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## APPENDIX 2

Review of Local Government Ethical  
Standards Committee on Standards in  
Public Life  
GC:07  
1 Horse Guards Road  
London  
SW1A 2HQ

[public@public-standards.gov.uk](mailto:public@public-standards.gov.uk)

18 May 2018

Dear Sir/Madam

### **Review of Local Government Ethical Standards: Stakeholder Consultation**

As the Head of Legal and Democratic Services and Monitoring Officer, I am responsible for the overall governance of ethical standards at Durham County Council, which has 126 elected Members and 121 Town/Parish Councils within County Durham.

Members and Officers consider that the current regime has some benefits such as the provision for local/informal resolution. However, the lack of meaningful sanctions undermines public confidence in the regime and therefore it requires review.

The above consultation paper was considered by the Council's cross-party Constitution Working Group (CWG) and the Standards Committee. The consultation was also shared with the clerks to all the Town/Parish Councils who were invited to submit responses on behalf of their Council's, as well as in their own right. Durham County Council's response to the consultation is set out below:

#### **a) Are the existing structures, processes and practices in place working to ensure high standards of conduct by local councillors? If not, please say why.**

The current arrangements are not sufficient to ensure high standards of conduct. All relevant authorities have adopted a Code of Conduct and awareness of the Code is generally good amongst County and Town and Parish Councils. However, the lack of meaningful sanctions available to the Standards Committee limits the ability of Councils to effectively deal with Member misconduct, particularly repeated 'low-level' bad behaviour and/or bullying or harassment.

It is helpful that Monitoring Officers have the ability to deal with issues by way of informal/local resolution. However, the inability of Councils to compel Members to comply with recommended actions or address failures to comply undermines public

### **Resources**

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confidence in the Standards Regime. There is a lack of meaningful sanctions to deal with the more serious incidents of misconduct.

Where serious misconduct is alleged, the public often expect the subject member to be suspended pending an investigation and/or required to resign. The inability of Councils to take such action (if it were considered to be appropriate) further undermines public confidence in the regime. The Council considers that suspension and or disqualification may be appropriate in the most serious of cases (e.g. allegations of/convictions for criminal offences).

**b) What, if any, are the most significant gaps in the current ethical standards regime?**

Members considered the lack of sanctions to deal with the most serious of breaches and the inability to compel a subject Member to comply with the sanction imposed to be the most significant gaps.

Codes of Conduct

**c) Are local authority adopted codes of conduct for councillors clear and easily understood? Do the codes cover an appropriate range of behaviours? What examples of good practice, including induction processes exist?**

Durham County Council has adopted a Code of Conduct which is largely based on the previous Model National Code. The obligations on members are consistent with the Seven Principles of Public Life. Members and the public have a good awareness of the Code and its general provisions.

All newly elected County Councillors receive an induction, which includes training on the Code of Conduct, Interests, use of social media and equality and diversity. Such training is also provided periodically to County and Town and Parish Councils. The Monitoring Officer also offers training to Town and Parish Councils on an individual basis. The Monitoring Officer recently wrote to all Town/Parish Clerks raising awareness of this consultation exercise and re-iterated the offer to provide training.

**d) Whether the requirement for the local code of conduct to be consistent with the Nolan Principles, and to include appropriate provision for registering and declaring interests, is appropriate.**

Yes, the principles are widely known and understood by Members and the public.

Investigations and decisions on allegations

**e) Are allegations of councillor misconduct investigated and decided fairly with due process?**

**i) What processes do local authorities have in place for investigating and deciding upon allegations? Do these processes meet the requirements for due process? Should any additional safeguards be put in place to ensure due**

process?

- ii) **Is the current requirement that the views of the Independent Person must be sought and taken into account before deciding on an allegation sufficient to ensure objectivity and fairness of the decision process? Should this requirement be strengthened? If so, how?**
- iii) **Monitoring Officers are often involved in the process of investigating and deciding on code breaches. Could Monitoring Officers be subject to conflicts of interest or undue pressure when doing so? How could Monitoring Officers be protected from this risk?**

The Council has an established procedure, which is fair and follows due process. Parties to a complaint and/or the Monitoring Officer can consult one of the Council's two Independent Persons if appropriate.

The initial assessment of complaints and any investigations are conducted by separate Officers. If necessary, the Monitoring Officer can appoint an external Investigator. Where a hearing is necessary, a sub-committee of the Standards Committee is convened. The Independent Person also attends such hearings.

Complaints received and the outcomes are reported to each meeting of the Council's Standards Committee, which is politically balanced and includes Town/Parish Council representatives.

There is no evidence that the Monitoring Officer/other Officers have been the subject of any attempted or actual pressure connected with the Code of Conduct regime. The Committee will be aware of the statutory responsibilities of the Monitoring Officer, which extend beyond the standards regime. The standards regime is considered no more likely to create conflicts of interest/exposure to undue pressure for the Monitoring Officer than other areas of the role.

#### Sanctions

- f) **Are existing sanctions for councillor misconduct sufficient?**
  - i) **What sanctions do local authorities use when councillors are found to have breached the code of conduct? Are these sanctions sufficient to deter breaches and, where relevant, to enforce compliance?**
  - ii) **Should local authorities be given the ability to use additional sanctions? If so, what should these be?**

The existing sanctions are not considered sufficient for dealing with the most serious breaches of the Code. The Standards Committee can recommend that a member is removed from particular roles/committees but this relies on the co-operation and support of the relevant political group and/full Council.

It would be helpful if there were further sanctions available for use only in the most serious of cases. For example, the ability to suspend Members from sitting on specific

committees/sub-committees (but not full Council) may be appropriate. Suspension in such circumstances would not prevent a Member from fulfilling their role as a ward councillor. In the most serious cases of alleged misconduct (e.g. criminal allegations/convictions) suspension and/or disqualification may be appropriate. If there are to be additional sanctions such as suspension/disqualification, consideration should be given to enabling the subject member a right of appeal. The ability for subject members to consult the Independent Persons should be retained.

Declaring interests and conflicts of interest

**g) Are existing arrangements to declare councillors' interests and manage conflicts of interest satisfactory? If not, please say why.**

**i) A local councillor is under a legal duty to register any pecuniary interests (or those of their spouse or partner), and cannot participate in discussion or votes that engage a disclosable pecuniary interest nor take any further steps in relation to that matter, although local authorities can grant dispensations under certain circumstances. Are these statutory duties appropriate as they stand?**

**ii) What arrangements do local authorities have in place to declare councillors interests and manage conflicts of interest that go beyond the statutory requirements? Are these satisfactory? If not, please say why.**

The Members Register of Interests is available on the Council's website. The Register includes Disclosable Pecuniary Interests (DPIs) as well as "other registrable personal interests", which the Council retained following the introduction of the Localism Act 2011.

The County Council's Code of Conduct also requires members to declare non-registrable interests which may arise during meetings. These are interests, which were previously described as "personal prejudicial interests" prior to the Localism Act 2011. These requirements were retained as the statutory requirements in relation to DPIs was considered to be too narrow. The provisions are generally well understood and adhered to by Members of the Council.

The declaration of interests is a standing item on all agendas of meetings of the authority, which serves as a prompt to Members.

Whilst the responsibility for declarations of interests and identifying conflicts of interests is a matter for Members, the Monitoring Officer does take a proactive approach if she is aware that an interest may be engaged/conflict may arise and advises the Members accordingly.



### Whistleblowing

**h) What arrangements are in place for whistleblowing, by the public, councillors, and officials? Are these satisfactory?**

The Council has a Confidential Reporting Code, which applies to Officers and Members and can be used by them and the public to report serious concerns. The Code is supported by the relevant trade unions and professional bodies.

The Council's Audit Committee maintains oversight of the operation of the Code. It is considered that the Council's arrangements are appropriate.

The Council also has well established procedures in place for dealing with corporate complaints.

In addition, the Council's Statutory Officers have good working relationships with members and encourage them to raise any concerns they have with them directly.

### Improving Standards

**i) What steps could local authorities take to improve local government ethical standards?**

Local authorities can continue to monitor the standards issues that arise nationally and share/learn from best practice. Local authorities can also ensure that periodic completion of training on the ethical standards regime is mandatory for all elected Members.

**j) What steps could central government take to improve local government ethical standards?**

As explained above, central government could seek to amend the relevant legislation to amend the sanctions available so that Standards Committees and Monitoring Officers can deal with the most serious breaches of the Code and/or persistent 'low-level' breaches of the Code.

Members acknowledged the good work that the Clerks to Parish/Town Councils do, often with limited resources. However, some clerks have very little experience/training in relation to the role. This can make it difficult to deal with difficult Councillors and manage persistent poor behaviour. Central Government could consider making it a requirement that all Clerks to local Councils complete relevant training/qualifications before commencing and during the role.

### Intimidation of local councillors

**k) What is the nature, scale and extent of intimidation towards local councillors?**

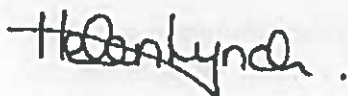
There have been a few instances where members have received threatening/intimidating correspondence from individuals. The Council works closely with the local

Police who provide support to the Councillors concerned and take appropriate action against the individuals concerned.

**1) What measures could be put in place to prevent and address this intimidation?**

The requirements to publish the personal contact details for members could be amended. The provisions to remove such information based on evidence of risk/actual intimidation come into effect too late – the intimidating behaviour is the evidence which prompts the removal of details. The provisions in relation to sensitive interests only cover potential harm/threatening behaviour in relation to a Members Interests, not their role as Councillor more generally.

Yours sincerely

A handwritten signature in black ink that reads "Helen Lynch". The signature is written in a cursive style with a trailing dot at the end.

Helen Lynch  
Head of Legal and Democratic Services