Billing
- Councillor Mike Rice
- Councillor Richard Thake
- Councillor Claire Strong

In response to questions the Monitoring Officer advised:

- There had been an attempt to mediate with parties in GACC earlier in the year which had been unsuccessful;
- The Committee was unable to discuss the particulars of any complaint currently ongoing;
- A number of complaints relating to GACC were raised by one person against various other members;
- Only 18 of a possible 200 local council members attended training offered by Paul Hoey on the Code of Conduct and none from GACC;

In response to questions Mr Nicholas Moss, Independent Person, advised:

- The majority of complaints related to parish councils by sheer weight of numbers as there were more parish councillors than District councillors;

- He had observed a tendency in members of the public to lodge complaints against elected members as a way to complain about or challenge decisions taken by them where a more proper recourse would be the electoral process;
- The Monitoring Officer and her team were required to triage complaints that came in and their workload was high.

RESOLVED: That the report of the Monitoring Officer be noted.

21 REVIEW OF COUNCILLOR COMPLAINTS HANDLING PROCEDURE

Audio Recording – 24:04

The Monitoring Officer presented the report entitled “Review of Councillor Complaints Handling Procedure” along with Appendices A and B – Updated Councillor Complaints Handling Procedure (‘clean,’ and with tracked changes respectively).

The Monitoring Officer drew attention to the following:

- The complaints handling procedure was last reviewed in May 2019 and the Council had committed to a review following the adoption of the new code of conduct;
- On the day of this meeting the Local Government Association (LGA) had published their own complaints handling procedure;
- The LGA had not consulted the Council on its procedure and officers had not input to it prior to publication so that document and the procedure proposed at Appendix A had not been compared;
- The procedure at Appendix A was drawn from the Council’s own experience of complaint handling and was a practical document;
- The Council would benefit from having a procedure in place and time for it to bed down before undertaking any further changes, and the LGA procedure would be investigated to see if there was any value in its adoption or adaptation;
- The procedure at Appendix A incorporated a provision for encouraging local resolution where possible which would allow local councils to attempt to resolve issues;
- The procedure also incorporated clearer complaint stages 1-6 and a flowchart to illustrate the process of a complaint.

The following Members asked questions and participated in debate:

- Councillor Richard Thake
- Councillor Judi Billing
- Councillor Claire Strong
- Councillor Mike Rice
- Nicholas Moss, Independent Person

Points raised included:

- Local resolution was a positive goal and should be promoted;
- There were a range of reasons an elected member might cease to hold their position and the phrasing currently couched in the procedure was exclusive of some of those;
- Any changes to the complaints handling procedure made, if delegated power was given, should be brought back to the Committee for members’ information;
- It was unlikely that any changes would be made before the next meeting;

Nicholas Moss, Independent Person proposed that at paragraph 5.13 the words “Similarly, if the Councillor resigns or is not re-elected during...” be amended to “Similarly, if the Councillor ceases to hold office during...” to encompass all possible reasons that a member might cease to hold office.

The Monitoring Officer accepted this amendment to the report.

It was:

RESOLVED: That the Standards Committee adopts the updated Councillor Complaints Handling Procedure at Appendix A (as amended).

The meeting closed at 8.06 pm

Chair

STANDARDS COMMITTEE 22 June 2022

PART 1 – PUBLIC DOCUMENT	AGENDA ITEM No.
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TITLE OF REPORT: STANDARDS MATTERS REPORT

REPORT OF: SERVICE DIRECTOR: LEGAL & COMMUNITY / MONITORING OFFICER

COUNCIL PRIORITY: A brighter future together

1. EXECUTIVE SUMMARY

- 1.1 The report updates Members of the Committee on standards issues locally and nationally. It also includes a compare and contrast with the Complaints Handling Procedure approved by the Committee on 19 October 2021, with the LGA version published that month. It also includes the Government's response to recommendations on Local Government Ethical Standards.

2. RECOMMENDATIONS

- 2.1. That the Committee notes the content of the report.
- 2.2. That the Committee considers the points made at 8.3-8.6 and reviews the Complaints Handling Procedure at its meeting on 23 March 2023.
- 2.3. That the Committee considers / notes the Government's response to the Committee on Standards in Public Life on Local Government Ethical Standards (Appendix A).

3. REASONS FOR RECOMMENDATIONS

- 3.1 To ensure good governance within the Council.

4. ALTERNATIVE OPTIONS CONSIDERED

- 4.1 None.

5. CONSULTATION WITH RELEVANT MEMBERS AND EXTERNAL ORGANISATIONS

- 5.1 Group Leaders and the Standards Committee Chair and Vice Chair are kept informed of Monitoring Officer and standards matters on a monthly basis during briefing sessions. The Monitoring Officer also holds quarterly meetings with the Independent Person, Reserve Independent Persons ('IPs') and the Chair and Vice Chair of Committee.

6. FORWARD PLAN

- 6.1 This report does not contain a recommendation on an Executive key decision and has therefore not been referred to in the Forward Plan.

7. BACKGROUND

- 7.1 Within its terms of reference the Standards Committee has a function "*to promote and maintain high standards of conduct by Members and Co-Opted Members of the authority*".

The Committee will therefore receive update reports from the Monitoring Officer on matters that relate to, or assist with, areas of Member conduct.

8. RELEVANT CONSIDERATIONS

Local

North Hertfordshire complaints/ issues update

- 8.1 The Committee was last updated in October 2021 regarding the numbers of complaints/ summary and outcomes, as is the practice bi-annually. By the end of 2021 the Council had received **52** complaints, 24 of those being from one person. Since the beginning of 2022 we have received **24** complaints of which 19 are from the same person. The link to the previous report can be found by clicking on the attached [[Standards matters report October 2021](#)]. Those mentioned in the previous report that had been concluded at that stage are not covered below. Only new and ongoing complaints are detailed. Once again it is worth pointing out the rates in 2021 (and indeed even now in 2022) compared with *6 in 2020 and 18 in 2019* are high.
- 8.2 As per normal practice an anonymised summary of the *formal* complaints against Councillors are provided (not informal ones). This is compliant with good practice recommendations. The complaints are as follows:

Complaint about: Parish/ Town or District Councillor	Summary of complaint	Action <i>NB Independent Person involved in all stages of these complaints.</i>
3/2021 complaint against a Great Ashby Community Councillor.	Various allegations.	No longer a Councillor so complaint suspended under the Procedure for up to 14 months in the event returns as a Parish Councillor and would then be reassessed if relevant.
20/2021 complaint against Sandon Parish Councillor	Use of social media.	No longer a Councillor so complaint suspended under Procedure for up to 14 months, in the event returns as a Parish Councillor and would then be reassessed if relevant.
27/2021 complaint against a Great Ashby Community Councillor.	Allegations on comments regarding a co-option.	No case to answer.
32/2021 complaint against a District Councillor.	Alleged circulation of confidential material and alleged breach of Data protection.	No case to answer.
33/2021 complaint against Sandon Parish Councillor	Alleged behaviour in a Council meeting.	No case to answer.
34/2021 complaint against a District Councillor	Alleged comments on Facebook re travellers community.	No case to answer, although Councillor apologised and it was recommended that this was put on Facebook.

35/2021 complaint against Sandon Parish Councillor	Alleged behaviour in a Council meeting.	No case to answer.
36/2021 complaint against Sandon Parish Councillor	Alleged behaviour in a Council meeting.	No case to answer.
37/2021 complaint against Sandon Parish Councillor	Alleged behaviour in a Council meeting.	No case to answer.
38/2021 complaint against a Great Ashby Community Councillor.	Alleged that Councillor had acted with another to harass.	No case to answer.
39/2021 complaint against a Great Ashby Community Councillor.	Alleged that Councillor had acted with another to harass.	No case to answer.
40/2021 complaint against a Great Ashby Community Councillor.	Alleged that Councillor had acted with another to harass.	No case to answer.
41/2021 complaint against a Great Ashby Community Councillor.	Alleged bullying & intimidation.	No case to answer.
42/2021 complaint against a Great Ashby Community Councillor.	Attempted to compromise the impartiality of an officer.	No case to answer.
43/2021 complaint against a Great Ashby Community Councillor.	Alleged to have misused power on the staffing committee and misleading HMRC	No case to answer.
44/2021 complaint against a Great Ashby Community Councillor.	Alleged bullying and harassment.	No case to answer.
45/2021 complaint against a Great Ashby Community Councillor.	Issues with the GACC complaints procedure/Register of Interest form not up to date	No case to answer. Form updated.
<i>New Complaints Handling Procedure – local resolution for Parish/ Town and Community before considering.</i>		
46/2021 complaint against a District Councillor.	Linked to a planning application/ customer complaint	Information requested from the complainant 3.11.22. None received, no further action.
47/2021 complaint against a District Councillor.	Linked to a planning application/ customer complaint	Information requested from the complainant 3.11.22. None received, no further action.
48/2021 complaint against a Great Ashby Community Councillor.	Not allegedly treating the complainant fairly nor with respect. Register of Interest form incorrect.	Warrants no further action. Form to be updated if required.
49/2021 complaint against a Great Ashby Community Councillor.	Alleged treatment by Councillors.	Warrants no further action.
50/2021 complaint against a Great Ashby Community Councillor.	Register of Interests form not up to date.	No longer a Councillor at time of the complaint, no further action.
51/2021 complaint against a Great Ashby Community Councillor.	Register of Interests form not up to date.	To update form (updated).

52/2021 complaint against a Great Ashby Community Councillor.	Allegedly unpleasant about the complainant and mislead the Monitoring Officer.	Warrants no further action.
2022		
1/2022 complaint against a Great Ashby Community Councillor.	Not allegedly treating the complainant fairly nor with respect.	Warrants no further action.
2/2022 complaint against a Great Ashby Community Councillor.	Not allegedly treating the complainant fairly nor with respect.	Warrants no further action.
3/2022 complaint against a Great Ashby Community Councillor.	Not allegedly treating the complainant fairly nor with respect.	Warrants no further action.
4/2022 complaint against a Great Ashby Community Councillor.	Not allegedly treating the complainant fairly nor with respect.	Warrants no further action.
5/2022 complaint against a Great Ashby Community Councillor.	Councillor and officer & the Cabal did not have the legal basis to seek to stop complainant for insisting that an order applied	Warrants no further action.
6/2022 complaint against a District Councillor.	Alleged behaviour during a meeting.	Withdrawn.
7/2022 complaint against a Great Ashby Community Councillor.	Alleged Cllr abusing position	Local resolution suggested, failure of which must produce documents and evidence related to allegations. None produced, therefore warrants no further action.
8/2022 complaint against a Great Ashby Community Councillor.	Alleged Cllr failing to treat the complainant with respect.	Local resolution suggested, failure of which must produce documents and evidence related to allegations. None produced, therefore warrants no further action.
9/2022 complaint against a District Councillor.	Ongoing.	Referred for investigation.
10/2022 complaint against a Great Ashby Community Councillor.	Alleged email response of the Councillor.	Further information requested from complainant 28.1.22. If not received, no further action.
11/2022 complaint against a Great Ashby Community Councillor.	Register of Interest Form not completed correctly and missing Disclosable Pecuniary Interests.	Failure to meet notification requirements; however, rectified following notification to the Cllr. No evidence that such failure to notify resulted in any personal benefit, therefore warranted no further action.
12/2022 complaint against a District Councillor.	Allegedly trespassed on land and taken photographs. Promoted an enforcement order to move caravan.	Further information requested, none provided. Warranted no further action.

15/2022 complaint against a Great Ashby Community Councillor.	Complaint about the way the form had been updated by a Cllr – so that it did not look like a new form and sought an apology from the Cllr about this	Warrants no further action as related to 11/2022 and a) looking to complain about where this updated information was on the form and b) seeking an apology – which not part of the 11/2022 determination therefore not appropriate in the circumstances.
16/2022 complaint against a Great Ashby Community Councillor	That Cllr not completed register of interests form accurately/ properly.	Notification requirements met at the point of the complaint (as form had been updated); any prior notification issues – no evidence that this resulted in securing personal benefit therefore warrants no further action.
17/2022 complaint against a Great Ashby Community Councillor	That Cllr not completed register of interests form accurately/ properly.	Failure to meet notification requirements; however, rectified following notification to the Cllr. No evidence that such failure to notify resulted in any personal benefit, therefore warranted no further action.
18/2022 complaint against a Great Ashby Community Councillor	Reference to conflicts with a Cllr from December 2020 and before a Councillor, cross referencing to complaints previously made (2019), claimed should have recused self from dealing with issues. Seeking comments on private neighbour issues.	This relates to conduct pre-dating being a Cllr and private matters therefore no further action.
19/2022 complaint against a Great Ashby Community Councillor	That the Cllr had made an inaccurate statement in May 2021 and behaviour is harassing, intimidating and conferring an advantage or disadvantage.	This is outside of the 3 months limit, and relates back to previous private matters, therefore no further action.
21/2022 complaint relating to a Great Ashby Community Councillor	Rejects the 3/12 complaint restrictions and complaints process.	No further action as this relates to suspended complaint 3/2021.
22/2022 complaint relating to a Great Ashby Community Councillor	Complaint linked to 3/2021.	No further action as this relates to suspended complaint 3/2021.
23/2022 complaint against a District Councillor	Alleged disclosure of confidential information and brought the authority into disrepute.	No case to answer as did not disclose information that was confidential, nor would have brought the authority in to disrepute.
24/2022 complaint against a Great Ashby Community Councillor	Complaint linked to 3/2021 and information related to that being inaccurate.	No further action as this relates to suspended complaint 3/2021. That would be covered in any subsequent investigation.

Complaints Handling Procedure – North Herts Council compared with the LGA Guidance on complaints Handling

- 8.3 As Members are aware, the Committee approved an updated Procedure on 19 October 2021 [\[CLICK HERE\]](#). The LGA had circulated Guidance on Code of Conduct Complaints Handling in October [\[CLICK HERE\]](#), after the Council had undertaken its review and loaded up the report. Unlike the Code of Conduct itself, there had been no consultation (or round table discussion) to consider the form of this.
- 8.4 At the meeting on 19 October, it was agreed that the Council would allow time to bed in the new North Herts Procedure and then if there were changes proposed to the Council's Procedure, as a result of the LGA Guidance, these would be reported back to the Committee (and it unlikely therefore that any changes would be made before this March meeting).
- 8.5 The versions have been compared in the table below (with input from the Independent Person). There are areas covered in the LGA Guidance version which could be included in the North Herts version when next reviewed. These are highlighted below in bold:

North Herts Council	LGA
22 pages and paragraphs numbered. This is a practical procedural guide to how it works.	<i>51 pages; paragraphs not numbered – so hard to find things.</i> <i>Overall, this is a more discursive account of the Procedure and its philosophy woven together.</i>
How to make a complaint.	<i>Similar.</i>
It provide that an early encouragement to seek local resolution for Parish, Town and Community Councils.	<i>Not covered.</i>
Who the Independent Person is and role.	<i>Briefly covered.</i>
How a complaint will be handled and various stages (who what when how and timelines).	<i>Similar.</i> <i>There is reference to a Councillor who is seriously ill being a basis to exclude a complaint.</i> Could add to North Herts Procedure.
Cost and time (3.6 and Appendix 1) are not factored into the Procedure. The closest is at Stage 1 criterion: , ‘... minor/trivial, not serious... ’	<i>Page 9: At Second-stage criteria.</i> <i>‘...In drawing up assessment criteria, authorities should bear in mind the importance of ensuring that complainants are confident that complaints about councillor conduct are taken seriously and dealt with appropriately. They should also consider that deciding to investigate a complaint or to take other action will cost both public money and the officers’ and councillors’ time. This is an important consideration where the matter is relatively minor.....’</i> Could add to North Herts Procedure.
How an investigation will be handled	<i>Similar although more guidance for those who investigate see North Herts*.</i>

*North Herts has templates for gathering information/ witness statements, notices and investigation report.	
What happens if there is a conclusion that there is no evidence following an investigation of a breach of the Code.	<i>Similar.</i>
What happens if the investigator concludes there is a breach – alternative action or Sub-Committee hearing (including case management hearing and final determination hearing).	<i>Similar; however, less detail.</i>
Potential outcomes following a final determination hearing.	<i>Similar.</i>
Flow chart of Procedure and assessment criteria.	<i>No flow charts.</i>
Flow chart of investigation Procedure.	<i>Ditto.</i>
Final Determination hearing Procedure.	<i>Ditto.</i>
Detailed description of the role of the Independent and Reserve Independent Persons.	<i>Not covered.</i>
Some points that North Herts may wish to include when the Procedure is next reviewed	
	<p><i>Page 22: Explains that investigations not subject to Article 6 Human Rights Act (Right to a fair trial); basic point is that investigations are not criminal.</i></p> <p>Could add to North Herts Procedure.</p>
	<p><i>Page 33: Refers to the standard of proof to find a breach on the balance of probabilities.</i></p> <p><i>This is understood by those considering the complaints, however, may be worth adding this to the Procedure.</i></p> <p>Could add to North Herts Procedure.</p>

- 8.6 At this time the Council's updated Procedure is still being bedded in (having only been operative for 7 months). There are a few areas that are covered in the LGA Guidance that could be included in the North Herts Procedure, as shown above; *it is not proposed changing our Procedure at this stage however*, as a further review as to effectiveness should take place after a year. Therefore it is not recommended to change the Procedure again at this stage, as the above areas could be relied upon as LGA guidance until then in any event. This of course is subject to the Committee considering that earlier changes should be made (in line with the above) following this meeting.

Member training

- 8.7 Member training was provided as detailed in the October 2021 meeting; all but two District Councillors have received training provided by Paul Hoey either via zoom or in a recorded version supplied to District Councillors internally via YouTube. *Those Councillors will need to undertake the training detailed in 8.9.*
- 8.8 Otherwise, the LGA ran a round table discussion in January 2022, on draft template training material for the Code of Conduct (attended by the Monitoring Officer). This in theory should have assisted with providing consistent material for all those that have adopted the LGA code / or version of it. That training pack was, however, fairly lengthy and had to be edited down

quite noticeably. Nevertheless an abridged version was used in the post-Election (May 2022) training detailed below.

- 8.9 Induction training was provided in two sessions in May and mandatory for all those re-elected or new Councillors (as per 8.1 of the Code). Of the District Councillors, 12 of the 17 *Councillors required* attended. These were real-time virtual/ in person sessions and one was recorded (other Councillors did attend). The recorded session will be made available to those that did not attend with a time-limit to complete, and this will include the two District Councillors from 2021. This is monitored by the L&D Officers and reported back to the Monitoring Officer.
- 8.10 Training was also provided in two sessions to local Town, Parish and Community Councillors in virtual sessions in May also. Copies of the training slides and attendees were supplied to relevant Clerks to distribute and monitor.

National standards matters

- 8.11 In their meeting from November, the Committee on Standards in Public Life (CSPL) noted that, despite regular reminders, the Department of Levelling Up, Housing and Communities (DLUHC) had not agreed to a meeting to discuss the lack of a government response to Ethical Standards in Local Government, published in 2019. It was agreed that the Chair should write to the DLUHC Secretary of State.
- 8.12 At the December meeting, the CSPL Chair is reported to be meeting with Minister Badenoch, to discuss when a government response might be expected and it was apparently confirmed that a response was in hand (no publication date was provided). The Chair had also received a letter from the DLUHC Secretary of State (in reply to the Chair's letter of 18 November) confirming the same. A link to the CSPL Report (as a reminder) can be found [HERE](#)
- 8.13 A response to the report was provided by the Minister of State for Equalities and Levelling Up Communities (Kimi Badenoch MP), and the responses to the recommendation/ whether further action is appended at A. To attempt to make is clearer, notation has been put to the side by the recommendation as to what if any further action is to be taken by Government or required by North Herts. Those highlighted yellow are for potential further consideration by Government.

9. LEGAL IMPLICATIONS

- 9.1 The terms of reference of the Standards Committee include, at paragraph 7.5.1 of their terms of reference "to promote and maintain high standards of conduct by Members and Co- Opted Members of the authority".

10. FINANCIAL IMPLICATIONS

- 10.1 There are no capital or revenue implications arising from the content of this report.

11. RISK IMPLICATIONS

- 11.1 Appropriate policy frameworks help to ensure good governance of the Council and therefore reduce risk of poor practice or unsafe decision making.

12. EQUALITIES IMPLICATIONS

- 12.1 In line with the Public Sector Equality Duty, public bodies must, in the exercise of their functions, give due regard to the need to eliminate discrimination, harassment, victimisation,

to advance equality of opportunity and foster good relations between those who share a protected characteristic and those who do not. There are no direct equalities implications from this report.

- 12.2 Good governance and high ethical standards of conduct ensure that local government decisions are taken in the public interest. The review of the best practice recommendations and appropriate changes will ensure that NHDC will continue demonstrate due regard to the objectives of the Public Sector Equality duty.

13. SOCIAL VALUE IMPLICATIONS

- 13.1 The Social Value Act and “go local” policy do not apply to this report as this is not a procurement or contract.

14. ENVIRONMENTAL IMPLICATIONS

- 14.1 There are no financial implications to this report.

15. HUMAN RESOURCE IMPLICATIONS

- 15.1 None other than again highlighting the ongoing resource implications for the complaints received.

16. APPENDICES

- 15.1 Appendix A DfLUH&C response to Committee on Standard in Public Life recommendations on Local Government Ethical Standards.

17. CONTACT OFFICERS

- 16.1 Jeanette Thompson Service Director: Legal and Community (& Monitoring Officer):
Jeanette.thompson@north-herts.gov.uk ext. 4370

18. BACKGROUND PAPERS

- 17.1 None other than those referred to/ linked above.

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**Department for Levelling Up,
Housing & Communities**

Kemi Badenoch MP

*Minister of State for Equalities and Levelling Up
Communities*

**Department for Levelling up, Housing and
Communities**

Fry Building
2 Marsham Street
London
SW1P 4DF

Lord Evans of Weardale, KCB, DL
Chair Committee on Standards in Public Life
Room G07
1 Horse Guards Road
London
SW1A 2HQ

Email: kemi.badenoch@levellingup.gov.uk

www.gov.uk/dluhc

Dear Lord Evans,

On behalf of the Government, I would like to thank the Committee on Standards in Public Life for its report and the recommendations arising from its review of Local Government Ethical Standards, and to all those who engaged with the Committee's work. Attached is the Government response to the Committee's individual recommendations that were directed at Government.

Vibrant local democracies flourish where the reputation of the local authority is held in high regard, where councillors' decision-making is transparent, valued and trusted by the communities they serve, and where people are willing and confident to put themselves forward as potential candidates. The standards and conduct framework within which local authorities operate must drive out corruption and promote commitment to the principles on standards in public life, and tolerance to the differing views of others. In responding to the review, the Government has taken into account the importance of protecting free speech and freedom of association within the law.

The Government is committed to working with local authorities and their representative organisations to ensure that local government is supported in reinforcing its reputation for ethical local standards.

The fact that this review had been conducted in such a collaborative way with the sector has been apparent from the outset and is borne out in the final report. I am keen that Government builds on the sector-wide enthusiasm for improvement.

The Government agrees with the Committee's conclusion that there have been benefits from local authorities being responsible for ethical standards, including the flexibility and

discretion to resolve standards issues informally. However, we also recognise the role of Government in ensuring that the system is robust.

The number of requests for legislation in the Committee's recommendations to strengthen the standards and conduct framework and its safeguards is considerable. As indicated in this response, the Government believes that some of these suggestions do not need a legislative response but can be more appropriately, effectively, and swiftly taken forward by local authorities as best practice. The Committee will recognise that the Government and Parliament has taken a different view on these matters when it legislated for the Localism Act 2011.

I thank the Committee for their work on the review and for their patience whilst Government carefully considered their recommendations, and I personally look forward to continuing to work with you as Government progresses the commitments made in this response with the sector.

Yours sincerely,

A handwritten signature in black ink, reading 'Kemi Badenoch'. The signature is fluid and cursive, with the first letters of 'Kemi' and 'Badenoch' being capitalized and prominent.

KEMI BADENOCH MP

**Minister of State for Equalities
and Levelling Up Communities**

Government response to the Committee on Standards in Public Life review of local government ethical standards

This Government response confines itself to the Committee's recommendations directed at Government, other than with regards to the first recommendation. The response to recommendations 10, 12, 13, 14 and 16 have been grouped together and therefore appear out of numerical order below.

Recommendation 1

Completed and LGA model issued.

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.

The Localism Act 2011 states that relevant authorities must promote and maintain high standards of conduct by members and co-opted members. It requires these authorities to adopt a code of conduct for their councillors.¹ Authorities can determine the content of their own code of conduct. However, codes must conform to the seven 'Nolan' principles of standards in public life: selflessness, integrity, objectivity, accountability, openness, honesty, and leadership. Relevant authorities for the purposes of these requirements include local authorities in England, namely county councils, district councils, London borough councils and parish and town councils.

It is for individual councils to set their own local code, in line with the Act. The Government has previously published a light-touch illustrative code of conduct.

The Local Government Association has worked with sector representative bodies to update its own suggested code of conduct, with the intention that this new suggested code could establish a consistent benchmark that local authorities can amend or add to as they see fit to reflect local circumstances and priorities. The Local Government Association published the updated code of conduct in January 2021. However, it remains a local decision on whether this model code is adopted.

Recommendation 2

To be considered by Government.

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.

¹ References to councillors in this document also should be deemed to include elected mayors.

This issue was brought up in the Committee's work on intimidation in public life, and the Government has already taken forward several steps in this regard. The Government is open and receptive to further steps to help prevent intimidation.

The Government agrees with the principle behind this recommendation – which safeguards elected representatives - and considers amending the Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012 would be an option to achieve it.

The Government will engage with interested parties on the best means to ensure that candidates and councillors are not required publicly to disclose their home address.

Notwithstanding, it is important that home addresses are internally registered with monitoring officers, to help avoid conflicts of interest.

Recommendation 3 No action proposed by Government.

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.

The Government's view is that it is for individual local authorities to consider if their code of conduct is adequate in addressing the issue of inappropriate use of social media.

As the Government outlined to Parliament in March 2021 on tackling intimidation in public life: 'It is important to distinguish between strongly felt political debate on the one hand, and unacceptable acts of abuse, intimidation and violence on the other. British democracy has always been robust and oppositional. Free speech within the law can sometimes involve the expression of political views that some may find offensive': a point that the Government has recognised in a Department for Education policy paper². But a line is crossed when disagreement mutates into intimidation, which refuses to tolerate other opinions and seeks to deprive others from exercising their free speech and freedom of association.'

It is important to recognise that there is a boundary between an elected representative's public life and their private or personal life. Automatically presuming (irrespective of the context and circumstances) that any comment is in an official capacity risks conflating the two.

² Higher education: free speech and academic freedom Feb 2021

<https://www.gov.uk/government/publications/higher-education-free-speech-and-academic-freedom>

Recommendation 4

No action proposed by Government. LGA model covers and North Hert's has adopted this.

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.

The Government agrees that local authority elected representatives should act in good faith in the public interest and not seek to influence decisions for personal gain, for malicious intent or to further the interests of any business or any other organisations which they may be affiliated with.

The Local Government Association have updated their [own suggested code of conduct](#) to state that the code applies when "[a member's] actions could give the impression to a reasonable member of the public with knowledge of all the facts that [they] are acting as a [member]".

It is for individual local authorities to ensure that their codes of conducts are regularly updated, comprehensive and fit for purpose. Elected members receive the necessary training to make them aware of their personal responsibilities in upholding the code.

The Government will keep this matter under review but has no immediate plans to amend the regulations.

Recommendation 5

Government to keep under review

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.

The electorate must have confidence that the decisions of their elected representatives are being made in the best interests of the community they have been elected to serve. Unpaid roles may need to be declared if it is relevant to council business, and councillors should recuse themselves if necessary if discussions relate to private bodies, they are involved in.

The Government is mindful that councillors have a right to a private life, and rights of freedom of association outside their role as a councillor. It is frequently the case that people in public life have a complex pattern of interests and play a variety of roles with different types of organisations, including community interest groups and charities.

The Government will keep this matter under review but has no immediate plans to amend the regulations.

Recommendation 6

No action proposed by Government. LGA model covers and North Hert's has adopted this.

Local authorities should be required to establish a register of gifts and hospitality, with councillors required to record 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.

The Local Government Association's suggested code of conduct published in January 2021 includes a requirement for members to "register... any gift or hospitality with an estimated value of at least £50". However, it did not contain any requirements relating to the total value of gifts or hospitality received from the same source over a sustained period.

Local authorities have the autonomy to set gifts and hospitality requirements in their own codes of conduct. The Government accepts that there is merit in best practice guidance on the thresholds for gifts and hospitality and agrees that a register of gifts and hospitality should be publicly available.

Recommendation 7

No action proposed by Government, will keep under review. LGA model covers and North Hert's has adopted this.

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 the matter".

Section 31 of the Localism Act 2011 requires that a councillor must not participate in a discussion or vote on a matter where they have a disclosable pecuniary interest in any matter to be considered at the meeting. Section 30(3) of the Localism Act 2011 further provides that any relevant pecuniary interests of a councillor's spouse or partner are considered as a disclosable pecuniary interest of the councillor.

The Committee's report reflects concerns that the disclosable pecuniary interest arrangements infringe on the privacy of a councillor's spouse or partner. Where there would be a potential conflict of interest, the principle of integrity requires that any such interests should nevertheless be declared and resolved.

The Government will keep this matter under review but has no immediate plans to repeal Section 31 of the Localism Act 2011.

Recommendation 8

No action required as North Hert's processes cover this.

The Localism Act 2011 should be amended to require that Independent Persons are appointed for a fixed term of two years, renewable once.

The Government does not accept this recommendation as appropriate for legislation on the basis that it would be likely to be unworkable. The Government's view is that it would be more appropriately implemented as a best practice recommendation for local authorities.

In principle, it may be attractive to limit the terms Independent Persons serve to keep their role and contribution "fresh" and avoid them becoming too closely affiliated with the overriding organisational culture. However, discussions with Monitoring Officers indicate that in practice most local authorities would likely find servicing this rate of turnover unachievable. There is frequently a small pool of people capable and willing to undertake the role, who also fit the stringent specifications of being amongst the electorate, having no political affiliation, no current or previous association with the council, and no friends or family members associated with the council.

When local authorities have found effective Independent Persons who demonstrate the capability, judgement and integrity required for this quite demanding yet unpaid role, it is understandable that they may be reluctant to place limitations on the appointment.

Recommendation 9

No action required by North Herts, as decision notice/ letter records their involvement.

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.

The Government does not agree with this. The Local Government Transparency Code is a statutory requirement to publish information; it does not regulate the content of councils' minutes or decision notices.

The substantive policy suggestion has merit but will depend on circumstances. In cases where there is no case to answer from an unfounded complaint, it should not necessarily be a legal requirement to publish details of that unfounded complaint.

Recommendation 10

No action proposed by Government.

A local authority should only be able to suspend a councillor where the authority's Independent Person agrees both with the finding or a breach and that suspending the councillor would be a proportionate sanction.

Recommendation 12

No action proposed by Government/ no response.

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.

Recommendation 13

No action proposed by Government.

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.

Recommendation 14

No action proposed by Government.

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, an appeal by a councillor who has had a suspension imposed. The Ombudsman's decision should be binding on the local authority.

Recommendation 16

No action proposed by Government

Local authorities should be given the power to suspend councillors, without allowances, for up to six months.

There is no provision in current legislation for a sanction to suspend a councillor found to have breached the code of conduct, and this was a deliberate policy decision by the Coalition Government at the time of the Localism Act 2011 to differentiate from the previous, failed Standards Board regime. The Standards Board regime allowed politically motivated and vexatious complaints and had a chilling effect on free speech within local government. These proposals would effectively reinstate that flawed regime.

It would be undesirable to have a government quango to police the free speech of councillors; it would be equally undesirable to have a council body (appointed by councillors, and/or made up of councillors) sitting in judgment on the political comments of fellow councillors.

On the rare occasions where notable breaches of the code of conduct have occurred, local authorities are not without sanctions under the current regime. Councillors can be barred from Cabinet, Committees, or representative roles, and may be publicly criticised. If the elected member is a member of a political group, they would also expect to be subject to party discipline, including being removed from that group or their party. Political parties are unlikely to reselect councillors who have brought their group or party into disrepute. All councillors are ultimately held to account via the ballot box.

As part of the Government's response to the Committee's report on intimidation in public life, the Government recommended that every political party establish their own code of conduct for party members, including elected representatives.

The Government will engage with sector representative bodies of councillors and officers of all tiers of local government to seek views on options to strengthen sanctions to address breaches of the code which fall below the bar of criminal activity and related sanctions but involve serious incidents of bullying and harassment or disruptive behaviour.

Recommendation 11

No action required by North Hert's as Independent Persons covered by insurance/ indemnity

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.

The Government agrees in principle.

Initial soundings with the sector indicate that some local authorities already provide legal indemnity for Independent Persons.

The Government endorses providing legal indemnity for Independent Person as local authority best practice but does not currently see the need to require this through secondary legislation.

Recommendation 15

Standards Matter report covers this/ as does the annual report

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.

The Government believes that this is better addressed through the sector adopting as best practice a regular pattern of annual reporting by Standard Committees of the cases and complaints handled and would encourage this as best practice by the sector.

The Government does not believe that there is a requirement to prescribe to local authorities the form and content of such Standard Committee annual reports.

Recommendation 17

Government to consider.

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.

The criminal law, overseen by the police and courts, provides for more appropriate and effective action against breaches of public order, for anti-social behaviour, and against harassment.

The occasion where councils would seek to bar councillors from council premises are thought to be extremely rare. We will consider this further.

Recommendation 18

No action proposed by Government.

The criminal offences in the Localism Act 2011 relating to Disclosable Pecuniary Interests should be abolished.

It is a criminal offence to fail to declare pecuniary interests, which acts as a strong deterrent against corruption.

The Government does not agree with this recommendation, but rather believes the criminal offence of a non-disclosure of pecuniary interest to be a necessary and proportionate safeguard and deterrent against corruption.

The high bar of police involvement has served to discourage politically motivated and unfounded complaints.

Recommendation 20

No action proposed by Government.

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.

The Government does not agree that this is necessary and has no plans to repeal Section 27(3) of the Localism Act 2011.

The Government considers that the adoption of the principal authority's code or the new model code is a matter for local determination.

There are merits in achieving consistency within principal authority areas to eliminate potential confusion amongst constituents and elected members but there may be instances where a parish council may want to add to the code of their principal authority to reflect local circumstances.

Recommendation 21

No action proposed by Government.

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.

The Government has no current plans to repeal Section 28 (11) of the Localism Act 2011 but will give this matter further consideration.

Recommendation 22

Government to consider.

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.

The three statutory officers in local government are the Monitoring Officer, the Head of Paid Service (Chief Executive) and the Chief Finance Officer (often referred to as the Section 151 Officer).

Under the current disciplinary arrangements for statutory officers, any decision to dismiss a statutory officer must be taken by full council, following a hearing by a panel that must include at least two Independent Persons. The Committee consider that the disciplinary protections for statutory officers should be enhanced, by extending disciplinary protections to all disciplinary actions (such as suspension or formal warnings), not just dismissal.

The Government agrees in principle with this recommendation and recognises this will be pertinent to Monitoring Officers who may not necessarily be afforded the same seniority in the organisational hierarchy of a local authority as the two other statutory officers (Head of Paid Service and the Section 151 Officer), and who may be subject to personal pressures when conducting high profile breach of conduct investigations.

The Government will engage with sector representative bodies of all tiers of local government to seek views on amending the Local Authorities (Standing Orders) (England)(Amendment) Regulations to provide disciplinary protections for statutory officers.

Recommendation 23

Will consider when North Hert's Policy is reviewed in December.

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.

The Government agrees with the principle that openness is essential.

Most local authorities already publish their whistleblowing policy, procedures and a named contact on their websites, and Government is recommending that this is adopted as a best practice recommendation.

The Government published the UK National Action Plan for Open Government 2021 – 2023 in January 2022. This includes a commitment on local transparency.³ The Department for Levelling Up Housing and Communities (DLUHC) will work with the local government community to develop a set of specific actions to advance transparency in the sector. DLUHC will support local government to solidify their transparency policies and processes and encourage proactive publication of open data across councils.

Recommendation 24

No action proposed by Government.

Councillors should be listed as ‘prescribed persons’ for the purposes of the Public Interest Disclosure Act 1998.

Prescribed persons are individuals or organisations that a worker may approach outside their workplace to report suspected or known wrongdoing and still be protected by the rights afforded to them under whistleblowing legislation. They are prescribed by an order made by the Secretary of State (for Business, Energy and Industrial Strategy) for this purpose. A complete list of prescribed persons is available here: <https://www.gov.uk/government/publications/blowing-the-whistle-list-of-prescribed-people-and-bodies--2>.

Local councillors would not meet the criteria of being external to an individual’s workplace in relation to matters affecting the council and could therefore not be considered as a ‘prescribed person’ for the purposes of the Public Interest Disclosure Act 1998. Disclosures relating to local authorities can be made to the external auditor of the relevant authority, the Comptroller and Auditor General (National Audit Office), or a Member of Parliament.

However, the Government recognises that this may provide a further check and balance against council corruption or wrongdoing and is open to further representations on the matter on how local accountability can be strengthened in this regard.

³ <https://www.gov.uk/government/publications/uk-national-action-plan-for-open-government-2021-2023/uk-national-action-plan-for-open-government-2021-2023#local-transparency>