

# STANDARDS AND ADJUDICATION COMMITTEE

<b>DATE</b>	16 <sup>th</sup> December 2020
<b>REPORT OF</b>	Monitoring Officer
<b>SUBJECT</b>	Annual Standards and Adjudication Committee Report
<b>STATUS</b>	Open

## CONTRIBUTION TO OUR AIMS

Good governance arrangements and ethical standards contribute directly to the achievement of the Council's strategic aims.

## EXECUTIVE SUMMARY

This report presents the Annual Standards and Adjudication Committee report.

## RECOMMENDATIONS

1. That the annual report be approved.
2. That the update on progress against the Committee on Standards in Public Life's best practice recommendations, as set out at Appendix 1 of the annual report, be noted.
3. That the Code of Conduct complaints form be updated to make clear that the Code of Conduct only applies to councillors when acting in their official capacity.

## REASONS FOR DECISION

Production of an annual report promotes transparency of the Council's standards arrangements.

### 1. BACKGROUND AND ISSUES

- 1.1 This report presents the latest annual report of the Standards and Adjudication Committee. In addition to general information about the committee, it provides an overview of the committee's work on handling complaints alleging breaches of the Members' Code of Conduct.
- 1.2 The annual report touches on national best practice and refers, in particular, to a request from the Chair of the Committee on Standards in Public Life for an update from local authorities on progress against the best practice recommendations that were initially reported to this committee in April, 2019. The response is attached as Appendix 1 to the annual report and provides assurance of satisfactory progress against the best practice recommendations.
- 1.3 The annual report presents an opportunity for the committee to reflect on its work and to consider further improvements to the local standards arrangements. As noted in the report there have been a small number of

complaints where it was determined that the councillor was not acting in their official capacity. It is a current requirement that local authority codes of conduct only apply to local councillors when they are acting in their capacity as a councillor. However, this may not be particularly clear to people when they are considering making a complaint and can cause some subsequent frustrations. In response to this, it is suggested the code of conduct complaints form be updated to make it clear that the Code of Conduct only applies to councillors when acting in their official capacity.

## **2. RISKS AND OPPORTUNITIES**

The annual report provides an opportunity to promote the good governance and high standard of ethical behaviour in place in North East Lincolnshire. There is the risk of loss of credibility of the Council if these standards fall.

## **3. OTHER OPTIONS CONSIDERED**

None.

## **4. REPUTATION AND COMMUNICATIONS CONSIDERATIONS**

Setting high ethical standards is an important building block for councils in developing their community leadership role and achieving the Council's objectives. Robust standards arrangements are needed to safeguard local democracy, maintain high standards of conduct, and to protect ethical practice in local government. The annual report presents an opportunity to review these arrangements.

## **5. FINANCIAL CONSIDERATIONS**

There are no direct financial considerations arising from the content of the annual report.

## **6. CLIMATE CHANGE AND ENVIRONMENTAL IMPLICATIONS**

There are no direct climate change and environmental implications arising from the recommendations in this report.

## **7. FINANCIAL IMPLICATIONS**

There are no financial implications arising from the recommendations in this report.

## **8. LEGAL IMPLICATIONS**

As set out in the main body of the report.

## **9. HUMAN RESOURCES IMPLICATIONS**

There are no human resources implications arising from the recommendations in this report.

## **10. WARD IMPLICATIONS**

All wards are affected.

## **11. BACKGROUND PAPERS**

Committee on Standards in Public Life report -  
<https://www.gov.uk/government/publications/local-government-ethical-standards-report>

## **12. CONTACT OFFICER(S)**

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**SIMON JONES**  
**CHIEF LEGAL AND MONITORING OFFICER**

**NORTH EAST LINCOLNSHIRE COUNCIL**  
**STANDARDS AND ADJUDICATION COMMITTEE**

**ANNUAL REPORT**

**2019/2020**

This report represents the annual report of the Standards and Adjudication Committee under the Council's Standards regime following the Localism Act 2011 and covers the 2019/20 Municipal Year.

**Membership**

The Council has determined that a Standards and Adjudication Committee comprising nine elected members should oversee its Standards arrangements. In addition, the Independent Person appointed to support the Committee would be invited to attend each Committee meeting. Accordingly the following served on the Committee during the 2019/20 Municipal Year.

Councillor Karen Swinburn (Conservative) (Chair)  
Councillor James Cairns (Conservative) (Vice – Chair)  
Councillor Keith Brookes (Conservative)  
Councillor Bob Callison (Conservative)  
Councillor Dave Watson (Labour)  
Councillor Gaynor Rogers (Labour)  
Councillor Debbie Rodwell (Labour)  
Councillor Terry Walker (Liberal Democrat)  
Councillor Jane Bramley (UKIP)

**Role of Committee**

The main role of the Standards and Adjudication Committee is to promote and maintain high standards of conduct, to set an example to other bodies it works with and to the community at large. The Standards and Adjudication Committee will promote, educate and support members in following the highest standards of conduct and ensuring that those standards are fully owned locally.

The role is not just about enforcing the Code of Conduct it is also about relationships both internally between members and staff and externally with the public and other stakeholders.

Under the Council's Standards Arrangements, the committee convenes, as appropriate, sub committees in the form of Referral Panels to consider complaints and Hearings Panels to determine complaints that have been investigated.

The Standards Arrangements also enable the Council to retain responsibility for receiving and determining complaints against Town and Parish Council members.

## **Terms of Reference**

- (a) Promoting and maintaining high standards of conduct by members and co-opted members as defined by section 27 of the Localism Act 2011 ('Act').
- (b) Assisting members and co-opted members to observe the Code of Conduct adopted by the Council pursuant to section 28 of the Act.
- (c) Advising the Council on the amendment or revision of the Code of Conduct and the appointment or removal of the Independent Person/s.
- (d) Monitoring the operation of the Code of Conduct and the local 'Arrangements' and making appropriate revisions to the 'Arrangements' as considered necessary.
- (e) Advising, training or arranging to train members, co-opted members and Independent Person/s on matters relating to the Code of Conduct and the Arrangements.
- (f) Granting dispensations to members and co-opted members pursuant to the provisions of section 33 (b), (c) and (e) of the Act and on such other grounds as referred by the Monitoring Officer.
- (g) Dealing with any referrals as considered appropriate by the Monitoring Officer and to receive regular reports from the Monitoring Officer on the discharge of any delegations afforded to that position.
- (h) To consider any complaints relating to an alleged breach of the Code of Conduct in accordance with the 'Arrangements' and to convene, as appropriate, sub-committees ('Referrals Panels') to consider such matters.
- (i) To make determinations in respect of complaints that members and co-opted members of the Council and Parish and Town Councils in the borough may have breached the Code of Conduct and to convene, as appropriate, subcommittees ('Hearings Panels') to consider such matters and to impose, or recommend the imposition of, the sanctions detailed in the 'Arrangements'.
- (j) To deal with the grant of exemptions from political restriction in respect of any post holder and give directions on any post to be included in the list of politically restricted posts maintained by the authority.
- (k) To consider appeals against dismissal and grievances by employees of the Council.
- (l) To hear and determine in accordance with the appropriate conditions of service appeals against disciplinary action and against grading assessments by the Director of Finance, Operations and Resources.

- (m) To hear and determine appeals in relation to grievances required to be settled under the Council's Grievance Procedure.
- (n) To hear and determine appeals arising under the appeal arrangements relative to car allowances.
- (o) To determine student awards appeals.
- (p) To hear and determine any other internal appeal or review within the Council not falling within the delegated powers of any other Committee.

### **Code of Conduct**

Under its Standards Arrangements the Council has developed and adopted its own locally based Code of Conduct which is compliant with the Nolan principles and has incorporated the statutory requirements concerning Disclosable Pecuniary Interests. Although free to adopt their own Codes of Conduct, all of the Town and Parish Councils in the borough have elected to adopt the Council's Code of Conduct which is encouraging uniform and consistent application across the area.

### **Complaints**

During the period covered by this report 16 new complaints were received involving members, compared to 8 received last year. A breakdown of complaints received over the last five years is included below:

Year	North East Lincolnshire Council	Town/Parish Councils	Total
2015/16	7	1	8
2016/17	9	8	17
2017/18	6	2	8
2018/19	5	3	8
2019/20	12	4	16

Of the sixteen complaints, twelve related to members of North East Lincolnshire Council, and four complaints related to members of Town and Parish Councils. Of the four Town and Parish Council complaints, three were determined by the Monitoring Officer under delegated powers and the other was referred to Humberside Police as it related to potential failure to register disclosable pecuniary interests.

The complaints related to a wide range of alleged breaches of the Code of Conduct. A majority cited bringing their office into disrepute and failure to treat others with respect and courtesy. There were also accusations of bullying or intimidation, breaching equality laws, using their position as a member to improperly confer an advantage, and not disclosing interests correctly.

Of the fifteen complaints considered by the Referrals Panel or the Monitoring Officer, it was decided in every case that no further action be taken, although for four of the complaints it was agreed that advice be provided on future conduct. A decision is awaited from Humberside Police on the complaint that was referred to them.

There were three complaints where no further action could be taken as it was decided that the councillor was not acting in their official capacity. Under the Localism Act 2011, local authority codes of conduct can only apply to local councillors when they are acting in their capacity as a councillor. This forms part of the Code of Conduct stage one assessment criteria but is perhaps not immediately obvious to people when they are considering making a complaint and can cause some frustration on being informed that a matter cannot be investigated for this reason. It is recommended to the Standards and Adjudication Committee that the code of conduct complaints form be updated to make it clear that the Code of Conduct only applies to councillors when acting in their official capacity.

### **The Independent Person**

At the meeting of North East Lincolnshire Council on 18<sup>th</sup> December, 2019, the appointment of Wayne Harvie as the Council's Independent Person, supporting the work of the Standards Committee, was agreed. At the same time, Alan Hall and Susan Wroe were appointed as the Reserve Independent Persons.

### **Training**

Code of Conduct training was provided for newly elected members following the local elections in May, 2019 as part of the Member Induction Programme. The invite was extended to all Elected Members of North East Lincolnshire Council as a refresh and to the clerks and members of the Town and Parish Councils. The cancellation of local elections in May, 2020 meant that these sessions have not been repeated but they will be included in the Member Induction Programme to be implemented following the local elections in May, 2021.

### **National and Regional Issues**

Following publication, in January 2019, of the Committee on Standards in Public Life's report on its review of local government ethical standards, the Local Government Association drafted a model code of conduct for consultation. The model code was presented to the Standards and Adjudication Committee in August 2020 and a formal response from this council was subsequently agreed. The outcome of the consultation is awaited.

The Chair of the Committee on Standards in Public Life has recently requested an update from local authorities on progress against the best practice recommendations contained within its report. A copy of this council's response is attached at Appendix 1.

The Monitoring Officer and Deputy Monitoring Officer have previously attended the Yorkshire and Humber Monitoring Officer Special Interest Group which discusses standards issues, but this group has not met for some time. However, discussions do take place with neighbouring authorities (particularly North Lincolnshire Council) on emerging national issues. The Monitoring Officer and Deputy Monitoring Officer have also attended webinars on standards matters, such as the model code of conduct.

Simon Jones  
Monitoring Officer

Eve Richardson-Smith  
Deputy Monitoring Officer

December 2020

## **CSPL local government ethical standards 15 best practice recommendations**

**1:** Local authorities should include prohibitions on bullying and harassment in codes of conduct. These should include a definition of bullying and harassment, supplemented with a list of examples of the sort of behaviour covered by such a definition.

### **Progress:**

North East Lincolnshire Council considered the CSPL best practice recommendations at its meeting on 18<sup>th</sup> July 2019.

The Council's existing Code of Conduct included an expectation that all councillors will "not bully or intimidate any person". Other expectations including the requirement for councillors to treat others with respect and courtesy also applied. The Council agreed at its meeting that this could be strengthened further, with explicit mention of harassment and intimidation. The Council's Code of Conduct was updated accordingly, including the addition of an appendix defining and including examples of each term.

In addition, our Member Conduct Complaint Form asks complainants to specify which element of the Code of Conduct they believe to have been breached and it was agreed that the form be amended to make specific reference to harassment as well as bullying and intimidation.

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**2:** Councils should include provisions in their code of conduct requiring councillors to comply with any formal standards investigation, and prohibiting trivial or malicious allegations by councillors.

### **Progress:**

The Council's Code of Conduct was altered to include a requirement that all councillors will comply with formal standards investigations, with an expectation that councillors will comply with requests for responses to allegations and assist with preliminary evidence gathering before assessment or investigation. Furthermore, a failure to do so without justifiable reasons may see the councillor subject to a standards investigation.

The Council's Stage 2 Assessment Criteria already states that "The Monitoring Officer or Referrals Panel is/are unlikely to refer a complaint for investigation where it falls into any of the following categories:

- (a) The complaint appears to be vexatious, malicious, politically motivated, relatively minor, insufficiently serious, tit-for-tat, or there are other reasons why an investigation may not be in the public interest".

However, please note further amendment to this wording at Best Practice Recommendation 6 below.

**3:** Principal authorities should review their code of conduct each year and regularly seek, where possible, the views of the public, community organisations and neighbouring authorities.

**Progress:**

Whilst the Council's Code of Conduct is kept under regular review, it was agreed that this should be formally undertaken annually, with a report considered by the Standards and Adjudication Committee every year. The Committee may then make recommendations to Council to make any required changes.

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**4:** An authority's code should be readily accessible to both councillors and the public, in a prominent position on a council's website and available in council premises.

**Progress:**

Our Code of Conduct is available to all on the council's website at the following address - <https://www.nelincs.gov.uk/your-council/councillors-mps-and-meps/councillor-conduct/>. This page is accessible from the home page by clicking on the 'complaints, compliments and suggestions' link. The Code is also available, upon request, from any customer access point, or from Democratic Services.

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**5:** Local authorities should update their gifts and hospitality register at least once per quarter, and publish it in an accessible format, such as CSV.

**Progress:**

All North East Lincolnshire Council members and all Town and Parish Councils are prompted annually to ensure their gifts and hospitality register is kept updated as part of their Register of Interests. In addition to this, Council agreed that monthly reminders be sent to all North East Lincolnshire Council members in line with existing reminders to officers. Monthly reminders to members commenced in October 2019.

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**6:** Councils should publish a clear and straightforward public interest test against which allegations are filtered.

**Progress:**

The Assessment Criteria document referred to at Best Practice 2 above, acts as the clear and straightforward public interest test (with the amendment detailed below). This is available on the above links or upon request. (A copy of the local Standards Arrangements,

including the Assessment Criteria, is now routinely sent to both complainants and councillors that have had allegations made against them).

The criteria mentioned at Best Practice 2 was strengthened by Council by adding a proportionality consideration as follows:

The complaint appears to be vexatious, malicious, politically motivated, relatively minor, insufficiently serious, tit-for-tat, or there are other reasons why an investigation may not be **proportionate or** in the public interest”

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**7:** Local authorities should have access to at least two Independent Persons.

**Progress:**

North East Lincolnshire Council has an Independent Person and two Deputy Independent Persons. Independent Persons are fully supported and are invited to all meetings of the Standards and Adjudication Committee and any training sessions.

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**8:** An Independent Person should be consulted as to whether to undertake a formal investigation on an allegation, and should be given the option to review and comment on allegations which the responsible officer is minded to dismiss as being without merit, vexatious, or trivial.

**Progress:**

The Independent Person is consulted on all complaints received. The Independent Person then submits written comments and is invited to attend and contribute to any relevant Referrals Panel meeting.

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**9:** Where a local authority makes a decision on an allegation of misconduct following a formal investigation, a decision notice should be published as soon as possible on its website, including a brief statement of facts, the provisions of the code engaged by the allegations, the view of the Independent Person, the reasoning of the decision-maker, and any sanction applied.

**Progress:**

It is common practice within North East Lincolnshire to publish decision notices arising from Hearings Panel deliberations.

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**10:** A local authority should have straightforward and accessible guidance on its website on how to make a complaint under the code of conduct, the process for handling complaints, and estimated timescales for investigations and outcomes.

**Progress:**

Complaints can be made via the Council's website on the above link, or via the completion of a hard copy form available from Democratic Services. The completion of the proper form is encouraged as it does prompt the complainant to specify the provisions of the code that have allegedly been breached. The process for handling complaints is available on the council's website and is made available to all relevant parties when complaints are received.

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**11:** Formal standards complaints about the conduct of a parish councillor towards a clerk should be made by the chair or by the parish council as a whole, rather than the clerk in all but exceptional circumstances.

**Progress:**

Whilst this course of action should be available, particularly if there are concerns about recriminations or bullying, the Council's Standards and Adjudication Committee has a long history of upholding the principles that anyone, including clerks, can complain about a councillor. "Second hand" or proxy complaints are usually discouraged as they can make investigations more difficult and, unless there are compelling reasons not to, councillors have a right to know who has complained about their behaviour so they can defend themselves. North East Lincolnshire's arrangements allow for anonymous complaints, although they are tightly controlled by the Monitoring Officer.

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**12:** Monitoring Officers' roles should include providing advice, support and management of investigations and adjudications on alleged breaches to parish councils within the remit of the principal authority. They should be provided with adequate training, corporate support and resources to undertake this work.

**Progress:**

The Monitoring Officer in North East Lincolnshire is available to provide advice and support. This regime is overseen by the Standards and Adjudication Committee, who maintain a detailed overview of training, support and resource requirements. Since the coming into force of the Localism Act 2011, the Monitoring Officer and the Deputy Monitoring Officer have provided training to town and parish councils and this includes annual training on the Code of Conduct and standards matters, principally aimed at newly Elected Members of this Council, but also opened up for all Elected Members and town/parish councillors to attend as a refresh.

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**13:** A local authority should have procedures in place to address any conflicts of interest when undertaking a standards investigation. Possible steps should include asking the Monitoring Officer from a different authority to undertake the investigation.

**Progress:**

The Deputy Monitoring Officer plays a key role in supporting the local standards arrangements and is able to act in the event of a conflict of interest. The Monitoring Officer has an informal network of colleagues in the region who can, and have, been used to avoid conflicts of interest. Similarly, North East Lincolnshire Council have been previously asked to undertake standards work elsewhere to avoid conflicts of interest in other areas.

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**14:** Councils should report on separate bodies they have set up or which they own as part of their annual governance statement and give a full picture of their relationship with those bodies. Separate bodies created by local authorities should abide by the Nolan principle of openness and publish their board agendas and minutes and annual reports in an accessible place.

**Progress:**

The council keeps its Partnership Protocol under regular review to ensure that robust governance remains in place for all bodies that include council representatives. North East Lincolnshire Council publish all agendas, minutes, reports etc that it is required to.

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**15:** Senior officers should meet regularly with political group leaders or group whips to discuss standards issues.

**Progress:**

The Council's Chief Executive meets regularly with political group leaders and the Monitoring Officer is available to all councillors. In addition, regular annual training, as referred to above, is provided to Elected Members and all Town and Parish Councils in order to proactively build dialogue, increase understanding, and informally resolve any issues, where possible.

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