



ST HELENS
BOROUGH COUNCIL

Town Hall, St. Helens, Merseyside, WA10 1HP

Telephone: 01744 673219 Mrs Joanne Griffiths MBE

Agenda

STANDARDS COMMITTEE

PUBLIC MEETINGS ARE WEBCAST (LIVE STREAMED)

Date: Monday, 19 October 2020 Time: 4.00 pm Venue: Virtual

Membership

Lab 7 Councillors Bond, Bowden, J Jackson, P Jackson, Maloney MBE, Murphy and Quinn

LD 1 Councillor Sims

Con 1 Councillor Jones

IND 1 Councillor Howard

<u>Item</u>	<u>Title</u>	<u>Page</u>
1.	<u>Appointment of Chair</u>	
2.	<u>Apologies for Absence</u>	
3.	<u>Minutes of the Meeting held on 13 July 2020</u>	3
4.	<u>Declarations of Interest from Members</u>	
5.	<u>Update on LGA Draft Model Code of Conduct for Members</u>	5
6.	<u>Committee on Standards in Public Life - Progress on Best Practice Recommendations</u>	25

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STANDARDS COMMITTEE

At a meeting of this Committee held on
13 July 2020

(Present) **Councillor Bond (Chairman)**
Councillor Greaves, Groucutt, Jones, D Long, Maloney MBE,
Murphy, Sims, Sweeney and Quinn.

16 APOLOGIES FOR ABSENCE

No apologies for absence were received.

17 MINUTES

* **Resolved that the Minutes of the meeting held on 13 January 2020 be approved and signed.**

18 DECLARATIONS OF INTEREST FROM MEMBERS

No Declarations of Interest from Members were made.

19 MEMBER CODE AND PROTOCOLS

A report was submitted which asked Members to consider five documents which were attached to the report and to provide any comments or further amendments and to recommend them to Council for adoption on 22 July 2020:

- i) Code of Conduct for Elected & Co-Opted Members
- ii) Protocol for Member / Officer relations
- iii) Protocol for Councillors and Officers dealing with Planning matters (Planning Protocol)
- iv) Ward Member Protocol
- v) St Helens – A Member led Council -Developing effective Member and Officer relations.

In order for any Council to operate effectively it was necessary to have robust Standards arrangements in place in order to safeguard local democracy, maintain high standards of conduct and to protect ethical practice in local government.

A key recommendation of the LGA's Corporate Peer Challenge report published in January 2019 was to highlight the need to improve joint working between Members and Officers. It stressed 'the need for a better understanding of their respective roles and reset the Council's culture to drive positive change and ensure it addresses the issue of poor Member behaviour'.

Members discussed views from the Groups attached at Appendix 7 to the report and asked the Monitoring Officer to make any necessary additions to the Protocols.

* **Resolved that comments from the Standards Committee be incorporated into the documents prior to submission to Council on 22 July 2020.**

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 <p>ST HELENS BOROUGH COUNCIL</p>	<h2>Standards Committee</h2> <h3>19 October 2020</h3>
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Report Title:	Update on LGA draft model Code of Conduct for Members
Cabinet Portfolio	Finance & Governance
Cabinet Member	Councillor Martin Bond
Exempt Report	No
Reason for Exemption	N/A
Key Decision	No
Public Notice issued	N/A
Wards Affected	None
Report of	Jan Bakewell Director of Legal & HR / Monitoring Officer janbakewell@sthelens.gov.uk 01744 673209
Contact Officer	Jan Bakewell Director of Legal & HR janbakewell@sthelens.gov.uk 01744 673209

<p>Borough priorities</p> <p>Please mark X for any priority supported by this report</p> <p>NB Use Section 4 - Background Information to explain how each selected priority is supported</p>	Ensure children and young people have a positive start in life	
	Promote good health, independence and care across our communities	
	Create safe and strong communities for our residents	
	Support a strong, diverse and well-connected local economy	
	Create a green, thriving and vibrant place to be proud of	
	Be a modern, efficient and effective Council	X

1. Summary

- 1.1 To provide Standards Committee with an update on the Local Government Association’s (“LGA”) draft model code of conduct for members.

2. Recommendations for Decision

The Committee is recommended to:

- i. **note the update on the LGA draft model code of conduct for members; and**
- ii. **authorise the Monitoring Officer to continue with in principle discussions with the Liverpool City Region local authorities and joint authorities to create a model code of conduct for consideration for the Liverpool City Region.**

3. Purpose of this Report

- 3.1 To update members on the recent consultation for the LGA draft model code of conduct for members and next steps.

4. Background /Reasons for the recommendations

- 4.1 In January 2019, the Committee on Standards in Public Life (“CSPL”) published its report on Local Government Ethical Standards, which made a number of recommendations to central government in relation to primary legislation and to local authorities in relation to best practice.
- 4.2 One of the CSPL recommendations was for the LGA to create an updated model code of conduct, in consultation with representative bodies of councillors and officers of all tiers of local government. The purpose of having a code of conduct for members is to:
- promote high standards of conduct and trust
 - provide clarity about where boundaries are crossed for members
 - set out what the public can expect from their representatives.

- 4.3 The LGA has reviewed the model code of conduct in response to the recommendations, but also in response to rising local government concern about the increasing incidence of public, member-to-member and officer/member intimidation and abuse and overall behavioural standards and expectations in public debate, decision making and engagement. The LGA aims to develop a code that benchmarks a standard for all public office and for those engaged in public discourse and debate. It will set out the duties and expectations of persons in public office.
- 4.4 Members will be aware the LGA consulted on a draft model code of conduct for Members over the summer period. A copy of the draft code is attached at Appendix 1. The LGA ran a series of webinars for members and officers on the draft model Code as part of the broader civility in politics work. The LGA has also sought for a wide range of stakeholder bodies including NALC, SOLACE, Lawyers in Local Government, CIPFA, the Association of Democratic Services Officers, the Society of Local Councils Clerks, Monitoring Officers Network and MHCLG to also endorse the revised model code of conduct.
- 4.5 The public consultation on the draft model code ended on 17 August 2020. The feedback from the consultation will help the LGA develop a final draft, which will be reviewed by the LGA's Executive Advisory Board before being presented to the LGA General Assembly.
- 4.6 A further report will be brought back to Standards Committee for consideration once the LGA model code of conduct is published, which is expected to be between January and March 2021. The member model code of conduct is suggested national good practice, and councils can adopt this revised code, or adopt their own local code.
- 4.7 Currently, each of the local authorities and joint authorities across the Liverpool City Region have different local code of conducts which can cause inconsistency when members are appointed to those bodies.
- 4.8 At the Standards Committee meeting on 5 January 2015, a verbal report was received from the Monitoring Officer on a proposal for a Model Code of Conduct for Elected Members across the Liverpool City Region. The minutes from that meeting indicate the Monitoring Officer sought members' views on whether St. Helens Council should enter into discussions to create a model Code of Conduct with the Liverpool City Region authorities and Merseyside Fire and Civil Defence. It was resolved that:
- the Monitoring Officer be authorised to enter into in principle discussions with the Liverpool City Region authorities and Merseyside Fire and Rescue Authority to create a model Code of Conduct for the City Region.
- 4.9 The publication of the LGA model code will enable these in principle discussions to continue with colleagues across the region with a view to a draft Code being produced for further consideration.

5. Community Impact Assessment

5.1 N/A

6 Consideration of Alternatives

6.1 N/A.

7 **Conclusions**

- 7.1 The Committee will need to consider the final version of the LGA model code when it is published in due course and make any recommendations to Council.

8. **Implications**

8.1 Legal Implications

- 8.1.1 The Localism Act 2011 requires each Council to adopt a local code of conduct for members, which is consistent with the Nolan principles of standards in public life and must set out the requirements on members to register and disclose interests.

- 8.1.2 The Council recently reviewed its current Code of Conduct for Members and changes were adopted by Council at its meeting in July 2020.

- 8.1.3 The Council has delegated to the Standards Committee the statutory function to promote and maintain high standards of conduct by members and co-opted members.

8.2 Community Impact Assessment (CIA) Implications

What are the implications for the following areas identified from the CIA?

8.2.1 Social Value

- 8.2.1.1 N/A

8.2.2 Sustainability and Environment

- 8.2.2.1 N/A

8.2.3 Health and Wellbeing

- 8.2.3.1 N/A

8.2.4 Equality and Human Rights

- 8.2.4.1 N/A

8.3 Customers and Resident

- 8.3.1 The Code of Conduct is published on the Council's website and aims to provide a clear process for all customers and residents.

8.4 Asset and Property

- 8.4.1 N/A

8.5 Staffing and Human Resource

- 8.5.1 N/A

8.6 Risks

8.6.1 N/A

8.7 Finance

8.7.1 N/A

8.8 Policy Framework Implications

8.8.1 N/A

9. Background papers

CSPL Review of Ethical Standards in Local Government Report: January 2019:

<https://www.gov.uk/government/publications/local-government-ethical-standards-report>

10. Appendices

Appendix 1: LGA draft model Member Code of Conduct

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Local Government Association Model Member Code of Conduct

5 and performance.

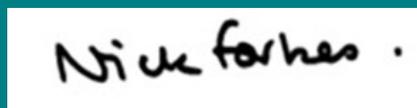
The role of councillor in all tiers of local government is a vital part of our country's system of democracy. In voting for a local councillor, the public is imbuing that person and position with their trust. As such, it is important that as councillors we can be held accountable and all adopt the behaviours and responsibilities associated with the role. The conduct of an individual councillor affects the reputation of all councillors. We want the role of councillor to be one that people aspire to and want to participate with. We want to continue to attract individuals from a range of backgrounds and circumstances who understand the responsibility they take on and are motivated to make a positive difference to their local communities.

All councils are required to have a local Member Code of Conduct. This Model Member Code of Conduct has been developed in consultation with the sector and is offered as a template for councils to adopt in whole and/or with local amendments. The LGA will undertake an annual review of the Code to ensure it continues to be fit-for-purpose, particularly with respect to advances in technology, social media and any relevant changes in legislation. The LGA can also offer support, training and mediation to councils and councillors on the application of the Code, whilst the National Association of Local Councils (NALC) and the county associations of local councils can offer advice and support to town and parish councils.

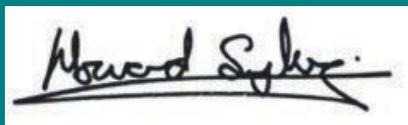
As a councillor we all represent local residents, work to develop better services and deliver local change. The public have high expectations of us and entrust us to represent everyone (in our ward/town/parish), taking decisions fairly, openly, transparently and with civility. Councillors should also be treated with civility by members of the public, other councillors and council employees. Members have both individual and collective responsibility to maintain these standards, support expected behaviour and challenge behaviour which falls below expectations. This Code, therefore, has been designed to protect our democratic role, encourage good conduct and safeguard the public's trust in local government.



Councillor Izzi Seccombe OBE
Leader, LGA Conservative Group



Councillor Nick Forbes CBE
Leader, LGA Labour Group



Councillor Howard Sykes MBE
Liberal Democrats Group



Councillor Marianne Overton MBE Leader, LGA
independent Group

Purpose

The purpose of this Code of Conduct is to assist councillors in modelling the behaviour that is expected of them, to provide a personal check and balance, and to set out the type of conduct against which appropriate action may be taken. It is also to protect yourself, the public, fellow councillors, council

officers and the reputation of local government. It sets out the conduct expected of all members and a minimum set of obligations relating to conduct. The overarching aim is to create and maintain public confidence in the role of member and local government.

Application of the Code

The Code of Conduct applies to you when you are acting [or claiming or giving the impression that you are acting]¹ in [public or in]² your capacity as a member or representative of your council, although you are expected to uphold high standards of conduct and show leadership at all times. The Code applies to all forms of member communication and interaction, including written, verbal, non-verbal, electronic and via social media, [including where you could be deemed to be representing your council or if there are potential implications for the council's reputation.] Model conduct and expectations is for guidance only, whereas the specific obligations set out instances where action will be taken.

The seven principles of public life

Everyone in public office at all levels – ministers, civil servants, members, council officers – all who serve the public or deliver public services should uphold the seven principles of public life. This Code has been developed in line with these seven principles of public life, which are set out in appendix A.

Model member conduct

In accordance with the public trust placed in me, on all occasions I will:

- act with integrity and honesty
- act lawfully
- treat all persons with civility; and
- lead by example and act in a way that secures public confidence in the office of councillor

In undertaking my role, I will:

- impartially exercise my responsibilities in the interests of the local community

- not improperly seek to confer an advantage, or disadvantage, on any person
- avoid conflicts of interest
- exercise reasonable care and diligence; and
- ensure that public resources are used prudently and in the public interest

Specific obligations of general conduct

This section sets out the minimum requirements of member conduct. Guidance is included to help explain the reasons for the obligations and how they should be followed. These obligations must be observed in all situations where you act [or claim or give the impression that you are acting] as a councillor [or in public], including representing your council on official business and when using social media.

Civility

1. **Treating other councillors and members of the public with civility.**
2. **Treating council employees, employees and representatives of partner organisations and those volunteering for the councils with civility and respecting the role that they play.**

Civility means politeness and courtesy in behaviour, speech, and in the written word. Debate and having different views are all part of a healthy democracy. As a councillor you can express, challenge, criticise and disagree with views, ideas, opinions and policies in a civil manner. You should not subject individuals, groups of people or organisations to unreasonable or excessive personal attack.

In your contact with the public you should treat them courteously. Rude and offensive behaviour lowers the public's expectations and confidence in its elected representatives.

In return you have a right to expect courtesy from the public. If members of the public are being abusive, threatening or intimidatory you are entitled to close down any conversation in person or online, refer them to the council, any social media provider or if necessary, the police. This also applies to members, where action could then be taken under the Member Code of Conduct.

Bullying and harassment

3. **Not bullying or harassing any person.**

Bullying may be characterised as offensive, intimidating, malicious or insulting behaviour, an abuse or misuse of power through means that undermine, humiliate, denigrate or injure the recipient. The bullying might be a regular pattern of behaviour or a one-off incident, happen face-to-face, on social media, in emails or phone calls, happen in the workplace or at work social events and not always be obvious or noticed by others.

The Equality Act 2010 defines harassment as 'unwanted conduct related to a relevant protected characteristic, which has the purpose or effect of violating an individual's dignity or creating an intimidating, hostile, degrading, humiliating or offensive environment for that individual'. The relevant protected characteristics are age, disability, gender reassignment, race, religion or belief, sex, and sexual orientation.

Impartiality of officers of the council

4. **Not compromising, or attempting to compromise, the impartiality of anyone who works for, or on behalf of, the council.**

Officers work for the council as a whole and must be politically neutral (unless they are political assistants). They should not be coerced or persuaded to act in a way that would undermine their neutrality. Although you can question officers in order to understand, for example, their reasons for proposing to act in a particular way, or the content of a report that they have written, you must not try and force them to act differently, change their advice, or alter the content of that report, if doing so would prejudice their professional integrity.

Confidentiality and access to information

5. **Not disclosing information given to me in confidence or disclosing information acquired by me which I believe is of a confidential nature, unless I have**

received the consent of a person authorised to give it or I am required by law to do so.

6. **Not preventing anyone getting information that they are entitled to by law.**

Local authorities must work openly and transparently, and their proceedings and printed materials are open to the public except in certain circumstances. You should work on this basis but there will be times when it is required by law that discussions, documents and other information relating to or held by the council are treated in a confidential manner. Examples include personal data relating to individuals or information relating to ongoing negotiations.

Disrepute

7. **Not bringing my role or council into disrepute.**

Behaviour that is considered dishonest and/or deceitful can bring your council into disrepute. As a member you have been entrusted to make decisions on behalf of your community and your actions and behaviour are subject to greater scrutiny than that of ordinary members of the public. You should be aware that your actions might have an adverse impact on other councillors and/or your council.

Your position

8. **Not using, or attempting to use, my position improperly to the advantage or disadvantage of myself or anyone else.**

Your position as a member of the council provides you with certain opportunities, responsibilities and privileges. However, you should not take advantage of these opportunities to further private interests.

Use of council resources and facilities

9. **Not misusing council resources.**

You may be provided with resources and facilities by the council to assist you in carrying out your duties as a councillor. Examples include office support, stationery and equipment such as phones, and computers and transport. These are given to you to help you carry out your role as a councillor more effectively and not to benefit you personally.

Interests

10. **Registering and declaring my interests.**

You need to register your interests so that the public, council employees and fellow members know which of your interests might give rise to a conflict of interest. The register is a document that can be consulted when (or before) an issue arises, and so allows others to know what interests you have, and whether they might give rise to a possible conflict of interest. The register also protects you. You are responsible for deciding whether or not you should declare an interest in a meeting, but it can be helpful for you to know early on if others think that a potential conflict might arise.

It is also important that the public know about any interest that might have to be declared by you or other members, so that decision making is seen by the public as open and honest. This helps to ensure that public confidence in the integrity of local governance is maintained. Discuss the registering and declaration of interests with your Monitoring Officer/Town or Parish Clerk and more detail is set out in appendix B.

Gifts and hospitality

11. **Not accepting significant gifts or hospitality from persons seeking to acquire, develop**

or do business with the council or from persons who may apply to the council for any permission, licence or other significant advantage.

12. Registering with the monitoring officer any gift or hospitality with an estimated value of at least £25 within 28 days of its receipt.

You should exercise caution in accepting any gifts or hospitality which are (or which you reasonably believe to be) offered to you because you are a member. However, you do not need to register gifts and hospitality which are not related to your role as a member, such as Christmas gifts from your friends and family, or gifts which you do not accept. However, you may wish to notify your monitoring officer of any significant gifts you are offered but refuse which you think may have been offered to influence you.

voting, when prevented from doing so by a conflict caused by disclosable pecuniary interests, is also a criminal offence.

Political parties may have its own internal standards and resolution procedures in addition to the Member Code of Conduct that members should be aware of.

Note – items in square brackets [x] refer to recommendations made by the Committee on Standards in Public Life and may be part of a future Government consultation. This includes possible future sanctions and appeals processes.

Breaches of the Code of Conduct

Most councillors conduct themselves appropriately and in accordance with these standards. Members have both individual and collective responsibility to maintain these standards, support expected behaviour and challenge behaviour which falls below expectations.

Section 27 of the Localism Act 2011 requires relevant authorities to promote and maintain high standards of conduct by members and co-opted members of the authority. Each local authority must publish a code of conduct, and it must cover the registration of pecuniary interests, the role of an 'independent person' to advise on and investigate alleged breaches, and sanctions to be imposed on any councillors who breach the Code.

The 2011 Act also requires local authorities to have mechanisms in place to investigate allegations that a member has not complied with the Code of Conduct, and arrangements under which decisions on allegation may be made.

Failure to comply with the requirements to register or declare disclosable pecuniary interests is a criminal offence. Taking part in a meeting or

Example LGA guidance and recommendations

here of
a
serious
nature,
a bar
on
chairing
advisor
y or

Internal resolution

procedure

Councils should have in place an internal resolution procedure to address conduct that is in breach of the Member Code of Conduct. The internal resolution process should make it clear how allegations of breaches of the Code of Conduct are to be handled, including the role of an Independent Person, the appeals process and can also include a local standards committee. The internal resolution procedure should be proportionate, allow for members to appeal allegations and decisions, and allow for an escalating scale of intervention. The procedure should be voted on by the council as a whole.

In the case of a non-criminal breach of the Code, the following escalating approach can be undertaken.

If the breach is confirmed and of a serious nature, action can be automatically escalated.

1. an informal discussion with the monitoring officer or appropriate senior officer
2. an informal opportunity to speak with the affected party/ies
3. a written apology
4. mediation
5. peer support
6. requirement to attend relevant training

special committees for up to two months

8. where of a serious nature, a bar on attending committees for up to two months.

Where serious misconduct affects an employee, a member may be barred from contact with that individual; or if it relates to a specific responsibility of the council, barred from participating in decisions or information relating to that responsibility.

5

Endnotes

1. CSPL recommend that “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”.
2. CSPL recommend that “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.”
3. Subject to footnotes 1 and 2 above
4. See CSPL website for further details www.gov.uk/government/news/theprinciples-of-public-life-25-years
5. ACAS’s definition of bullying

Appendices

Holders of public office should exhibit these principles in their own behaviour. They should actively promote and robustly support the principles and be willing to challenge poor behaviour wherever it occurs.

Code Appendix A

The principles are :

Selflessness

Holders of public office should act solely in terms of the public interest.

Integrity

Holders of public office must avoid placing themselves under any obligation to people or organisations that might try inappropriately to influence them in their work. They should not act or take decisions in order to gain financial or other material benefits for themselves, their family, or their friends. They must declare and resolve any interests and relationships.

Objectivity

Holders of public office must act and take decisions impartially, fairly and on merit, using the best evidence and without discrimination or bias.

Accountability

Holders of public office are accountable to the public for their decisions and actions and must submit themselves to the scrutiny necessary to ensure this.

Openness

Holders of public office should act and take decisions in an open and transparent manner. Information should not be withheld from the public unless there are clear and lawful reasons for so doing. **Honesty**

Holders of public office should be truthful.

Leadership

Code Appendix B

Registering interests

1. Within 28 days of this Code of Conduct being adopted by the council or your election or appointment to office (where that is later) you must register with the Monitoring Officer the interests which fall within the categories set out in Table 1 (Disclosable Pecuniary Interests) and Table 2 (Other Registerable Interests).
2. You must ensure that your register of interests is kept up-to-date and within 28 days of becoming aware of any new interest in Table 1 or 2, or of any change to a registered interest, notify the Monitoring Officer.

Declaring interests

3. Where a matter arises at a meeting which directly relates to an interest in Table 1, you must declare the interest, not participate in any discussion or vote on the matter and must not remain in the room unless granted a dispensation. If it is a 'sensitive interest', you do not have to declare the nature of the interest.
4. Where a matter arises at a meeting which directly relates to an interest in Table 2, you must declare the interest. You may speak on the matter only if members of the public are also allowed to speak at the meeting but otherwise must not take part in any discussion or vote on the matter and must not remain in the room unless you have been granted a dispensation. If it is a 'sensitive interest', you do not have to declare the nature of the interest.
5. Where a matter arises at a meeting which directly relates to your financial interest or well-being (and is not a Disclosable Pecuniary Interest) or a financial interest or well-being of a relative or close associate, you must declare the interest. You may speak on the matter only if members of the public are also allowed

to speak at the meeting but otherwise must not take part in any discussion or vote on the matter and must not remain in the room unless you have been granted a dispensation. If it is a 'sensitive interest', you do not have to declare the nature of the interest.

6. Where a matter arises at a meeting which affects –
- your own financial interest or well-being;
 - a financial interest or well-being of a friend, relative, close associate; or
 - a body covered by table 1 below

you must disclose the interest.

7. Where the matter affects the financial interest or well-being to a greater extent than it affects the financial interests of the majority of inhabitants of the ward affected by the decision and a reasonable member of the public knowing all the facts would believe that it would affect your view of the wider public interest you must declare the interest. You may speak on the matter only if members of the public are also allowed to speak at the meeting but otherwise must not take part in any discussion or vote on the matter and must not remain in the room unless you have been granted a dispensation. If it is a 'sensitive interest', you do not have to declare the nature of the interest.

Table 1: Disclosable Pecuniary Interests

Subject	Description
Employment, office, trade, profession or vocation	Any employment, office, trade, profession or vocation carried on for profit or gain. [Any unpaid directorship.]
Sponsorship	Any payment or provision of any other financial benefit (other than from the council) made to the councillor during the previous 12-month period for expenses incurred by him/her in carrying out his/her duties as a councillor, or towards his/her election expenses. This includes any payment or financial benefit from a trade union within the meaning of the Trade Union and Labour Relations (Consolidation) Act 1992 .
Contracts	Any contract made between the councillor or his/her spouse or civil partner or the person with whom the councillor is living as if they were spouses/civil partners (or a firm in which such person is a partner, or an incorporated body of which such person is a director* or a body that such person has a beneficial interest in the securities of*) and the council — (a) under which goods or services are to be provided or works are to be executed; and (b) which has not been fully discharged.
Land and Property	Any beneficial interest in land which is within the area of the council. 'Land' excludes an easement, servitude, interest or right in or over land which does not give the councillor or his/her spouse or civil partner or the person with whom the councillor is living as if they were spouses/ civil partners (alone or jointly with another) a right to occupy or to receive income.
Licences	Any licence (alone or jointly with others) to occupy land in the area of the council for a month or longer.
Corporate tenancies	Any tenancy where (to the councillor's knowledge)— (a) the landlord is the council; and

	(b) the tenant is a body that the councillor, or his/her spouse or civil partner or the person with whom the councillor is living as if they were spouses/ civil partners is a partner of or a director* of or has a beneficial interest in the securities* of.
Securities	Any beneficial interest in securities* of a body where—
	(a) that body (to the councillor’s knowledge) has a place of business or land in the area of the council; and
	(b) either—
	(i) the total nominal value of the securities* exceeds £25,000 or one hundredth of the total issued share capital of that body; or
	(ii) if the share capital of that body is of more than one class, the total nominal value of the shares of any one class in which the councillor, or his/ her spouse or civil partner or the person with whom the councillor is living as if they were spouses/civil partners has a beneficial interest exceeds one hundredth of the total issued share capital of that class.

*‘director’ includes a member of the committee of management of an industrial and provident society.

*‘securities’ means shares, debentures, debenture stock, loan stock, bonds, units of a collective investment scheme within the meaning of the Financial Services and Markets Act 2000 and other securities of any description, other than money deposited with a building society.

Table 2: Other Registerable Interests

Any Body of which you are a member or in a position of general control or management and to which you are appointed or nominated by the council;	
Any Body—	(a) exercising functions of a public nature;
	(b) directed to charitable purposes; or
	(c) one of whose principal purposes includes the influence of public opinion or policy (including any political party or trade union)
of which you are a member or in a position of general control or management.	



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REF 11.197

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 ST HELENS BOROUGH COUNCIL	<h2>Standards Committee</h2> <h3>19 October 2020</h3>
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Report Title:	Committee on Standards in Public Life – Progress on Best Practice Recommendations
Cabinet Portfolio	Finance & Governance
Cabinet Member	Councillor Martin Bond
Exempt Report	No
Reason for Exemption	N/A
Key Decision	No
Public Notice issued	N/A
Wards Affected	None
Report of	Jan Bakewell Director of Legal & HR / Monitoring Officer janbakewell@sthelens.gov.uk 01744 673209
Contact Officer	Jan Bakewell Director of Legal & HR janbakewell@sthelens.gov.uk 01744 673209

Borough priorities Please mark X for any priority supported by this report NB Use Section 4 - Background Information to explain how each selected priority is supported	Ensure children and young people have a positive start in life	
	Promote good health, independence and care across our communities	
	Create safe and strong communities for our residents	
	Support a strong, diverse and well-connected local economy	
	Create a green, thriving and vibrant place to be proud of	
	Be a modern, efficient and effective Council	X

1. Summary

- 1.1 To provide Standards Committee with an update on progress in relation to the Committee on Standards in Public Life (“CSPL”) Best Practice recommendations.

2. Recommendations for Decision

The Committee is recommended to:

- i) **note the Council’s progress made so far in relation to the Committee on Standards in Public Life Best Practice recommendations; and**
- ii) **convene a Working Group of members and officers to consider the outstanding recommendations in relation to the Council’s Procedure for Dealing with Complaints regarding breach of the Code of Conduct for Members and report back to Standards Committee with recommendations.**

3. Purpose of this Report

- 3.1 The CSPL has recently contacted all local authority Chief Executives requesting a response by 30 November 2020 on the Council’s progress in relation to the best practice recommendations. Council responses will be published on the CSPL website in the new year.
- 3.2 In January 2019, the CSPL published its Local Government Ethical Standards report, which made a number of recommendations, including some best practice recommendations to improve ethical standards in local government. The best practice represents a benchmark for ethical practice which the CSPL expect any local authority can and should implement.
- 3.3 The CSPL undertook in that report to follow up and review the implementation of the best practice with local authorities this year. The Council is required to update the CSPL on its progress to implement the best practice recommendations.

3.4 A position statement on the Council's progress so far is set out in Appendix 1.

4. Background /Reasons for the recommendations

4.1 In 2018, the CSPL undertook a review of the ethical standards in local government with the following terms of reference:

i. examine the structures, processes and practices in local government in England for:

- maintaining codes of conduct for local councillors
- investigating alleged breaches fairly and with due process
- enforcing codes and imposing sanctions for misconduct
- declaring interests and managing conflicts of interest
- whistleblowing

ii. assess whether the existing structures, processes and practices are conducive to high standards of conduct in local government;

iii. make any recommendations for how they can be improved;

iv. note any evidence of intimidation of councillors, and make recommendations for any measures that could be put in place to prevent and address such intimidation.

4.2 The review considered all levels of local government in England, including town and parish councils and principal authorities.

4.3 In January 2019, the CSPL issued its report:

<https://www.gov.uk/government/publications/local-government-ethical-standards-report>

4.4 The review proposed a number of changes to primary legislation for consideration by central government to improve ethical standards. One of the key proposed changes includes increasing the sanctions available to Councils when members are found to be in breach of the Code of Conduct for Elected Members. This issue has yet to be considered and determined by central government.

4.5 Standards Committee considered reports in relation to the CSPL best practice recommendations in January and April 2019. The April report included a gaps analysis on the Council's position in relation to the best practice recommendations. This was used to inform a review of the Council's Code of Conduct for Members to strengthen it with proposed changes, recently approved by Council at its meeting on 22 July 2020. Those changes address some of the best practice recommendations.

4.6 The position statement at Appendix 1 sets out the progress so far. Some of the recommendations relate to the Council's agreed Procedure for Dealing with Complaints regarding breach of the Code of Conduct for Members (Appendix 2). It is recommended for a working group of members and officers to undertake a review of the Procedure and report back to Standards Committee with recommendations for amendments.

5. Community Impact Assessment

5.1 N/A

6

6 Consideration of Alternatives

- 6.1 None. All Councils are required to respond to the CSPL with an update on progress in relation to the best practice recommendations.

7 Conclusions

- 7.1 The Council is in a good position to respond to the CSPL with progress so far. Subject to further consideration by Standards Committee, it can also demonstrate how it intends to approach progressing the outstanding recommendations in due course.

8. Implications

8.1 Legal Implications

- 8.1.1 The Council has delegated to the Standards Committee the statutory function to promote and maintain high standards of conduct by members and co-opted members.

8.2 Community Impact Assessment (CIA) Implications

What are the implications for the following areas identified from the CIA?

8.2.1 Social Value

- 8.2.1.1 N/A

8.2.2 Sustainability and Environment

- 8.2.2.1 N/A

8.2.3 Health and Wellbeing

- 8.2.3.1 N/A

8.2.4 Equality and Human Rights

- 8.2.4.1 The Council's Procedure for Dealing with Complaints is aimed to ensure equality of access by all.

8.3 Customers and Resident

- 8.3.1 The Council's Procedure for Dealing with Complaints is published on the Council's website and aims to provide a clear process for all customers and residents.

8.4 Asset and Property

- 8.4.1 N/A

8.5 Staffing and Human Resource

- 8.5.1 N/A

8.6 Risks

8.6.1 The recommendations in the report aim to improve the Council's procedure for dealing with Complaints and mitigate any reputational risks to the Council.

8.7 Finance

8.7.1 N/A

8.8 Policy Framework Implications

8.8.1 N/A

9. Background papers

9.1 Review by the Committee on Standards in Public Life – Local Government Ethical Standards: January 2019:

<https://www.gov.uk/government/publications/local-government-ethical-standards-report>

10. Appendices

Appendix 1: CSPL Best Practice Recommendations & Council position statement

Appendix 2: Council's Procedure for Dealing with Complaints regarding breach of the Code of Conduct for Members

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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:

Implemented - This was included in the last review of the Code of Conduct for Members including definitions and examples (new Appendix 4) – approved at Council in July 2020.

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:

Implemented – A requirement for councillors to comply with formal standards investigations was included in the last review of the Code as a requirement in the list of general obligations (paragraph 1.10).

The Council's Procedure for Dealing with Complaints (Appendix 1) has always included reference to complaints containing trivial allegations or which appear malicious in the list of examples of complaints which the Monitoring Officer may decide not to progress to investigation.

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:

The Council does not currently review the Code annually or seek the views of the public etc. The LGA are expected to publish a new Model Code of Conduct for Members in 2021 for consideration, which will trigger the next review.

Recommendation: a light-touch review is undertaken each year as part of the annual general constitution review.

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:

Implemented – the Code has always been published on the website and available in Council premises.

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:

Implemented: The register is published on the Council's website using the Modern.gov software and updated when members register any gifts and hospitality over £25.00.

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

Progress:

Recommendation: a public interest test to be added to the list of examples of complaints which the Monitoring Officer may decide not to progress to investigation as set out in Appendix 1 to the published Procedure for Dealing with Complaints.

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

Progress:

Implemented – the Council has access to three Independent Persons.

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:

Recommendation: the wording of the Procedure for Dealing with Complaints is reviewed to clarify the role the Independent Person at Stages 1 (Initial Consideration), 2 (Alternative Resolution) and 3 (Investigation).

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:

Whilst the publicly available minutes of the Standards Committee set out these details, including any sanctions, the Council does not currently publish this in the form of a 'decision notice'.

Recommendation: Decisions of Standards Committees in future to be published in the form of a decision notice. This is to be added to Stage 4 of the Procedure for Dealing with Complaints.

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:

Implemented in part - The Procedure for Dealing with Complaints is published on the Council's website and sets out the process. It does not include estimated timescales for investigations and outcomes.

Recommendation: to be considered and included as part of the review of the Procedure.

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:

This recommendation is too prescriptive. Whilst this would be encouraged and supported in practice, it is ultimately dependent on each parish council agreeing to do so.

Recommendation: wording to this effect to be considered as part of the review of the Procedure for Dealing with Complaints.

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:

Implemented - this is part of the Monitoring Officer's role supported by the Deputy Monitoring Officer.

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:

This is not currently documented in the Procedure for Dealing with Complaints but would happen in practice.

Recommendation: this can be included as part of the review of the Procedure.

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:

Implemented - Whilst the Council does not have any wholly owned companies, it is a member of a joint venture company, Parkside LLP. It is considered that the minutes of the company board meetings contain commercially sensitive information which should not be subject to routine publication. The Council's Annual Governance Statement now includes reference to this issue.

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

Progress:

Implemented - The Chief Executive has regular meetings with political group leaders. The Monitoring Officer also meets with group leaders/group whips on standards issues.

St Helens Borough Council

Procedure for Dealing with Complaints regarding breach of the Code of Conduct for Members

Introduction

The Code of Conduct sets out the general principles of behaviour expected from Members and requirements in relation to specific interests. Complaints about a breach of the Code are submitted to the Council's Monitoring Officer for consideration [except that if the Monitoring Officer received a complaint in relation to a failure to comply with the requirements on Disclosable Pecuniary Interests, then this would be referred to Merseyside Police].

The Code of Conduct applies to Co-opted members.

This procedure will be used in dealing with complaints received relating to elected members, co-opted members and members of Parish Councils in the Borough.

1. Stage 1 – Initial Consideration

- 1.1 Complaints will be submitted in writing and there is a form available for the purpose of submitting a complaint, although completion of the form is not a requirement to consideration of a complaint.
- 1.2 Complainants must provide sufficient information to enable the Monitoring Officer to identify the breach of the Code which is being alleged. It is also helpful if the complainant identifies how the matter could be resolved.
- 1.3 The Monitoring Officer will consider the complaint. In certain circumstances, the Monitoring Officer may decide not to investigate the complaint. Examples of the circumstances are set out in Appendix 1, but these examples are not definitive. The Monitoring Officer will notify the relevant Member that a complaint has been made and that it is currently being considered at the initial stage. The Monitoring Officer may seek information from the relevant Member.
- 1.4 If the Monitoring Officer decides not to investigate the complaint, the Monitoring Officer will write to the complainant explaining why that decision has been taken and affording the complainant an opportunity to request the Monitoring Officer to review the decision. Additional information may be provided by the complainant to assist the review. Following the outcome of initial consideration and any review requested, the decision of the Monitoring Officer not to investigate a complaint is final. The Monitoring Officer will notify the relevant Member of the outcome.

2. Stage 2 – Alternative Resolution

- 2.1 There may be circumstances where a complaint may appear to be a valid complaint which ought to be investigated, but the complainant indicates how

they believe that the issue could be suitably resolved or the Monitoring Officer believes it can be resolved informally.

- 2.2 The Monitoring Officer will consider this and, if appropriate, will raise the issue with the Member with the aim of resolving the complaint quickly and informally without need of a full investigation. An example of such circumstances would be a request for an assurance that the Member will not repeat remarks which have been the subject of the complaint. If the Member was willing to give that assurance, the Monitoring Officer would regard the complaint as informally resolved and would not submit the complaint for investigation. The Monitoring Officer will consider each set of circumstances on its merits in determining whether a matter is appropriate for alternative resolution.
- 2.3 The Monitoring Officer will inform the Council's Independent Person that consideration is being given to alternative resolution of a complaint. The Monitoring Officer will also provide contact details of the Independent Person to the relevant Member to enable them, if they choose, to seek advice on the way forward.
- 2.4 If the Member concerned is unwilling to agree to the alternative resolution put forward by the Monitoring Officer, then the complaint will be submitted for investigation.
- 2.5 If the Member agrees to the alternative resolution and acts in accordance with it, e.g. by providing the assurance within an agreed timescale, then the Monitoring Officer will notify the complainant of the outcome and notify them that the complaint will not be progressed further. The Monitoring Officer's decision on this is not subject to review.

3. Stage 3 – Investigation

- 3.1 Where a complaint is to be investigated, the Monitoring Officer may carry out the investigation or may nominate the Deputy Monitoring Officer or any other senior officer with suitable experience, to carry out the role of investigator.
- 3.2 The Council's Independent Person will be notified that an investigation is being carried out and will be provided with details of the complaint and the Member to whom it relates.
- 3.3 The complainant will be notified that the matter is to be investigated.
- 3.4 The relevant Member will be notified that the complaint is to be investigated and will be provided with contact details of the Independent Person prior to the investigation commencing.
- 3.5 In conducting the investigation, the investigator may gather information by interviewing relevant individuals and/or seeking written statements/ documentation from those who can provide relevant information.
- 3.6 The investigator shall prepare a written report detailing the steps taken in carrying out the investigation, the information obtained which is relevant to the complaint and the investigator's conclusions in respect of the complaint. If the

investigator is not the Monitoring Officer, the investigator shall provide the completed report to the Monitoring Officer.

- 3.7 The Monitoring Officer shall provide the report to the Independent Person and request that the Independent Person provides their views on the complaint for consideration by Standards Committee.

4. Stage 4 – Standards Committee

- 4.1 On completion of the investigation, the Monitoring Officer shall convene a meeting of Standards Committee.
- 4.2 The Monitoring Officer will notify the relevant Member and the complainant that Standards Committee will consider the outcome of the investigation, and will provide each of them with a copy of the investigation report.
- 4.3 The Monitoring Officer will prepare a report for Standards Committee which includes the investigation report and the views of the Independent Person.
- 4.4 The Monitoring Officer will invite the following to the meeting of Standards Committee:
- (i) the complainant
 - (ii) the relevant Member
 - (iii) the Investigator (if not the MO)
 - (iv) the Independent Person
- 4.5 At the meeting of Standards Committee, the Monitoring Officer will present the report. Members of the Committee may ask questions of the Monitoring Officer and the investigator (if not the MO). At Members' discretion, the complainant and the relevant Member may be permitted to make a statement setting out their respective position. Members may ask questions of the complainant and the relevant Member, but it is a matter for the individuals concerned whether they wish to respond to any questions asked.
- 4.6 If the Independent Person is present, Members of Standards Committee will provide the Independent Person with the opportunity to make additional comments to any written submission provided.
- 4.7 The meeting may be adjourned if members of Standards Committee require information which may be available, but has not been presented.
- 4.8 When Standards Committee members are satisfied that they have sufficient information before them, they will:
- (i) take into account the views of the Independent Person;
 - (ii) consider whether the relevant Member has breached the Code of Conduct;

- (iii) consider whether further action is warranted;
- (iv) consider what action to take.

Standards Committee will reach its view regarding a breach of the Code on the balance of probabilities.

- 4.9 If Standards Committee determines that the relevant Member has breached the Code, it may recommend to Council that the Member be censured. Standards Committee may make further recommendations to Council regarding the matter relative to the individual circumstances, if it believes this will promote and maintain high standards of conduct.
- 4.10 The decision of Standards Committee in relation to any complaint is final and not subject to appeal either by the complainant or by the relevant Member.

Examples of Complaints which the Monitoring Officer may decide
not to progress to Investigation

- (a) Complaints submitted anonymously.
- (b) Complaints which do not identify a Member alleged to be in breach of the Code.
- (c) Complaints which appear to the Monitoring Officer not to relate to the Member's conduct whilst acting in his/her capacity as a Member.
- (d) Complaints which relate to someone who is no longer a Member, or relate to conduct before the Member was elected.
- (e) Complaints which relate to incidents which happened so long ago that there is little benefit in investigating, or the investigation would be compromised by the passage of time.
- (f) Complaints containing trivial allegations.
- (g) Complaints which appear malicious, politically motivated or tit-for-tat, including complaints made in relation to statements on political leaflets or websites.
- (h) Complaints which do not provide sufficient information to enable effective investigation.
- (i) Complaints which allege that the Member has breached the law, in particular with regard to pecuniary interests.
- (j) Such other complaints as the Monitoring Officer believes it would be inappropriate to investigate.

NB. When exercising the delegation not to progress a matter for investigation, the Monitoring Officer shall inform the complainant and provide the complainant with an opportunity to make further representations in relation to the matter. In relation to (i) above, the Monitoring Officer will refer such complaints to Merseyside Police for investigation.

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