STANDARDS COMMITTEE

ANNUAL REPORT
2018/19

To be considered at the Council Meeting on 21 May 2019
FOREWORD BY CHAIRMAN OF STANDARDS COMMITTEE

This report provides a summary of the Standards Committee's activities and standards issues in 2018/19.

I first became the Chairman of the Standards Committee in July 2012 and that was at a time of great change for the Standards regime, with a new Code and localised procedures. Following the review of Local Government Ethical Standards by the Committee in Standards in Public Life during 2018 and report in 2019 – it is possible that the Standards regime (and Code of Conduct) will change, once again, with the potential for stronger sanctions being applied, such as a return of suspension of Councillors if they are found to have breached the Code of Conduct. Whether the recommendations are accepted by Government and put into place or not, I am in no doubt that the Standards Committee will continue to promote and maintain high standards of conduct and that Councillors will try to uphold the Codes and governance safeguards put in place by their authorities (District, Parish, Town and Community).

I would like to again thank our Independent Persons Nicholas Moss and Peter Chapman, Monitoring Officer and Deputy Monitoring Officers for their work on complaints, Complaint Handling Procedure and other standards related matters during the year.

Councillor Mike Rice
Chairman of the Standards Committee
May 2019
1. **Introduction**

1.1 This Annual Report of the Standards Committee covers the civic year 2018/19.

1.2 Members will be aware that changes were implemented to the Standards regime nearly 7 years ago in July 2012 following the enactment of the Localism Act 2011. The Council adopted its own Code of Conduct (NHDC Code) then and retained a Standards Committee to oversee Councillor conduct. Each Parish, Town and Community Council also adopted their own Codes, with the overall responsibility for dealing with Councillor complaints resting with the District Council and its Monitoring Officer.

1.3 The NHDC Code was reviewed in 2013 and in 2017 and amendments approved to the Code and the Register of Interests process that applied from 4 May 2018.

1.4 The Council has had an Independent Person, Nicholas Moss and a Reserve Independent Person, Peter Chapman since July 2012 (‘Independent Persons’). Their role is to provide independent input into the standards process, relevant policies, guidance and views on complaints as required by the Localism Act 2011. They also have a wider role to potentially advise on disciplinary recommendations relating to Statutory Officers under the provisions of The Local Authorities (Standing Orders) (England) (Amendment) Regulations 2015.

2. **Role of the Standards Committee**

2.1 The Standards Committee has oversight of the conduct and probity of Councillors. Its responsibilities are set out in Section 7.5 of the Council's Constitution and are:

1. to promote and maintain high standards of conduct by Members and Co-opted Members of the authority;
2. to advise and assist Parish Councils and Councillors to maintain high standards of conduct and to make recommendation to Parish Councils on improving standards or actions following a finding of a failure by a Parish Councillor to comply with its Code of Conduct;
3. to conduct hearings on behalf of the Parish Council;
4. to advise the Council on the adoption or revision of the Members’ Code of Conduct;
5. to receive referrals from the Monitoring Officer into allegations of misconduct in accordance with the authority assessment criteria;
6. to receive reports from the Monitoring Officer and assess the operation and effectiveness of the Members’ Code of Conduct;
7. to advise, train or arrange to train Members and Co-opted Members on matters relating to the Members’ Code of Conduct;
8. to assist Councillors and Co-opted Members to observe the Members’ Code of Conduct;
9. to hear and determine complaints about Members and Co-Opted Members referred to it by the Monitoring Officer;
10. to advise the Council upon the contents of and requirements for codes/ protocols/ other procedures relating to standards of conduct throughout the Council;
11 to review and approve the Council’s arrangements for dealing with complaints about Member conduct (subject to: minor amendments delegated to the Monitoring Officer in consultation with the Independent Person);
12 to inform Council and the Chief Executive of relevant issues arising from the determination of Code of Conduct complaints;
13 to hear and determine appeals against refusal to grant dispensations by the Monitoring Officer pursuant to s33 of the Localism Act 2011;
14 to deal with applications for exemption from political restriction or to consider whether to include a post within the list of politically restricted posts.

3. Members of the Committee
3.1 The Committee has 14 members comprising twelve District Councillors and 2 non-voting co-opted Parish/ Community Councillors. The Independent Persons also attend the meetings in an advisory and non-voting capacity. In 2018/19, the membership was:

Councillor Mike Rice (Chairman)
Councillor David Levett (Vice-Chair)
Councillor Kate Aspinwall
Councillor David Barnard
Councillor Clare Billing
Councillor Judi Billing MBE
Councillor Paul Clark
Councillor Julian Cunningham
Councillor Steve Deakin-Davies
Councillor Bernard Lovewell
Councillor Michael Muir
Councillor Terry Tyler

(In addition there was a pool of six substitutes that could be used if a District Councillor was unable to attend and these were: Councillor Ian Albert, Councillor Sam Collins, Councillor Ian Moody, Councillor Deepak Sangha, Councillor Harry Spencer-Smith and Councillor Michael Weeks.

Co-opted, non-voting, Members:-
- Parish Councillor Helena Gregory (Codicote)
- Community Councillor Gary Hills (Great Ashby).

4. Monitoring Officer/Support to the Committee
4.1 The Council’s Monitoring Officer is Jeanette Thompson, who was formally appointed on 17 May 2018 by Full Council, having been Acting Monitoring Officer since 23 November 2017. The Monitoring Officer is a statutory position under the Local Government & Housing Act 1989 and the role is to:-
- Support the Standards Committee and the Independent Persons;
- Contribute to the promotion and maintenance of high standards of conduct within the Council;
- Maintain systems and processes for dealing with allegations of breaches of the Councillor Code of Conduct;
• Investigate, or appoint someone to investigate, allegations of breaches of the Councillor Code of Conduct and report these, where relevant to the Standards Sub-Committee;
• Maintain the Councillors’ Registers of interests;
• Act as a point of contact for advice and/or queries raised by Councillors;
• Organise training for Councillors on conduct-related and decision making matters;
• Maintain, reviewing and updates the Constitution for approval by Full Council;
• Advise on various issues, including legality, administrative and governance matters;
• Keep under review various governance-related policies, such Gifts and Hospitality, Conflicts of Interest and Whistleblowing;
• Consider and may investigate whistleblowing concerns.

4.2 Further support to the Committee is provided by James Ellis and Gavin Ramtohal – Deputy Monitoring Officers, the Service Director’s PA and the Committee, Member and Scrutiny Services team.

4.3 The Council is required by the Local Government and Housing Act 1989 to provide the Monitoring Officer with “such staff, accommodation and other resources as are, in their opinion, sufficient to allow those duties to be performed”. Additional resources or referrals may be required, and the Monitoring Officer has confirmed that she has the necessary resources to meet the requirements of the role and/ or confidence that resources will be provided to deal with situations, should complex or conflicting circumstances arise.

5. Complaints

5.1. The Procedure for handling Councillor Complaints was reviewed and amended in 2019¹, following the Committee on Standards in Public Life (CSPL) report on Local Government Ethical Standards², and Standard Committee resolution to:
• Make it clear that the Independent Person will be involved when a formal complaint is received and consulted pre-investigation (the legal requirements are that they may be consulted prior to an investigation – so it now extends beyond the statutory requirement);
• Update the NHDC Complaints assessment criteria to incorporate a more obvious public interest test.

Further clarification was also provided in the Procedure as to the role of the Reserve Independent Person and what assistance they can provide to a Councillor who is subject to a complaint.

5.2. As further changes to the national regime may be forthcoming, a more extensive review was not undertaken (as this may be required in 2019/ 20 – pending the Government’s response to the CSPL report).

¹ https://www.north-herts.gov.uk/home/customer-services/complaining-about-councillor
5.3. During 2018/19 the following 14 formal complaints were raised concerning:

<table>
<thead>
<tr>
<th>Complaint about: Parish/ Town or District</th>
<th>Summary of complaint</th>
<th>Action</th>
</tr>
</thead>
<tbody>
<tr>
<td>Sandon Parish Councillors (against 3 one complainant)</td>
<td>Alleged conflict of interest regarding premises licence application.</td>
<td>No case to answer/ no breach.</td>
</tr>
<tr>
<td>District Councillor* (*same alleged conduct, different complainant)</td>
<td>Alleged conflict of interest regarding premises licence application and conduct.</td>
<td>No case to answer/ no breach.</td>
</tr>
<tr>
<td>District Councillor</td>
<td>Allegations of failure to declare a DPI, and other related offences, which had previously been considered by the Monitoring Officer and IP – no case in December 2017/ January 2018. Cllr self-referred to police when further allegations made in or around February 2018. Further repeat allegations made in May 2018. Police found no DPIs that should have been disclosed or declared. Following repeat of allegations on or around November 2018 raised by complainant directly by Police.</td>
<td>No DPI found to declare, not committed any offences under the Localism Act. No action proposed.</td>
</tr>
<tr>
<td>District Councillor*</td>
<td>Alleged conflict of interest regarding premises licence application and conduct of meeting.</td>
<td>No case to answer/ no breach.</td>
</tr>
<tr>
<td>District Councillor*</td>
<td>Alleged conflict of interest regarding premises licence application and conduct of meeting.</td>
<td>No case to answer/ no breach.</td>
</tr>
<tr>
<td>District Councillors (same complaint against 2 Councillors)</td>
<td>Conduct and alleged bullying.</td>
<td>No case to answer/ no breach.</td>
</tr>
<tr>
<td>District Councillor</td>
<td>Alleged brought office into disrepute, use of position and acted unreasonably to prejudice a decision.</td>
<td>No case to answer/ no breach.</td>
</tr>
<tr>
<td>District Councillor</td>
<td>Alleged intimidation and bullying.</td>
<td>No case to answer/ no breach.</td>
</tr>
<tr>
<td>Royston Parish Councillor</td>
<td>Allegation of bullying and inappropriate behaviour in a meeting.</td>
<td>No case to answer/ no breach.</td>
</tr>
<tr>
<td>Royston Town Councillor</td>
<td>Alleged that breach of data protection / sensitive information released. Failure to remove things from Facebook. Failure to show respect. Abuse of position.</td>
<td>No case to answer/ no breach.</td>
</tr>
<tr>
<td>Pirton Parish Councillor</td>
<td>Alleged bullying and intimidatory behaviour amounting to a breach of the Parish Council's Code of Conduct.</td>
<td>No case to answer/ no breach.</td>
</tr>
<tr>
<td>District Councillor</td>
<td>Alleged breach re comments on Facebook</td>
<td>Complaint withdrawn.</td>
</tr>
</tbody>
</table>
6. **Matters considered by the Committee**

*Department for Communities and Local Government (DCLG)*

**consultation on disqualification criteria for Councillors:**

6.1. The Committee had previously responded via the Monitoring Officer to the (then) DCLG consultation on changes to Councillor disqualification criteria for Councillors and Mayors. The outcome was reported in October 2018, and the Government confirmed that they would be seeking to legislate to ensure that individuals are disqualified from standing for office as local authority Members or Mayors where behaviour has led to a conviction or enforcement action resulting in an individual being subject to one or more of the following:

- the notification requirements in the Sexual Offences Act 2003;
- a Sexual Risk Order;
- a civil injunction;
- a Criminal Behaviour Order.

6.2. The Standards Committee questioned the use of the term “civil injunction” – which would appear extensive, and the Government’s explanation of this was:

“The Government considers that an individual who is subject to an anti-social behaviour sanction issued by the court, i.e. a Civil Injunction, (made under section 1 of the Anti-social Behaviour, Crime and Policing Act 2014) or a Criminal Behaviour Order (made under section 22 of the Anti-social Behaviour, Crime and Policing Act 2014) should be barred from standing for election, as a local authority member, directly-elected mayor or member of the London Assembly. Their disqualification period would end once they were no longer subject to the injunction or Order.”

6.3 Therefore the type of civil injunction would be limited to those issued for Anti-Social Behaviour under the 2014 Act.

6.4 No further implementation dates have been detailed at this stage.

**Committee on Standards in Public Life review of ethical standards in local government report 30 January 2019²:**

6.5 The CSPL published its report and 26 recommendations on ethical standards in local government, following a year-long review and wide consultation. Key issues and recommendations include the following. Further details can be found in the Standards Committee report or detailed CSPL report⁴:

- **New non-mandatory Model Code.**
  - to widen the definition of interests and include Gifts and Hospitality.

⁴ STANDARDS MATTERS AND RECOMMENDATION ON BEST PRACTICE CHANGES

ANNUAL COUNCIL (21.5.19)
- to amend Regulations so that Councillors do not need to register their home address on an authority’s register of interests. [NB still required at this stage]

**Investigations and safeguards:** maintain a Standards Committee and this should include Independent members, Parish representation with voting rights (as well as Independent Persons).

**Independent Persons:** appointment to be for a fixed term of two years, renewable once.

**Sanctions:**
- Suspension is reintroduced for up to 6 months.
- Clarifications of other measures, such as barring from Council premises or having facilities withdrawn.
- The Independent Person would need to agree both that there has been a breach and that suspension is proportionate.
- The right to appeal to the Local Government Ombudsman, who should be given the power to investigate allegations of code breaches on appeal.
- DPI criminal offences are disproportionate in principle and ineffective in practice, and should be abolished.

**Town and Parish Councils:**
- Principal authorities e.g. District Councils should continue to have responsibility for investigations. A Principal authority’s decision on sanctions for a Parish Councillor should be binding.
- Parish Councils should be required to adopt the Code of their principal authority;
- Clerks should also hold an appropriate qualification to support them to uphold governance, e.g. those provided by the Society of Local Council Clerks.

**Supporting officers:**
- The Monitoring Officer’s role is challenging with a number of tensions and conflicts of interests. Local authorities should put in place arrangements to manage potential conflicts.
- Employment protection should be extended, and statutory officers should be corporately supported through training and resources to undertake their role in providing support on standards issues.

**Councils’ corporate arrangements:** Local authorities setting up separate bodies risk a governance ‘illusion’, and should take steps to prevent and manage potential conflicts of interest, particularly if Councillors sit on these bodies. They should also ensure that these bodies are transparent and accountable.

**Leadership and culture:** Political groups have an important role to play in maintaining an ethical culture, and there should be better ties between party political disciplinary measures and the Councillor Code of conduct.
issues. Political groups should require their Members to attend Code of conduct training and this should also be written into national group rules.

- **Annual reports**: 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.

6.6 The Government has not responded to the CSPL’s recommendations yet. Some of these would require amendments to secondary legislation and the Local Government Transparency Code. In the meantime, best practice recommendations were made, which the CSPL expect authorities to implement. Many of these were being undertaken by NHDC in any event, and two that were informally being followed were taken forward as part of the Complaints Handling Procedure amendments detailed in 5.1 above.

7 **Independent Persons**
7.1. The two Independent Persons, Nicholas Moss and Peter Chapman, play an important role and provide assistance to the Monitoring Officer and Deputy Monitoring Officers in dealing with Standards complaints. An Independent Person is involved in each complaint and consulted during the process. The Independent Persons attend regular meetings with the Monitoring Officer and Deputies, and have also been involved in reviewing training for Councillors and the Complaints Handling Procedure during the year. The wealth of experience is a great benefit to the Council, although it is recognised that steps should be taken this year to seek some additional resource for further Independent Persons. Such additional resources would help ensure some continuity in the event of retirement or the new legal requirements suggested by the CSPL.

8 **Training and Development**
8.1 Training was offered to Members on 22 May 2018 to cover the Code of Conduct; Finance – understanding how the Council is funded and role of the Councillor in that; and Principles of good decision making – helping to make effective decisions. An Initial governance introduction was provided as part of the Corporate Induction in 2019 to Councillors and further more detailed training shall be offered during 2019/20. Specifically the Chairman, Independent Persons and the Monitoring Officer have considered the need to facilitate the offer of training to the Parish, Town and Community Councils on the back of any proposed changes to the ethical standards regime. This will be explored (potentially with other organisations – such as Hertfordshire Association of Parish and Town Councils and the Society of Local Council Clerks) during 2019/20.

9 **Other Areas of Work**
9.1 All District Councillors submitted new Register of Interests forms following the introduction of the new Code in May 2018 and scanned version were then available on the individual Councillors pages on the internet. All Parish/ Town and Community Council pages were reviewed and reminders sent to the
Clerks regarding a new Register form for their Councillors (and this work continued/ and continues throughout the year).

9.2 It was highlighted in the 2018 Annual report to Council that once the Modern.gov system was operational, consideration would be given to using the module for Register of Interests forms. This will now be implemented for 2019 onwards, so that Councillors can update those directly and receive automated reminders (therefore reducing the need to handwrite/ or deliver then scan and redact those documents on to the system and pages). Training sessions for this have been offered through Committee, Member and Scrutiny Services. Scanned versions of Parish, Town and Community Councillors forms will continue to be placed on individual Council pages.

10 Lessons Learned
10.1 During this year one of the issues that has become apparent when dealing with complaints, is expectation in terms of the Independent Person and specifically the Reserve, who may be contacted once a formal complaint is made against a Councillor. There was a misunderstanding as to that role, and therefore the Complaints Handling Procedure has been clarified (together with template documents notifying Councillors of the complaint).

10.2 That, as identified by the CSPL, there is a wider role for the political parties in standards issues – and that can be facilitated on the informal side, in terms of training and Group Leaders assisting when informal complaints are raised.

11 The Year Ahead
11.1 The Committee is scheduled to meet twice during 2018/19 and will receive updates on Standards Matters. Any Sub-Committee determination meetings will be arranged on an ad hoc basis.

11.2 In terms of future work for the Committee, subject to the Government’s response to the CSPL report, the Code of Conduct shall be reviewed, as per the Standards Committee report of 19 February 2019. If changes are deemed appropriate at that stage, then these will be considered by the Committee and any recommendations made to Full Council for its approval. The Government’s response shall be reported through to the Standards Committee, in any event, for consideration.