

Rother District Council

Report to	-	Audit and Standards Committee
Date	-	9 December 2019
Report of the	-	Executive Directors
Subject	-	The Committee on Standards in Public Life's Review of Local Government Ethical Standards – Best Practice Recommendations

Recommendation: It be **RESOLVED:** That the assessment of the Council's current practice and proposed actions against the best practice recommendations be noted and the proposed actions outlined at paragraph 6 be approved.

Monitoring Officer: Lisa Cooper

Introduction

1. At the June 2019 meeting this Committee received a report on the Committee on Standards in Public Life's (CSPL) Review of Local Government Ethical Standards and gave consideration to the resulting recommendations. (The independent CSPL advises the Prime Minister on ethical standards across the whole of public life in the UK; it monitors and reports on issues relating to the standards of conduct of all public office holders). A copy of the Review can be found at the following link:

<https://www.gov.uk/government/organisations/the-committee-on-standards-in-public-life>

2. It was noted that a detailed report would be presented to this meeting following an officer assessment of the Council's current performance against the best practice recommendations that had also resulted from the CSPL's review.
3. The Government was due to respond to the CSPL's report in September; however, to date this has not happened. However, it is known that Hoey Ainscough Associates Ltd (the organisation that delivered code of conduct training here in July) have been appointed by the Local Government Association to draw up a new national model Code of Conduct to be launched at their July 2020 conference. This is in direct response to the recommendations made by the Committee on Standards in Public Life. There will be a formal consultation with all councils on a proposed draft in the spring following initial consultations with representative bodies such as Lawyers in Local Government, Association of Democratic Services Officers etc.

Best Practice Recommendations

4. The best practice recommendations for local authorities are considered by the CSPL to be a benchmark of good ethical practice and expect that all local authorities can and should implement these.

5. Attached at Appendix A is the officer assessment against the best practice recommendations which gives detail of the current position and suggestions for improvement, where the authority falls short of the recommended best practice. It is very pleasing to note that the majority of best practice recommendations are already processes and procedures operated by this Council (10 out of 15).

6. With regard to the five that do not currently meet the best practice recommendations, it is proposed that the following action is undertaken:

Best practice 3 – it is recommended that the Council awaits the outcome of the Government's response to the CSPL recommendation that there be a new non-mandatory new model code of conduct before carrying out another review.

Best practice 5 – it is recommended that Members be reminded of the need to review their registered gifts and hospitality quarterly.

Best practice 6 – it is recommended that the Monitoring Officer carries out a review of other local authority public interest tests to see whether the Council's current documentation can be improved.

Best practice 9 – this will be adhered to as and when required.

Best practice 11 – this relates to best practice for parish and town councils; however, should a complaint be received from the Clerk concerning the conduct of a Parish / Town Councillor it will be recommended that the complaint be lodged by the Chairman of the Parish / Town Council.

Conclusion

7. It is very pleasing to note that the Council is, in the main, already operating in accordance with the majority of the best practice recommendations.

8. Members are asked to note the outcome of the CSPL's review and resulting recommendations are welcome; further reports will be made to the Committee if and when the Government brings forward any changes to legislation as a result.

Malcolm Johnston
Executive Director

Dr Anthony Leonard
Executive Director

Risk Assessment Statement

Failure to regularly review and compare to best practice guidelines could result in a missed opportunity to improve the ethical standards and procedures at Rother District Council.

Best Practice Recommendations for local authorities

Best Practice Recommendation	Current Position	Action Required / Comment
<p>Best practice 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.</p>	<p>The Committee considered and recommended this amendment to the Council's Code of Conduct at the June meeting which was subsequently adopted by full Council on 8 July 2019.</p>	<p>None – Council meets best practice recommendation.</p>
<p>Best practice 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.</p>	<p>The Committee considered and recommended this amendment to the Council's Code of Conduct at the June meeting which was subsequently adopted by full Council on 8 July 2019.</p>	<p>None – Council meets best practice recommendation.</p>
<p>Best practice 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.</p>	<p>The Code of Conduct has been reviewed once in 2015 since being adopted in 2012. This was undertaken by way of an officer desk-top review and report to Committee; no amendments were proposed.</p> <p>It is recommended that the Council awaits the Government's response to the CSPL's recommendation that a new model code be provided before undertaking a further review.</p>	<p>Action: None at present - await the Government's response to the CSPL's recommendation.</p>
<p>Best practice 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.</p>	<p>A copy of the Code of Conduct was sent to all Councillors following the elections in May 2019. It forms part of the Constitution and is published on the website as well as being on its own dedicated page: http://www.rother.gov.uk/article/369/Members-Code-of-Conduct</p>	<p>None – Council meets best practice recommendation.</p>

Best Practice Recommendation	Current Position	Action Required / Comment
	A hard copy is also available within the Council's Community Help Points for reference.	
<p>Best practice 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.</p>	<p>Currently there is no legal requirement for local authorities to maintain a gift and hospitality register, nor for individual Councillors to register or declare gifts. However, at RDC Councillors are required to provide details of any person from which they have received a gift or hospitality to the value of at least £50. These details are included within the current Register of Interests, as "other interests" and published on individual Councillors' webpages.</p>	<p>Councillors are reminded at the start of each civic year to undertake a review of their Register of Interest; this is considered sufficient at the current time, considering that it is not mandatory to collect the data, in order to capture any additions to their register in this regard.</p> <p>Action: Propose to remind Members quarterly of the need to review Register of Interests and Gifts and Hospitality.</p>
<p>Best practice 6: Councils should publish a clear and straightforward public interest test against which allegations are filtered.</p>	<p>The Council's Arrangements for Dealing with Member Complaints document sets out when it is likely that a complaint will not be investigated.</p>	<p>Action: Propose to carry out a review of other local authority public interest tests to see whether the Council's can be improved / made clearer in a simple statement.</p>
<p>Best practice 7: Local authorities should have access to at least two Independent Persons.</p>	<p>The Council has had three IPs since July 2017; currently in the process of maintaining three, following the resignation of one IP in August this year. Report elsewhere on this Agenda reporting on the recruitment process and recommended appointment.</p>	<p>None – Council meets best practice recommendation.</p>
<p>Best practice 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.</p>	<p>The IPs are consulted on each allegation received, including those that are dismissed as being without merit.</p>	<p>None – Council meets best practice recommendation.</p>

Best Practice Recommendation	Current Position	Action Required / Comment
<p>Best practice 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.</p>	<p>Since the introduction of the Localism Act and the new regime, the Council has not made a decision on an allegation of misconduct following a formal investigation.</p>	<p>Best practice guidelines will be adhered to, if and when required.</p>
<p>Best practice 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.</p>	<p>The Council already publicises guidance and the Arrangements for Dealing with Member Complaints on the website at the following link:</p> <p>http://www.rother.gov.uk/article/369/Members-Code-of-Conduct</p>	<p>None – Council meets best practice recommendation.</p>
<p>Best practice 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.</p>	<p>This is a matter for the Parish / Town Councils across RDC. This recommendation has been brought to the attention of all Clerks and will be confirmed should such a complaint be received.</p>	<p>None.</p>
<p>Best practice 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.</p>	<p>The MO has a good working relationship with Parish and Town Clerks across the district with regard to the standards regime and manages the complaints process within the principal council's remit on behalf of the parish and town councils.</p> <p>The MO is well supported corporately when fulfilling these functions and has access to training and development and MO forums.</p>	<p>None – Council meets best practice recommendation.</p>

Best Practice Recommendation	Current Position	Action Required / Comment
<p>Best practice 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.</p>	<p>The MO does not carry out any investigations; all complaints that are referred for investigation are out-sourced to an external independent investigator. The MO Protocol sets out the process for the appointment of an Investigating Officer.</p>	<p>None – Council meets best practice recommendation.</p>
<p>Best practice 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.</p>	<p>The Council's 2018 Annual Governance Statement (AGS) provides information on separate bodies that have been set up; for example the Limited Company set up in respect of the Colonnade that was subsequently disbanded in 2019 and reported in the 2019 AGS.</p>	<p>None – Council meets best practice recommendation.</p>
<p>Best practice 15: Senior officers should meet regularly with political group leaders or group whips to discuss standards issues.</p>	<p>Executive Directors meet regularly with Group Leaders where standards related matters can and are discussed. All Councillors are part of an established political group on the Council. Relevant issues are discussed with the MO.</p>	<p>None – Council meets best practice recommendation.</p>