

APPENDIX 3

Proposed Council response to the Best Practice Recommendations

| No. | Recommendation | Council response |
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| 1 | <p>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>Current status: Partially Met</p> <p>The current GBC Members' Code of Conduct, which came into force in April 2002, does include a reference to bullying but it does not refer to harassment, or include a definition or provide examples of the sort of behaviour covered by such a definition.</p> <p>It is therefore recommended to Council to amend the Code as follows (also shown as tracked changes at Appendix 4) and to replace 3 (2) (a) and (b) with:</p> <ul style="list-style-type: none"> (a) "bully or harass any person (including specifically any Council employee)". (b) "intimidate or improperly influence, or attempt to intimidate or improperly influence, any person who is or is likely to be involved in any complaint about any alleged breach of this code of conduct". <p>It is also proposed to add the following definition at the end of 3 (2) in accordance with page 33 of the CSPL report (see link): "(Note: bullying may be characterised as: offensive, intimidating, malicious or insulting behaviour; or an abuse or misuse of power in a way that intends to undermine, humiliate, criticise unfairly or injure someone. Harassment may be characterised as unwanted conduct which has the purpose or effect of violating an individual's dignity or creating an intimidating, hostile, degrading, humiliating or offensive environment for an individual.)"</p> <p>In addition, it is recommended that the examples of bullying provided in the CSPL report at page 34 (see link) be added to the GBC Code shown as tracked changes to the Code at Appendix 4.</p> <p>Training was also provided to Members (by ACAS) and Senior Officers on Bullying and Harassment in July 2019 and January 2020, following a full council resolution.</p> <p>These proposed amendments will meet the practice direction.</p> |

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| 2 | <p>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>Current Status: Not currently met</p> <p>There is no such explicit requirement in GBC's Member Code of Conduct. It is proposed that the Council should be recommended to add the following to section 3 of the code (this is also shown as a tracked change/highlighted section to the code at Appendix 4):</p> <p>“You must comply with any formal standards investigation and take any action required by the Standards Committee, following consideration of a complaint and you must do so within timescales stipulated by the Committee”.</p> <p>To avoid the scope for a proliferation of complaints of misconduct arising from allegations which may be deemed to be trivial or malicious it is proposed instead to include an additional presumption within the Procedures for Councillor Conduct Complaints and to also add this as an additional test to the screening assessment. Both additions are shown as track changes/highlighted text to Appendix 5 (new Q4 and Q9).</p> |
| 3 | <p>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>Current status: Partially met</p> <p>It is proposed that the Standards Committee review the Member Code of Conduct every year.</p> |
| 4 | <p>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>Current status: Already met</p> <p>The Member Code of Conduct, along with all related procedures, complaint forms and associated guidance are available on the Council's website with a link to the Member complaints procedures from the webpage relating to Council complaints generally.</p> |

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| 5 | <p>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><i>Please note a CSV file is a Comma Separated Values file. All CSV files are plain text files, can contain numbers and letters only, and structure the data contained within them in a tabular, or table, form.</i></p> | <p>Current status: Partially Met</p> <p>The Gravesham Code has clear provisions for the registration of gifts and hospitality by Members (Members are required to notify the Monitoring Officer of any registerable gifts and hospitality within 28 days of receipt, which is held on the register for a minimum of 12 months). The Code has been amended to reflect the CSPL report recommendation to record any gifts and hospitality received over a value of £50, or totalling £100 over a year.</p> <p>Such registrations will now be published on the Council's website as soon as they are registered by the Member.</p> |
| 6 | <p>Councils should publish a clear and straightforward public interest test against which allegations are filtered.</p> | <p>Current status: Already met</p> <p>The Standards Committee uses its screening assessment process (attached within Appendix 5) as its public interest test, against which all complaints are assessed.</p> <p>To strengthen this it is recommended that question 9 of the screening assessment form is amended to read "Bearing in mind the circumstances of the complaint, would it be proportionate and in the public interest to investigate?"</p> <p>It is also recommended to add a note at the bottom which will state "public interest will be determined on the basis of whether the complaint 'can' be investigated and in addition, whether it 'should' be investigated". These amendments are shown as tracked/highlighted changes in Appendix 5.</p> |
| 7 | <p>Local authorities should have access to at least two Independent Persons</p> | <p>Current status: Already met</p> <p>The Council appointed one Independent Person (IP) in 2016. The local authority has recruited two IPs for a further 4 year period. The Monitoring Officer can also utilise a reciprocal agreement with other Kent authorities to share IPs.</p> |

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| 8 | An IP 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>Current status: Not currently met</p> <p>It is recommended that when the Standards Committee is minded to refer a complaint for formal investigation or to take no further action on a complaint on the grounds that it is trivial, malicious, vexatious, politically motivated or tit-for-tat, then its decision will be subject to consultation with the IP to ensure they share the Committee's view. This is reflected a tracked changes/highlighted text to questions 4 and 9 of the screening assessment within Appendix 5 to this report.</p> |
| 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 IP, the reasoning of the decision-maker and any sanction applied. | <p>Current status: Already met</p> <p>The Council does publish information on its website, as part of the Minutes of the Standards Committee. It is suggested that this approach could continue.</p> |
| 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>Current Status: Already met</p> <p>The Member Code of Conduct, along with all related procedures, complaint forms and associated guidance is available and fully accessible by Members, staff and the public on the Council's website.</p> |

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| 11 | <p>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>Current status: Not currently met</p> <p>It is recommended that the Monitoring Officer seeks the views of all 6 parish councils on this recommendation before proceeding to implement it.</p> |
| 12 | <p>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>Current status: Already met</p> <p>Since April 2017 (when GBC and Medway Council began sharing a Monitoring Officer), there has only been one formal complaint and that related to members of 1 parish council in Gravesham, which does not represent an onerous burden on the Monitoring Officer.</p> <p>The Deputy Monitoring Officer is also an active member of the Kent Secretaries Group which regularly shares learning from best practice.</p> |
| 13 | <p>A local authority should have procedures in place to address any conflicts of interest when undertaking a standards investigation.</p> | <p>Current status: Already met</p> <p>These procedures are in place at GBC.</p> |

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| 14 | <p>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>Current status: Partially met</p> <p>There is a separate workstream underway to establish a framework for scrutiny of the alternative delivery models set up by the council (Rosherville Limited and further subsidiaries). This will include Member training and consideration of advice issued by the Centre for Public Scrutiny (CfPS) on scrutiny of risk and commercialisation.</p> <p>The council's Annual Governance Statement 2019-20 (AGS) includes a specific section dedicated to trading activities. The AGS outlines the core governance arrangements of Rosherville Limited, identifying; the council's interests, the Articles of Association and a formal Shareholders Agreement. Future subsidiaries will equally be considered within the annual review of the council's governance and control environment.</p> <p>In addition, it is recommended that the Monitoring Officer request each of them to publish board agendas, minutes and annual reports.</p> |
| 15 | <p>Senior Officers should meet regularly with political group leaders or group whips to discuss standards issues.</p> | <p>Current status: Already met</p> <p>The Chief Executive meets regularly, at least monthly, with all 3 Group Leaders, where standards issues are discussed as the need arises. The Monitoring Officer will periodically meet with Group Leaders and/or Group Whips as and when issues for discussion arise.</p> |