

**STANDARDS COMMITTEE
AGENDA**

Monday 15th October 2018 at 1400 hours in the Council Chamber, The Arc, Clowne

Item No.		Page No.(s)
	PART 1 – OPEN ITEMS.	
1.	<u>Apologies for absence</u>	
2.	<u>Urgent Items of Business</u>	
	To note any urgent items of business which the Chairman has consented to being considered under the provisions of Section 100(B) 4 (b) of the Local Government Act 1972.	
3.	<u>Declarations of Interest</u>	
	Members should declare the existence and nature of any Disclosable Pecuniary Interest and Non Statutory Interest as defined by the Members' Code of Conduct in respect of:	
	a) any business on the agenda	
	b) any urgent additional items to be considered	
	c) any matters arising out of those items	
	and if appropriate, withdraw from the meeting at the relevant time.	
4.	Minutes of a meeting held on 2 nd July 2018.	3 to 9
5.	Recommended Item from Union / Employee Consultation Committee – Refreshed Employee Code of Conduct.	10 to 12
6.	Annual Letter from the Local Government & Social Care Ombudsman 2017/18.	13 to 21
7.	Questions raised by the Customer Service and Transformation Scrutiny Committee in relation to their Operational Review of Standards Committee.	22
8.	Election Candidates and Campaigns: A Consultation on New Laws.	23 to 45
9.	Review of the Council's Constitution (Part 1).	46 to 53
10.	Work Programme 2018/19.	54 to 55

STANDARDS COMMITTEE

Minutes of a meeting of the Standards Committee of the Bolsover District Council held in the Council Chamber, The Arc, Clowne, on Monday 2nd July 2018 at 1000 hours.

PRESENT:-

Members:-

R. Jaffray (Co-optee) in the Chair

Councillors J.A. Clifton, M.J. Dooley, H.J. Gilmour, C.R. Moesby, T. Munro and B. Watson.

Officers:- S.E.A. Sternberg (Head of Corporate Governance and Monitoring Officer), V. Dawson (Deputy Monitoring Officer), N. Calver (Governance Manager), J. Wilson (Scrutiny and Elections Officer) and A. Bluff (Governance Officer).

Also in attendance at the meeting was Councillor D. McGregor, observing.

0128. APOLOGIES

There were no apologies for absence.

0129. URGENT ITEMS OF BUSINESS

There were no urgent items of business to consider.

0130. DECLARATIONS OF INTEREST

There were no declarations of interest made.

0131. MINUTES – 8TH MAY 2018

The Monitoring Officer referred to Minute Number 813 of the Minutes from the last meeting and advised Committee that a formal report in relation to a Breach of the Code of Conduct would be presented to the next meeting of Standards Committee.

Moved by Councillor B. Watson and seconded by Councillor T. Munro

RESOLVED that the Minutes of a Standards Committee meeting held on 8th May 2018 be approved as a correct record.

STANDARDS COMMITTEE

0132. OPERATIONAL REVIEW OF STANDARDS COMMITTEE BY THE CUSTOMER SERVICE AND TRANSFORMATION SCRUTINY COMMITTEE

At the meeting of Standards Committee on 8th May 2018, Members gave consideration to a consultation, which was being undertaken by the Parliamentary Committee on Standards in Public Life in relation to Local Government Ethical Standards. Members had provided a collective response to the consultation questions during that meeting and these had been submitted to the Parliamentary Committee by the Governance Manager.

In answering the consultation questions Members had in effect carried out their own internal review process of its ethical standards and felt it would also be beneficial to have Scrutiny carry out an overview on how Standards operated.

At its meeting held on 29th May 2018, Customer Service and Transformation Scrutiny Committee had agreed to carry out a mini review and had devised a list of questions to be considered by Standards Committee as part of enabling the scoping of the review work.

The Scrutiny and Elections Officer circulated the list of questions to the meeting and Members deliberated each one making changes and additions were it was felt necessary.

Moved by Councillor B. Watson and seconded by Councillor T. Munro

RESOLVED that the list of questions, considered and amended by Standards Committee, be forwarded to Customer Service and Transformation Scrutiny Committee to enable the scoping of their review work in relation to a mini review of the Standards Committee.

(Scrutiny and Elections Officer)

0133. HIGH COURT CASE – LEDBURY TOWN COUNCIL

Committee considered a report in relation to a recent High Court ruling on the obligation of local authorities to discipline councillors under the Code of Conduct procedure.

The High Court had recently handed down an important ruling which clarified how a council should deal with complaints against a councillor. This ruling followed a claim brought by a Councillor of Ledbury Town Council in Herefordshire after complaints of bullying and harassment were made against her by the Town Clerk and Deputy.

The Town Council decided to follow guidance adopted by at least one county association of local councils which said that it was appropriate to deal with allegations of bullying under a grievance procedure because issues concerning employee relations should be addressed more expeditiously than the Code of Conduct process contemplated.

The Councillor disagreed that this was the appropriate way to deal with complaints and self-referred a Code of Conduct complaint to the Monitoring Officer of Herefordshire Council (the principal authority for the area).

STANDARDS COMMITTEE

The Town Council continued to proceed under its grievance and appeals procedure, found against the Councillor and imposed various disciplinary sanctions including preventing the councillor from serving on a committee, sub-committee panels or working/steering groups and that she could not represent the council on any outside body.

These measures were maintained even after external investigators instructed by Herefordshire Council's Monitoring Officer found that the councillor had not breached the Town Council's Code of Conduct.

The High Court ruling had implications for town and parish councils throughout England and any local authority would be acting unlawfully and be at risk of challenge if it tried to bypass the Code of Conduct procedure under the Localism Act 2011 when addressing alleged misconduct of councillors.

It was important for Standards Committee to consider the judgement with regard to how the Monitoring Officer and the Council conducted investigations into breaches of the Code of Conduct.

Moved by Councillor T. Munro and seconded by Councillor B. Watson
RESOLVED that the report be noted.

0134. ANNUAL REPORT OF THE STANDARDS COMMITTEE 2017/18

Members considered a draft Annual Report of Standards Committee which would be presented to Council on 18th July 2018, by the Chair of Standards Committee.

The purpose of the Annual Report was to enable Council to review the work that had been undertaken by the Standards Committee during the municipal year 2017/18.

It was agreed that further detail be included under the heading, 'Work Undertaken on the Council's Constitution', to reflect the work carried out by the Committee.

Moved by Councillor B. Watson and seconded by Councillor T. Munro
RESOLVED that subject to the inclusion of further detail under the heading, 'Work Undertaken on the Council's Constitution', the draft Annual Report of Standards Committee be approved and presented to Annual Council on 23rd May 2018.

(Governance Manager/Chair of Standards Committee)

0135. REVIEW OF JOINT RIPA POLICY

Committee considered a report in relation to a review of the joint policy and procedures covering the Council's activities under the Regulation of Investigatory Powers Act 2000 (RIPA).

Neither Bolsover nor North East Derbyshire District Council had used RIPA legislation since the last update to Committee in July 2017.

STANDARDS COMMITTEE

The Council had been periodically inspected by the Office of Surveillance Commissioners, (now superseded by the Investigatory Powers Commissioner's Office (IPCO)), with the last inspection taking place in 2015/2016 and the next inspection being due in the current year, 2018/19.

Since the last inspection, the policy had been reviewed annually to ensure that post-holders were up to date and to also improve wording and clarity of the information. There had been no changes in the official guidance and no changes in legislation.

However, the Investigatory Powers Act 2016, made many changes to the power to acquire communications data. The main change within the legislation was that applications for the acquisition and disclosure of communications data would be submitted to the Investigatory Powers Commissioner for approval.

These changes were yet to be brought into force but in anticipation, the policy had been adapted to separate out the sections relating to the different powers.

Further changes to these provisions were expected in order to bring the rules in line with European legislation and the Government had been given a deadline of 1st November 2018 to make the changes. A further review would be undertaken at that stage to implement the changes to this part of the procedure.

Much of the public concern regarding these powers in relation to communications, was in the interception of the content of communications, i.e. listening to phone-calls and reading emails. Local authorities were only permitted to access limited data regarding service use and subscriber information (e.g. the use of a forwarding or re-direction service). Neither Bolsover District Council nor North East Derbyshire District Council has applied for or used the powers to acquire communications data under the current regulations.

Previous inspections had focused on the need for regular training of relevant officers and this had been deferred in the last 12 months due to the on-going SAMT restructure and the uncertainty regarding the amendments due to the Investigatory Powers Act. The last training at both councils took place in November 2015 and new training sessions would be scheduled over the next few months for the Strategic Alliance Management Team including those officers appointed as authorising officers and designated persons and officers in planning enforcement, licensing, environmental health and the benefits team.

Moved by Councillor H.J. Gilmour and seconded by Councillor B. Watson
RESOLVED that:

- (1) the update provided on the use of the RIPA Policy be noted,
- (2) a further review takes place once the provisions of the Investigatory Powers Act 2016 relating to the acquisition and disclosure of communications data are brought into force,

RECOMMENDED that following consideration by the Strategic Alliance Joint Committee, Executive approves the revised Joint RIPA Policy and Procedure document

(Head of Corporate Governance and Monitoring Officer/Governance Manager)

STANDARDS COMMITTEE

0136. STRATEGIC ALLIANCE JOINT COMMITTEE – TERMS OF REFERENCE

Committee considered a report which set out proposed revised Terms of Reference for the Strategic Alliance Joint Committee.

At its meeting on 21st May 2018, Executive considered and endorsed a Scrutiny report in relation to a review carried out on the Strategic Alliance Joint Committee by the Customer Service & Transformation Scrutiny Committee.

The Scrutiny report set out various recommendations of which one was that the Terms of Reference for the Strategic Alliance Joint Committee was reviewed to ensure that the Committee's remit remained fit for purpose and was monitoring and developing the work of the Alliance.

The Scrutiny report was further considered by the Strategic Alliance Joint Committee on 12th June 2018 and it was agreed that the Terms of Reference be revised with a number of amendments being made. A copy of these amendments was attached as an appendix to the report.

Moved by Councillor T. Munro and seconded by Councillor M.J. Dooley
RESOLVED that the report be noted,

RECOMMENDED that the proposed revised Terms of Reference for the Strategic Alliance Joint Committee be approved by Council.

(Head of Corporate Governance and Monitoring Officer/Governance Manager)

0137. ANNUAL REVIEW OF GIFTS AND HOSPITALITY REGISTER – 2016 AND 2017

Committee considered a report which provided details of all entries in the Council's Gifts and Hospitality Register for the period January 2016 to December 2016 and January 2017 to December 2017. The results of the review were contained on spreadsheets attached to the report.

Currently, there was no specific system in place to document any charitable donations made on behalf of the Council by members of the public or businesses via the Just Giving online fundraising platform.

To ensure transparency of these types of donations, Committee was asked to consider including these in the Register to illustrate a record of the donation on the Council's behalf.

Further, the Council's Publication Scheme stated that the Council's Gifts and Hospitality Register could be accessed via the Council's website. Unfortunately, this had not been the case for a while and Committee was asked to consider whether the Gifts and Hospitality Register should be available on the website for public viewing. Committee was asked to note, however, that there was no legal requirement to publish the Register

STANDARDS COMMITTEE

but there was a requirement to allow access to the Register to members of the public upon request and this was carried out when a request was made to the Legal team.

Following a recent Gifts and Hospitality Audit, it had been recommended that Standards Committee approve that employees and Members be required to declare any gift or hospitality above £100 in value. Members were asked to confirm that they felt this level was still appropriate.

Further to a comment made by a Member, the Monitoring Officer replied that she would confirm with the Chief Executive's Partnership Team that charitable donations made to the Chairman's charities were or needed to be recorded separately to the Gifts and Hospitality Register.

The Monitoring Officer would write out to Members and staff with regards to the Gifts and Hospitality Guidance.

Moved by Councillor B. Watson and seconded by Councillor M.J. Dooley

RESOLVED that (1) the report be noted,

(2) the Gifts and Hospitality Register be published on the Council's website,

(3) the Gifts & Hospitality Register includes the requirement that any charitable donations be registered via the Gifts & Hospitalities system,

(4) Members be required to declare any gift or hospitality above £100 in value.

(Head of Corporate Governance and Monitoring Officer)

0138. DRAFT COUNCILLOR COMPLAINT PROCEDURE

Committee considered a report which sought approval for a draft Councillor Complaint Procedure.

The Council currently had a Councillor Complaint Summary document in place which was available on the Council's website. However, it had been felt that this could be improved upon and provide more specific information as to how the Council dealt with complaints against Members.

The draft Councillor Complaint Procedure set out arrangements for dealing with standards allegations under the Localism Act 2011. It was a simple procedure, which included a flow chart on how a formal complaint could be made about the conduct of a District or parish councillor and how that complaint would be dealt with and within what time frames. It was also a useful document for Members who may be the subject of a complaint.

The draft procedure also advised of a range of sanctions which could be imposed by the Standards Committee in the event of misconduct by a councillor being found. It should be noted that whilst this was not necessarily an exhaustive list, there were no statutory sanctions provided for in the Localism Act in relation to general breaches of the Code of

STANDARDS COMMITTEE

Conduct. However, Members were reminded that a failure to declare a Disclosable Pecuniary Interest constituted a criminal offence with the potential sanction of a fine and/or disqualification.

In response to a Member's query, the Deputy Monitoring Officer advised the meeting that a Member would be informed that a complaint had been made against them at the first stage of the procedure, i.e., when a written complaint was received and acknowledged within 10 working days, the Member would be written to at the same time. The flow chart would be amended to reflect this as part of the procedure.

In response to another Member's query, the Monitoring Officer noted that the document could be circulated to parish and town councillors at the District and Parish Council Liaison meeting at the end of July.

Moved by Councillor T. Munro and seconded by Councillor B. Watson

RESOLVED that subject to the above amendment to the flowchart, the draft Councillor Complaint Procedure be approved and recommended to Council for adoption.

(Head of Corporate Governance and Monitoring Officer/Governance Manager)

0139. COMPLAINTS AGAINST MEMBERS UPDATE - VERBAL REPORT

Committee was advised that there were no current active complaints against any Councillors.

Moved by Councillor T. Munro and seconded by Councillor B. Watson

RESOLVED that the update be noted.

0140. WORK PLAN 2018/19

Committee considered their Work Plan for 2018/19.

Members were advised that if they had any items to raise, these could be added to the Work Plan at any time.

The Monitoring Officer advised the meeting that the 2017/18 annual report in relation to figures for Member complaints would be added to the Work Plan and presented at the October meeting.

Moved by Councillor B. Watson and seconded by Councillor T. Munro

RESOLVED that the Work Plan 2018/19 be noted.

The meeting concluded at 1035 hours.

**STANDARDS COMMITTEE
15TH OCTOBER 2018**

Agenda Item 5

UNION / EMPLOYEE CONSULTATION COMMITTEE – 20TH SEPTEMBER 2018

0303. CODE OF CONDUCT

Committee considered a report regarding the Employee Code of Conduct document which had been refreshed.

The Council's Constitution had been reviewed in 2017 with minor amendments being made to the Employee Code of Conduct.

Although the revised Constitution was approved at Council in May 2018, it was subsequently identified that the refreshed Employee Code of Conduct had not been considered by this Committee as part of the consultation process when changes were proposed to ensure it was reflective of business needs.

Only minor changes had been made to the document, for example, job titles as a result of restructures.

The report sought Committee's recommendation that the refreshed Employee Code of Conduct document be presented to Standards Committee for approval and recommendation to Council for adoption.

Unison raised no concerns regarding the document, however, commented that it would be helpful if future changes to any documents appeared as tracked changes.

Moved by Councillor A.M. Syrett and seconded by Councillor A. Joesbury.

RECOMMENDED that Standards Committee approve the refreshed Employee Code of Conduct document and recommend to Council for adoption.

(Governance Manager)

Bolsover District Council

Union/Employee Consultation Committee

20th September 2018

<p>Code of Conduct</p>

Report of the Human Resources & OD Manager

Purpose of the Report

- To seek agreement from UECC that the attached Code of Conduct at Appendix One be submitted for approval at the Council.

1 Report Details

- 1.1 The Council's Constitution was reviewed last year and minor amendments were made to the Council's Code of Conduct which is included within the Constitution documents. The revised Constitution was approved at Council. It was subsequently identified that HR and Trade Unions form part of the consultation process when any changes are proposed to the Code of Conduct.
- 1.2 As a result of the above, it felt timely to review and refresh the Council's Code of Conduct to ensure it is reflective of business needs. Attached at Appendix One is the Council's Code of Conduct that applies to employees. There are no substantial changes to this revised document in comparison with the existing Code of Conduct currently in place. Only minor changes to the document have been made for example job titles as a result of restructures.
- 1.3 The purpose of this report is to seek agreement from UECC that the attached Code of Conduct at Appendix One be submitted for approval at the Council.

2 Conclusions

- 2.1 Following a review, a refreshed Code of Conduct has been produced and agreement is sought from UECC for this document to be submitted for approval at the Council.

3 Consultation and Equality Impact

- 3.1 As covered within the report

4 Alternative Options and Reasons for Rejection

- 4.1 The alternative option is to continue with an outdated Code of Conduct. However, this would place the Council at risk in terms of setting clear expectations for employees and addressing any issue that may arise.

5 **Implications**

5.1 **Finance and Risk Implications**

As covered within the report

5.2 **Legal Implications including Data Protection**

As covered within the report

5.3 **Human Resources Implications**

As covered within the report

6 **Recommendations**

- 6.1 To seek agreement from UECC that the attached Code of Conduct at Appendix One be submitted for approval at the Council.

7 **Decision Information**

Is the decision a Key Decision?	No
District Wards Affected	N/A
Links to Corporate Plan priorities or Policy Framework	Transforming our organisation

8 **Document Information**

Appendix No	Title
Appendix One	BDC Code of Conduct Document
Background Papers	
Report Author	Contact Number
Sara Gordon - HR & OD Manager	Ext 7677

Employee Code of Conduct

September 2018



We speak your language

Polish

Mówimy Twoim językiem

Slovak

Rozprávame Vaším jazykom

Chinese

我们会说你的语言

If you require this publication in
large print or another format
please call us on **01246 242424**

CONTROL SHEET FOR Employee Code of Conduct

Policy Details	Comments / Confirmation (To be updated as the document progresses)
Policy title	Employee Code of Conduct
Current status – i.e. first draft, version 2 or final version	Version 1
Policy author (post title only)	HR & OD Manager
Location of policy (whilst in development) – i.e. L-drive, shared drive	
Relevant Cabinet Member (if applicable)	Councillor Duncan McGregor
Equality Impact Assessment approval date	
Partnership involvement (if applicable)	
Final policy approval route i.e. Executive/ Council	
Date policy approved	
Date policy due for review (maximum three years)	
Date policy forwarded to Improvement (to include on Intranet and Internet if applicable to the public)	

Employee Code of Conduct

CONTENTS

1. Standards
2. Disclosure of Information
3. Political Neutrality
4. Relationships
5. Appointment and Other Employment Matters
6. Outside Commitments
7. Intellectual Property
8. Personal Interests
9. Equality Issues
10. Contracts, Procurement and Tendering
11. Corruption
12. Use of Resources
13. Sponsorship – Giving and Receiving
14. Safety
15. Criminal Activity
16. Falsification of Records
17. Damage to Property
18. Abuse of Authority
19. Co-operation
20. Time Keeping and Attendance
21. Alcohol and Drugs
22. Rules
23. Interpretation

EMPLOYEE CODE OF CONDUCT

1. Introduction

This code has been drawn up broadly in line with the Local Government Management Board's Code of Conduct for local government employees, with variations to reflect Bolsover's conditions and circumstances.

This code has been formulated by the Council to provide a set of standards of conduct expected of employees at work and the link between that work and their private lives.

The code takes into account the requirements of the law and the provisions on official conduct in the appropriate National Conditions of Service.

The code applies to all Council employees. Those employees involved in processing applications for services or resources, licences or statutory consents and those involved in the procurement of goods and services need to pay particular attention to the code.

The code will be made readily accessible in all work places to all employees for reference purposes. Investigations of alleged breaches of this code will be dealt with under the Council's Disciplinary Policy. If employees are in any doubt whether they may be in breach of this code they should seek advice from their Head of Service.

2. Standards

1.1 Employees are expected to give the highest possible standard of service to the public, and where it is part of their duties, to provide appropriate advice to councillors and fellow employees with impartiality. Employees will be expected, through agreed procedures and without fear of recrimination, to bring to the attention of the appropriate level of management any deficiency in the provision of service. Employees must report to the appropriate manager any impropriety or breach of procedure.

1.2 Employees are expected to undertake their duties on the basis of mutual trust, respect and courtesy. Conduct which undermines the satisfactory working of the establishment and is not in accordance with these principles will give rise to disciplinary action which could include dismissal.

3. Disclosure of Information

2.1 The law requires that certain types of information must be available to members, auditors, government departments, service users and the public. The Authority itself may decide to be open about other types of information. Employees must be aware of the types of information which are open and which are not. Heads of Service must ensure their employees are well briefed on these matters. Employees must make themselves aware of their responsibilities under the General Data Protection Regulation. If there is any doubt advice should be sought from the Data Protection Officer or Legal Services.

- 2.3 Employees should not use any information obtained in the course of their employment for personal gain or benefit, nor should they pass it on to others who might use it in such a way. Any particular information received by an employee from a councillor which is personal to that councillor and does not belong to the Authority should not be divulged by the employee without the prior approval of that councillor, except where such disclosure is required or sanctioned by the law.
- 2.4 No employee shall communicate to the public the proceedings of any Council meeting from which the public are excluded, nor the contents of any document or other information relating to such a meeting, unless required by law or expressly authorised to do so by an Officer with the appropriate authority.
- 2.5 Employees should not communicate information acquired at work to the press, TV or radio without specific authority from a Heads of Service or Director. Where an employee communicates with the media in a capacity other than as an employee, the employee should make it clear that he/she is speaking for him/herself and should not name the authority.

4. Political neutrality

- 3.1 Employees serve the Authority as a whole. It follows they must serve all councillors and not just those of the controlling group, and must ensure that the individual rights of all councillors are respected.
- 3.2 Subject to the Authority's conventions, employees may also be required to advise political groups. They must do so in ways that do not compromise their political neutrality. Guidance is contained within the Member/Officer Protocol and may also be obtained from Legal Services.
- 3.3 Employees, whether or not politically restricted, must follow every lawful expressed policy of the Authority and must not allow their own personal or political opinions to interfere with their work.
- 3.4 Political assistants appointed on fixed term contracts in accordance with the Local Government and Housing Act 1989 are exempt from the standards set in paragraphs 3.1 to 3.3.

5. Relationships

4.1 Councillors

Mutual respect between employees and councillors is essential to good local government. Close personal familiarity or hostility between employees and individual councillors can damage the relationship and prove embarrassing to other employees and councillors and should therefore be avoided. Employees should read and act in accordance with the Council's Protocol on Member/Officer Relations.

4.2 The Local Community and Service Users

Employees should always remember their responsibilities to the community they serve and ensure courteous, efficient and impartial service delivery to all groups and individuals within that community.

4.3 Contractors

All relationships of a business or private nature with external contractors, or potential contractors, should be made known to the Head of Service. For Heads of Service notification should be given to the Director/Chief Executive Officer. Orders and contracts must be awarded on merit, by fair competition against other tenders, and no special favour should be shown to businesses run by, for example, friends, partners or relatives in the tendering process. No part of the local community should be discriminated against.

- 4.4 Employees who engage or supervise contractors or have any other official relationship with the contractors and have previously had or currently have a relationship in a private or domestic capacity with contractors, should declare in writing that relationship to the Head of Service.

5. **Appointment and other employment matters**

Employees involved in appointments should ensure that these are made on the basis of merit. It would be unlawful for an employee to make an appointment that was based on anything other than the ability of the candidate to undertake the duties of the post. In order to avoid any possible accusation of bias, employees should not be involved in an appointment where they are related (including a spouse, partner, parent, parent-in-law, son, daughter, step-son, step-daughter, child of a partner, brother, sister, grandparent, grandchild, uncle, aunt, nephew, niece, or the spouse or partner or ex-partner) to an applicant, or had/have a close personal relationship outside work with him or her.

All employees participating as part of the interview panel will be required to sign a declaration that they are not related, or have/had a close personal relationship or association (whether positive or negative) with any of the candidates.

- 5.2 Similarly, employees should not be involved in decisions relating to discipline, promotion or pay adjustments for any other employee who is a relative, partner, or friend.
- 5.3 Every candidate for an appointment with the Authority is required, when making such an application, to disclose whether to his/her knowledge they are related to any member/employee of the Authority. Deliberate omission to make such a disclosure will disqualify the candidate and if the omission is discovered after the appointment is made he/she will be liable to dismissal.

6. Outside Commitments

- 6.1 An employee's off duty hours are their own concern but he/she must not allow private interests to conflict in any way with the duties of their employment with the Authority or to cause any detriment to the interests of the Authority or to undermine public confidence in that officer's integrity.
- 6.2 No employee shall undertake additional work (whether paid or unpaid) outside of the Authority without completing a Secondary Employment Form which is available from Human Resources and obtaining the prior approval of their Head of Service. All such requests require the further approval of the Chief Executive Officer.
- 6.3 Where undertaking authorised additional work outside the Authority, employees must not use Council vehicles, tools, equipment or clothing.

7. Intellectual Property

Employees should follow the Council's rules on the ownership of intellectual property or copyright created during their employment.

8. Personal Interests

- 8.1 Employees must declare, and submit in writing to the Chief Executive Officer, details of any non-financial interests that they consider could bring about conflict with the Council's interests.
- 8.2 Employees must declare, and submit in writing to the Chief Executive Officer, details of any financial interests that could conflict with the Council's interests.
- 8.3 Employees should declare to the Chief Executive Officer, membership of any organisation which is not open to the public and has no formal membership but to which the individual owes a commitment of allegiance and which has secrecy about rules or membership.
- 8.4 Employees must not, in respect of data held by the Council, access or deal with their own personal records/information/data or that of their family or close friends

9. Equality issues

- 9.1 The Council is committed to a policy of equal opportunities in the full context of employment issues and all officers responsible for recruitment, training, promotion and career development shall select candidates irrespective of whether they have a 'protected characteristic'. 'Protected characteristics' covered by the Equalities Act 2010 are because of age, disability, gender reassignment, race, religion or belief, sex, sexual orientation or any personal characteristic of the individual, whether the person possesses a particular characteristic or it is perceived they do

- 9.2 All members of the community, customers, councillors and other employees have a right to be treated with fairness and equity.
- 9.3 Employees are expected to carry out their duties and responsibilities in accordance with the Council's Equalities Policy. Employees must not discriminate against or harass any member of the public or colleague on grounds of age, disability, gender reassignment, race, religion or belief, sex or sexual orientation.

10. Contracts Procurement and Tendering

- 10.1 Employees involved in the tendering process and dealing with contractors should be clear on the separation of client and contractor roles within the Authority. Senior employees who have both a client and contractor responsibility must be aware of the need for accountability and openness.
- 10.2 Employees in contractor or client units must exercise fairness and impartiality when dealing with all customers, suppliers, other contractors and sub-contractors.
- 10.3 Employees who are privy to confidential information on tenders or costs for either internal or external contractors should not disclose that information to any unauthorised party or organisation.
- 10.4 Employees contemplating a management buyout should, as soon as they have formed a definite intent, inform the Director and withdraw from the contract awarding processes.
- 10.5 Employees should ensure that no special favour is shown to current or former employees or their friends, partners, relatives or associates in awarding contracts to businesses run by them or employing them in a senior or relevant managerial capacity.
- 10.6 Employees must ensure that any action taken in respect of the tendering process, dealing with contractors or in the procurement of goods or services is compliant with the Council's Standing Orders and Financial Regulations.
- 10.7 Employees dealing with contractors should ensure that they do not use their professional relationship to obtain advantageous prices for themselves, which would not be available to all employees, or where the obtaining of this advantageous price would be to the detriment of the Council.

11. Corruption

It is a serious criminal offence for an employee to corruptly receive or give any gift, loan, fee, reward or advantage for doing, or not doing, anything or showing favour, or disfavour, to any person in their official capacity. If an allegation is made it is for the employee to demonstrate that any such rewards have not been corruptly obtained. Employees must act in accordance with the Council's Guidance on Acceptance of Gifts and Hospitality.

12. Use of Resources

- 12.1 Employees must ensure they use public funds entrusted to them in a responsible and lawful manner. They should strive to ensure value for money to the local community and to avoid legal challenge to the Council.
- 12.2 Employees should be aware of and adhere to the Authority's Contracts Standing Orders, Financial Regulations and Procurement Strategy. If any employee has concerns over the lawfulness of certain action they should raise their concerns with their Head of Service or Director/Chief Executive Officer. **Employees should ensure that they are familiar with the Council's Whistle blowing Policy and be aware of the protection that it can provide.**
- 12.3 The Council's time, property and facilities, including the use of plant machinery, stationery, vehicles, offices and other assets may be used only for Council business.

13. Sponsorship – Giving and Receiving

- 13.1 Where an outside organisation wishes to sponsor or is seeking to sponsor a local government activity, whether by invitation, tender, negotiations or voluntarily, the basic conventions concerning acceptance of gifts or hospitality apply. Particular care must be taken when dealing with contractors or potential contractors.
- 13.2 Where the Council wishes to sponsor an event or service neither an employee nor relative, partner or friend must benefit from such a sponsorship in a direct way without there being full disclosure to Head of Service/Director/Chief Executive Officer of any such interest. Similarly, where the Council through sponsorship, grant aid, financial or other means, gives support in the community, employees should ensure that impartial advice is given and that there is no conflict of interest involved.

14. Safety

All employees have a duty to take care of their own health and safety and that of others who may be affected by their activities, acts or omissions. Failure to comply with Health and Safety Policies and Procedures, or to recklessly or negligently endanger themselves or others may be regarded as gross misconduct and will be grounds for disciplinary action.

15. Criminal activity

A criminal offence or incident committed in the course of employment or connected to it will be grounds for disciplinary action. A criminal offence or incident outside the course of employment may be grounds for disciplinary action if it renders the employee unsuitable for the requirements of his/her post.

16. Falsification of Records

Any act involving the deliberate falsification of records, qualifications, entries on flexi-time sheets, abuse of the flexi-time system, time sheets, bonus sheets, expense claims or similar document, will be grounds for disciplinary action.

17. Damage to Property

Employees must take good and reasonable care of the Council's property, equipment and other physical assets and of the property, equipment and other physical assets of fellow employees and of any other person where the Council is in a position of trust or has a duty of care.

18. Abuse of authority

- 18.1 Employees have a position of trust and responsibility in respect of the effective and efficient operation of the organisation. Employees must not use an official position improperly or for a private advantage for themselves or another.
- 18.2 An Employee must not in his/her official capacity, or any other circumstance, conduct him/herself in a manner which could reasonably be regarded as bringing his/her office or the Council into disrepute.

19. Co-operation

- 19.1 Employees must comply with the reasonable and lawful instructions of their supervisors. Any act of insubordination could constitute grounds for disciplinary action.
- 19.2 Employees have a duty to obey lawful and reasonable instructions, to serve the Council, as their employer, personally and faithfully, to exercise reasonable care and skill in carrying out their work, to abide by the law and not to disclose confidential information after the employment ends.

20. Time Keeping/Attendance

- 20.1 Employees must attend work regularly and punctually during their normal working hours.
- 20.2 Employees unable to attend through illness or for any other reason must report this on the first and fourth days of absence by 9.00 am, or earlier where this is necessary for the efficient scheduling of cover.
- 20.3 Employees absent through illness must not prolong their absence by neglecting to act on medical advice.

- 20.4 Employees may not absent themselves without giving reason.
- 20.5 Employees must complete a self-certificate for any absences of less than eight calendar days and produce documentary medical evidence to cover absences in excess of 7 calendar days.
- 20.6 Employees should ensure that they are familiar with the Council's Absence Management Procedure.

21. Alcohol and drugs

- 21.1 Employees must not use, sell, buy or possess illegal drugs (of any classification) or other such substances during working hours, or on Council property, or in a Council vehicle.
- 21.2 Employees must not consume alcohol on Council property or during work time unless expressly authorised to do so by the Head of Service.
- 21.3 Employees must ensure that their use of alcohol or drugs or other substances does not adversely affect work performance or the safety of any person, including themselves, who may be affected by their work activities and that it does not bring the Council into disrepute.
- 21.4 Employees taking prescribed or over-the-counter drugs must ensure that their use does not knowingly adversely affect work performance or the safety of any person, including themselves, who may be affected by their work activities.

22. Rules

- 22.1 This Code of Conduct outlines some general standards and employees must ensure that they are aware of any other rules that apply to their profession, position and workplace. Employees must familiarise themselves with and observe the requirements of the Council's Standing Orders, Financial Regulations, Computer Security Policy, Internet & email Policy, Harassment and Bulling at Work Policy and other policies, procedures, protocols, rules and guidance documents applicable to them and to their post.
- 22.2 Any breach of this Code of Conduct may be regarded as a disciplinary offence.

23. Interpretation

HR Service staff will provide advice and guidance on the interpretation of this code.

24. Responsibility for Implementation

Head of Service, Corporate Governance.

25. Appendices (if applicable)

Secondary Employment form.

Bolsover District Council**Standards****15th October 2018**

Annual Letter from the Local Government & Social Care Ombudsman 2017/18

Report of the Head of Corporate Governance and Monitoring Officer

This report is public.

Purpose of the Report

- To provide information contained within the Annual Letter from the Local Government & Social Care Ombudsman (LGSCO) 2017/18.

1 Report Details

The document contains an annual summary of statistics on the complaints made about the Authority for the financial year ending 31st March 2018. Please note that the data provided by the LGSCO may not align with the data this Council holds. This is because their numbers include enquiries from people who have been signposted by the LGSCO back to the Council, but who may then choose not to pursue their complaint.

The Annual Letter 2017/18 has been appended (Appendix 1) and supporting information Complaints Decided (Appendix 2) and Complaints Received (Appendix 3) for your information.

Key points from the letter, specifically in relation to Bolsover District Council:

- The LGSCO received 5 enquiries and complaints during 2017/18, only 1 of which was subject to a detailed investigation.
- The LGSCO decided 5 complaints, 1 was referred back to the Council, 2 were closed after initial enquiries, advice was given in 1 case and the remaining 1 was not upheld.

Benchmarking information - CIPFA Nearest Neighbour

When looking at close neighbouring authorities, the following is noted:

	Detailed investigations	Upheld complaints	Total complaints received
Ashfield District Council	5	1	16
Bassetlaw District Council	6	3	18
Bolsover District Council	1	0	5
Chesterfield District Council	2	0	16
Erewash District Council	2	1	4

Mansfield District Council	5	3	17
NE Derbyshire District Council	2	0	11

Whilst Bolsover District Council received 5 complaints against its services, only 1 was the subject of a detailed investigation.

With regard to complaints more widely, i.e. those at formal investigation and internal review stage, the LGSCO notes that the volume of complaints does not in itself indicate the quality of the Council's performance. High volumes of complaints received by a Council can be a sign of an open, learning organisation, as well as sometimes being an early warning of wider problems. Low complaint volumes can be a worrying sign that an organisation is not receptive to user feedback, rather than always being an indicator that all is well. The LGSCO would like Councils to use these figures as the start of a conversation, rather than an absolute measure of corporate health.

One of the most significant statistics in this report is the number of **upheld** complaints. This shows the number of times the LGSCO found fault with a council when they have investigated.

The LGSCO has also started to record 'complaints remedied by the LGSCO' and 'complaints remedied satisfactorily by the authority before the involvement of the LGSCO'. The latter indicates that, while the LGSCO found it had been at fault, a Council has followed the right steps to put things right in its complaint response.

Although this report is regarding complaints directed to the LGSCO, the Council received 2 complaints via the Housing Ombudsman (HO) for the same period, 1 of which had a decision made of 'No maladministration' and we are providing further information relating to the remaining 1.

It is pleasing to report that against a background of the LGSCO upholding 57% of complaints submitted to them neither the LGSCO, nor the HO, has upheld a complaint against this Council during the financial year 2017/18.

2 Conclusions and Reasons for Recommendation

The report is to keep Elected Members informed of volumes and trends regarding LGSCO/ HO complaints.

3 Consultation and Equality Impact

The report is to keep Elected Members regularly informed of volumes and trends regarding LGSCO/ HO complaints. No consultation or equality impact assessment is required.

4 Alternative Options and Reasons for Rejection

Not applicable as the report is keep Elected Members informed rather than to aid decision making.

5 Implications

5.1 Finance and Risk Implications

Whilst there are no direct financial implications with regard to the report, the Council is at risk of recommendations or decisions by the Local Government & Social Care Ombudsman and the Housing Ombudsman if complaints are not handled well.

In cases of maladministration, financial penalties can be imposed by the Local Government & Social Care Ombudsman or the Housing Ombudsman.

5.2 Legal Implications including Data Protection

The Council is at risk of recommendations or decisions by the Local Government & Social Care Ombudsman or the Housing Ombudsman. There are no Data Protection implications.

5.3 Human Resources Implications

Not applicable as the report is to keep Elected Members informed.

6 Recommendation

That Standards Committee note the contents of the report and the Annual Letter from the Local Government & Social Care Ombudsman 2017/18.

7 Decision Information

Is the decision a Key Decision? A Key Decision is an executive decision which has a significant impact on two or more District wards or which results in income or expenditure to the Council above the following thresholds: <i>BDC: Revenue - £75,000</i> <input type="checkbox"/> <i>Capital - £150,000</i> <input type="checkbox"/> <i>NEDDC: Revenue - £100,000</i> <input type="checkbox"/> <i>Capital - £250,000</i> <input type="checkbox"/> <input checked="" type="checkbox"/> <i>Please indicate which threshold applies</i>	No
Is the decision subject to Call-In? (Only Key Decisions are subject to Call-In)	No
Has the relevant Portfolio Holder been informed	Yes
District Wards Affected	All
Links to Corporate Plan priorities or Policy Framework	Providing Our Customers with Excellent Service – retain Customer Service Excellence accreditation year on year

	Transforming Our Organisation – good governance.
--	--

8

Document Information

Appendix No	Title
1:	Annual Letter from the Local Government & Social Care Ombudsman 2017/18
2:	Complaints Decided
3:	Complaints Received
Background Papers (These are unpublished works which have been relied on to a material extent when preparing the report. They must be listed in the section below. If the report is going to Cabinet (NEDDC) or Executive (BDC) you must provide copies of the background papers)	
Report Author	Contact Number
Customer Standards and Complaints Officer	Ext: 2353

Local Government & Social Care OMBUDSMAN

18 July 2018

By email

Daniel Swaine
Chief Executive
Bolsover District Council

Dear Daniel Swaine,

Annual Review letter 2018

I write to you with our annual summary of statistics on the complaints made to the Local Government and Social Care Ombudsman (LGSCO) about your authority for the year ended 31 March 2018. The enclosed tables present the number of complaints and enquiries received about your authority and the decisions we made during the period. I hope this information will prove helpful in assessing your authority's performance in handling complaints.

Complaint statistics

In providing these statistics, I would stress that the volume of complaints does not, in itself, indicate the quality of the council's performance. High volumes of complaints can be a sign of an open, learning organisation, as well as sometimes being an early warning of wider problems. Low complaint volumes can be a worrying sign that an organisation is not alive to user feedback, rather than always being an indicator that all is well. So, I would encourage you to use these figures as the start of a conversation, rather than an absolute measure of corporate health. One of the most significant statistics attached is the number of upheld complaints. This shows how frequently we find fault with the council when we investigate. Equally importantly, we also give a figure for the number of cases where we decided your authority had offered a satisfactory remedy during the local complaints process. Both figures provide important insights.

I want to emphasise the statistics in this letter reflect the data we hold, and may not necessarily align with the data your authority holds. For example, our numbers include enquiries from people we signpost back to the authority, some of whom may never contact you.

In line with usual practice, we are publishing our annual data for all authorities on our website, alongside an annual review of local government complaints. The aim of this is to be transparent and provide information that aids the scrutiny of local services.

Future development of annual review letters

Last year, we highlighted our plans to move away from a simplistic focus on complaint volumes and instead turn focus onto the lessons that can be learned and the wider improvements we can achieve through our recommendations to improve services for the many. We have produced a new corporate strategy for 2018-21 which commits us to more comprehensively publish information about the outcomes of our investigations and the occasions our recommendations result in improvements to local services.

We will be providing this broader range of data for the first time in next year's letters, as well as creating an interactive map of local authority performance on our website. We believe this will lead to improved transparency of our work, as well as providing increased recognition to the improvements councils have agreed to make following our interventions. We will therefore be seeking views from councils on the future format of our annual letters early next year.

Supporting local scrutiny

One of the purposes of our annual letters to councils is to help ensure learning from complaints informs scrutiny at the local level. Sharing the learning from our investigations and supporting the democratic scrutiny of public services continues to be one of our key priorities. We have created a dedicated section of our website which contains a host of information to help scrutiny committees and councillors to hold their authority to account – complaints data, decision statements, public interest reports, focus reports and scrutiny questions. This can be found at www.lgo.org.uk/scrutiny I would be grateful if you could encourage your elected members and scrutiny committees to make use of these resources.

Learning from complaints to improve services

We share the issues we see in our investigations to help councils learn from the issues others have experienced and avoid making the same mistakes. We do this through the reports and other resources we publish. Over the last year, we have seen examples of councils adopting a positive attitude towards complaints and working constructively with us to remedy injustices and take on board the learning from our cases. In one great example, a county council has seized the opportunity to entirely redesign how its occupational therapists work with all of its districts, to improve partnership working and increase transparency for the public. This originated from a single complaint. This is the sort of culture we all benefit from – one that takes the learning from complaints and uses it to improve services.

Complaint handling training

We have a well-established and successful training programme supporting local authorities and independent care providers to help improve local complaint handling. In 2017-18 we delivered 58 courses, training more than 800 people. We also set up a network of council link officers to promote and share best practice in complaint handling, and hosted a series of seminars for that group. To find out more visit www.lgo.org.uk/training.

Yours sincerely,



Michael King
Local Government and Social Care Ombudsman
Chair, Commission for Local Administration in England

Local Authority Report: Bolsover District Council
For the Period Ending: 31/03/2018

For further information on how to interpret our statistics, please visit our website:
<http://www.lgo.org.uk/information-centre/reports/annual-review-reports/interpreting-local-authority-statistics>

Complaints and enquiries received

Adult Care Services	Benefits and Tax	Corporate and Other Services	Education and Children's Services	Environment Services	Highways and Transport	Housing	Planning and Development	Other	Total
0	1	0	0	0	0	2	2	0	5

Decisions made

				Detailed Investigations			
Incomplete or Invalid	Advice Given	Referred back for Local Resolution	Closed After Initial Enquiries	Not Upheld	Upheld	Uphold Rate	Total
0	1	1	2	1	0	0%	5

Notes

Our uphold rate is calculated in relation to the total number of detailed investigations.
 The number of remedied complaints may not equal the number of upheld complaints. This is because, while we may uphold a complaint because we find fault, we may not always find grounds to say that fault caused injustice that ought to be remedied.

Complaints Remedied

by LGO	Satisfactorily by Authority before LGO Involvement
0	0

Appendix 2

Reference	Authority	Category	Decided	Decision	Remedy
16015978	Bolsover District Council	Planning & Development	13/11/2017	Closed after initial enquiries	Null
17004118	Bolsover District Council	Housing	30/01/2018	Not Upheld	Null
17009150	Bolsover District Council	Planning & Development	09/10/2017	Closed after initial enquiries	Null
17010332	Bolsover District Council	Housing	25/09/2017	Advice given	Null
17016786	Bolsover District Council	Benefits & Tax	25/01/2018	Referred back for local resolution	Null

Appendix 3

Reference	Authority	Category	Received
16015978	Bolsover District Council	Planning & Development	10/10/2017
17004118	Bolsover District Council	Housing	08/09/2017
17009150	Bolsover District Council	Planning & Development	05/09/2017
17010332	Bolsover District Council	Housing	25/09/2017
17016786	Bolsover District Council	Benefits & Tax	25/01/2018

STANDARDS COMMITTEE – 15TH OCTOBER 2018

Questions raised by the Customer Service and Transformation Scrutiny Committee in relation to their Operational Review of Standards Committee.

Following initial consideration of evidence for the review, the Working Group have posed the following questions:

- Is there a process in place with Parish Clerks to ensure new Parish Cllrs receive necessary training following election (inc. Code of Conduct)?
- How does this process differ from those elected following a main Local Election and a By-Election?

It is likely that Members may make some recommendations on this point, depending on information provided.

Bolsover District Council

Standards

15th October 2018

Election Candidates and Campaigns: A Consultation on New Laws

Report of the Head of Corporate Governance and Monitoring Officer

This report is public.

Purpose of the Report

- To provide Committee on a consultation regarding new laws in relation to Election Candidates and Campaigns.
- To create a collective response from the Standards Committee to the questions set out in the appendix to this report.

1 Report Details

Earlier this year, the Committee on Standards in Public Life published a wide-ranging review of the impact of intimidation in public life with a focus on the role of social media.

The Committee made recommendations for social media, political parties, police and local government and suggested the government consult on ways in which electoral law could be changed to protect candidates and their supporters. A Cabinet Office consultation, which closes on 22 October, takes this forward.

The intimidation of candidates and campaigners may threaten the integrity of public service and the democratic process but is not at present covered by existing electoral law. The first proposal in this consultation is intended to remedy this situation.

The scope will cover candidates and campaigners at all polls, in general elections and local elections, and will be extended to campaigners in referendum campaigns.

The consultation also covers clarification of the offence of undue influence or intimidation of voters, including a controversial proposal to include a specific reference to intimidation at polling stations and the potential extension of the requirement of an imprint from written to online campaign materials.

The consultation is of relevance to England, Northern Ireland, Scotland, and Wales.

The jurisdiction and extent of different aspects of the consultation are complex and are highlighted in the course of the briefing. All elements will apply to UK wide General Elections.

This briefing will be of interest to all elected members, chief officers, and those with electoral and equalities responsibilities.

Responses to the consultation can be made to the address given in the consultation document or by email to elections@cabinetoffice.gov.uk.

The consultation closes on 22 October 2018. Respondents are asked to indicate in what capacity they are writing.

2 Conclusions and Reasons for Recommendation

To raise awareness of the consultation and encourage Members to participate on an individual basis.

To gain a collective view from the Standards Committee.

3 Consultation and Equality Impact

N/A

4 Alternative Options and Reasons for Rejection

N/A

5 Implications

5.1 Finance and Risk Implications

There are no direct financial implications with regard to the report.

5.2 Legal Implications including Data Protection

There are no legal or data protection implications arising from the report.

5.3 Human Resources Implications

N/A.

6 Recommendation

That Standards Committee Members consider the consultation questions attached to the appendix and submit a group response.

7 Decision Information

<p>Is the decision a Key Decision? A Key Decision is an executive decision which has a significant impact on two or more District wards or which results in income or expenditure to the Council above the following thresholds:</p> <p><i>BDC: Revenue - £75,000</i> <input type="checkbox"/> <i>Capital - £150,000</i> <input type="checkbox"/></p> <p><i>NEDDC: Revenue - £100,000</i> <input type="checkbox"/> <i>Capital - £250,000</i> <input type="checkbox"/></p> <p><input checked="" type="checkbox"/> <i>Please indicate which threshold applies</i></p>	No
--	----

Is the decision subject to Call-In? (Only Key Decisions are subject to Call-In)	No
Has the relevant Portfolio Holder been informed	Yes
District Wards Affected	All
Links to Corporate Plan priorities or Policy Framework	All

8 Document Information

Appendix No	Title
1	Consultation Questions
Background Papers (These are unpublished works which have been relied on to a material extent when preparing the report. They must be listed in the section below. If the report is going to Cabinet (NEDDC) or Executive (BDC) you must provide copies of the background papers)	
Report Author	Contact Number
Alison Bluff, Governance Officer	2528

STANDARDS COMMITTEE – 15TH OCTOBER 2018

Election candidates and campaigns: a consultation on new laws



[Read this briefing on our website](#)

Author: Hilary Kitchin, LGiU Associate

Date: Thursday September 13, 2018

Categories: [Devolution](#), [Democracy](#), [Scrutiny and Governance](#), [Social media and digital technology](#), [Welfare and Equalities](#)

Briefing in full

Introduction

The government was urged to bring forward legislation by the Committee on Standards in Public Life, which reported on the impact of intimidation in public life earlier in 2018. Reports of intimidation of candidates and their supporters during the 2017 general election had led the Prime Minister to commission the review.

The Committee made a number of recommendations for changes in electoral law and practice, as well as proposals directed at political parties, the police, and social media companies [see [LGiU briefing](#) March 2018].

OFFICIAL

The Cabinet Office is now consulting on three key changes in electoral law, with the opportunity for responses open until 22 October 2018:

- A new electoral law offence of intimidating candidates and supporters
- Reform of the offence of undue influence, or voter intimidation
- Extending the requirement for imprints on print material to online material.

The government has taken a wider view than the CSPL (which was entirely concerned with parliamentary elections). The scope will cover candidates and campaigners at all polls, not just those at General Elections, and will cover local elections and be extended to campaigners in referendum campaigns.

The CSPL looked in detail at the scope of current offences, and found no evidence to suggest that new criminal laws are needed. The law is neutral on whether an offence is committed on social media or through other means. It is irrelevant whether words and behaviour are written, spoken, or communicated through social media – what is illegal offline is illegal online.

The significance of this consultation is that by introducing a new electoral offence, conviction for an offence with criminal sanctions can also involve sanctions under electoral law. These include being barred from holding office, barred from voting for a certain period, or removal from the electoral register.

The CSPL looked at intimidation of candidates and campaigners in parliamentary elections. The Cabinet Office is taking this opportunity to consult on clarification of the law on voter intimidation as recommended by the [Law Commissions](#) for England and Wales, Scotland and Northern Ireland in February 2016, and by Sir Eric Pickles in his review of electoral fraud ([LGiU briefing](#) February 2017).

A new electoral offence

Intimidation

The CSPL describes intimidation as “words and/or behaviour intended or likely to block or deter participation, which could reasonably lead to an individual wanting to withdraw from public life”. It is intended to cause the individual to withdraw from

public spaces, whether social media, public events, political discourse, or even from public life altogether. Intimidation can take place online and offline.

The CSPL heard many accounts of abuse and intimidation from parliamentary candidates and elected MPs. A joint [LGiU / Fawcett Society](#) study heard that intimidation is experienced in local elections too. Evidence also indicates that people may be deterred from campaigning in elections and referendums.

These experiences were reported across party lines, but indicated a greater impact on women, on younger less experience people, LGBT, and BAME candidates and campaigners.

If this issue is not addressed, wrote the CPSL, we could be left with a political culture that does not reflect the society it should represent.

Elements of the new offence

The CSPL recommended consultation on a new offence that applied specific electoral sanctions in cases of intimidation of candidates and their campaigners during a parliamentary election period.

The consultation document sets out practical solutions on how this recommendation can be implemented, by:

- creating a new electoral offence which would apply appropriate electoral sanctions to existing criminal offences of intimidation where committed against a candidate or relevant campaigner during an election period
- and which would be classified as a corrupt practice for the purposes of electoral law (and so carry specific additional sanctions)

The aim is that the additional electoral sanctions would work to deter intimidatory behaviour during the election period, allowing those engaging in the electoral process to participate peacefully.

Electoral sanctions for corrupt practices

Penalties for those convicted of a corrupt or illegal practices under the Representation of the People Act 1983 range from a fine to a maximum of two years

OFFICIAL

in prison in the criminal courts (S.168-9). In addition, anyone found guilty of corrupt or illegal practices under the Act could be prohibited from standing or holding any elected office for a period of three or five years respectively (S.173).

A good reason for classifying the new offence as a corrupt practice is its similarity to the existing offence of undue influence – intimidation of voters – which is already classified as a corrupt practice. The effect would be, if found guilty of committing the new offence in a criminal court the individual would be prohibited from standing or holding any elected office for a period of five years. [This would also apply if an individual was reported by an election court as personally guilty of the offence if the claim was brought alongside a petition challenging the outcome of a poll].

A corrupt practice is reserved for the most serious of electoral offences, and can lead to the removal of an individual's right to vote for a period of five years – though it is not proposed that this latter penalty would apply to the new offence. Loss of voting rights is considered a more appropriate penalty for offences of personation, proxy and postal vote fraud, and other voting offences.

Criminal sanctions

The criminal sanctions available on conviction of the wide range of intimidatory offences – from a fine to imprisonment for up to ten years – will apply. It will also be possible for the courts to take aggravating factors into account on sentencing, which may result in a higher sentence.

Aggravating factors within existing sentencing guidelines include where an “offence is committed against those working in the public sector or providing a service to the public”, so that when sentencing, the courts may consider interference with the democratic process to be an aggravating factor.

Which elections will be covered?

The government has taken a wider view than the CSPL (which was entirely concerned with parliamentary elections). The new offence will protect candidates and campaigners at all polls, not just those at General Elections, and so will cover local elections and be extended to campaigners in referendum campaigns.

Who would be protected?

It is not proposed that the new electoral offence would include additional protections for Returning Officers and staff, as they are adequately protected under criminal law at the present.

A candidate is already defined under the RPA 1983:

A person who has previously expressed an interest in standing for an election becomes a candidate when an election is 'officially declared' (either by dissolution of Parliament, issue of Writ for a Parliamentary by-election, or in other elections, on the last day for publishing the notice of election.) Subsequently, any individual who is declared or nominated as a candidate, is a candidate from that point on.

There is no current definition of **a campaigner**, or party campaigner.

The definition could include an employee of a registered party or independent candidate, or a member of a registered political party, but this could exclude those campaigners who work on independent campaigns, referendum campaigns, and those that volunteer. The term 'campaigner' could cover individuals who undertake varying degrees of actions, responsibilities and frequency in participation.

It will be important to consider all those looking to promote or procure a particular outcome at an election, but to be aware there is a risk that by casting the net widely, there is less certainty about who is and is not a campaigner, which may make the offence more difficult to prosecute.

The Cabinet Office will work with the CPS to try to establish a satisfactory and precise definition, but responses to the consultation questions will be taken in to account.

Time period covered

The starting point for protection – for both candidates and campaigners – will run at least from the period of notice of elections as the most consistent deadline, which is 25 days before polling day. It will be the responsibility of political parties to set clear standards and expectations outside that time period.

A defined end date is equally important, and the protection should be at least until the close of poll. As there is a risk of intimidation immediately after poll, before candidates have accepted their seat or role, the period of protection will end seven days after the close of poll.

In referendums, the relevant time period would be the referendum period itself, as set out in the relevant referendum legislation.

Appropriate cases: when to prosecute

The new electoral offence must be effective in targeting intimidation of candidates and campaigners during an election period. So it will not be sufficient to know that an individual is a candidate or campaigner – the electoral sanctions can only be applied where an individual is *intimidated because they are a candidate or campaigner*.

This is a more practical solution than linking the offence to an intention to affect the outcome of the election.

Balance with Article 10 of the European Convention on Human Rights

A communication must be 'more than simply offensive, shocking or disturbing' for conviction for a criminal offence. A demanding evidential standard is required to comply with Article 10, which protects freedom of expression. The new electoral offence will apply appropriate electoral sanctions to existing offences of intimidation, so that existing evidential standards and thresholds will be retained.

Jurisdiction in England and Wales, Scotland and Northern Ireland

The new electoral offence will apply where offences are committed within the UK at parliamentary elections and at other non-devolved elections. These are listed in the consultation document (section 6 page 32).

In England, this will mean all elections and referendums; in Wales, Police & Crime Commissioner elections, and in Northern Ireland, local election and assembly elections. The consultation does not cover other elections in Scotland and Wales.

Where the offence does apply, the aim is to capture all relevant criminal offences, and there will be consultation with the devolved administrations in Scotland and Wales to make this effective, and to discuss any action they may wish to take.

Intimidation of voters – undue influence

The problem

The issue of intimidation of voters was not considered by the CSPL, but was already on the radar for possible reform as a result of recommendations made by Sir Eric Pickles in his report on [voter fraud](#) and having been considered in depth by the [Law Commissions](#) in a major Report on electoral law (February 2016).

The consultation focuses on

1. Clarifying the offence
2. Intimidation at polling stations.

The law – Representation of the People Act 1983 section 115 – has not been essentially reformed since introduced in the early 19th Century. Few cases have ever been brought.

The current offence is complex, with three main elements. To summarise, a person is guilty of corrupt practice (and so subject to penalties) if he (or she!)

- directly or indirectly uses or threatens force, violence or restraint
- inflicts any temporal or spiritual injury, damage, harm or loss

in order to induce or compel a person to vote or refrain from voting, or on account of having voted or having refrained from voting, or

- by 'abduction, duress or any fraudulent device or contrivance', impedes or prevents the free exercise of the franchise of an elector or their proxy, or imposes pressure either to vote or refrain from voting.

OFFICIAL

This third element of the offence is complex too, and incorporates trickery, such as pretending to represent one political party while standing for another, and the use of unlawful coercion within communities and religious groups.

The challenge is to simplify the law so that it is clearer but no narrower than the existing offence. The aim is to capture all the behaviour that currently falls within the scope of the existing legislation. This means:

- clarifying the terminology
- clearly establishing the components of undue influence

It means taking account of situations where a person can abuse a position of power over another, either to make them vote in a certain way, or as punishment for failing to do so. For example, an employer could terminate or threaten to terminate employment, or a landlord to terminate a tenancy with the intention of influencing a person's vote, actions not unlawful in themselves.

The proposals

In outline, the consultation proposes:

- the element of the offence relation to physical acts of violence or threat of violence will not be materially changed
- any act that inflicts or threatens to inflict damage, harm or loss, whether done lawfully or not, should be prohibited when carried out in order to make a person vote, or vote in a particular way, or deter them from voting
- that the scope of the offences continue to protect voters from victimisation by including actions which are carried out both before and after elections

It is also intended to cover:

- wider circumstances, where the franchise is impeded as a result of duress: actions which may not cause an individual specific harm or loss, but coerce someone to vote in a particular way, or refrain from voting, against their will.

OFFICIAL

The example given is of an individual pressured to vote in a certain way by a family member as a failure to do so would bring shame on the family

- undue influence, or trickery. This is where a voter is tricked into voting a particular way and so prevented from exercising their vote freely.

The offence will be fully drafted only after the consultation, but will present some challenges. The question of influence will be particularly difficult to make clear, and it may be difficult to capture more subtle forms of pressure.

The Law Commissions – whose drafting suggestions ought to be taken into account – come down in favour of retaining a specific element of ‘improper pressure’. While uncertain about how easy it would be to enforce a redefined offence there are reservations about leaving the protection of vulnerable voters, such as older voters, those with mental impairment or with dementia, to offences of trickery or duress. [11.36 onwards in LC Report].

Intimidation at polling stations

This element of the consultation arises as a result of the Tower Hamlets case and the subsequent review by Sir Eric Pickles.

In that case, the Election Commissioner found that was little doubt that the intention of the activists outside the polling stations was to induce or prevail upon electors to vote in a particular way. The behaviour would ‘undeniably have amounted to the [criminal] offence of intimidation’, although not such that it involved the use of sufficient ‘force, violence or restraint’ or sufficient ‘duress’ to amount to undue influence [under electoral law].

Sir Eric Pickles recommended a lower test of ‘intimidation’ than that currently enforced in electoral law, in order to capture this type of behaviour at polling stations.

The government has accepted this recommendation. The proposal is to amend the offence of undue influence:

OFFICIAL

- to include behaviour intended to intimidate voters into voting in a particular way, or prevent them from voting, which takes place either inside or outside polling stations
- the behaviour would not need to amount to physical force, violence or restraint, but would include behaviour which could reasonably be classed as intimidating.

The Law Commissions express strong reservations about lowering the bar to include intimidation, on the grounds that:

- Undue influence currently covers the direct or indirect infliction or threat of force, violence, restraint, damage or harm to induce or compel a vote or non-vote. Impeding or preventing the free exercise of the franchise by duress is also prohibited.
- A new, unprecedented, and difficult to define prohibition would have to be enacted in order to criminalise some of the behaviour found by the Commissioner to have taken place in Tower Hamlets.
- It would crucially have to avoid penalising mere political fervour and the desirable promotion of participation and canvassing of voters.

A more clearly defined offence of undue influence would be sufficient to deter the use of voter intimidation as a campaign tactic.

Effective policing and the general criminal law is available to deal with disorder outside polling stations, and in more extreme situations will have recourse to the restated electoral offence of undue influence to make sure the public can vote unimpeded and unthreatened. [11.35 LC Report].

Digital campaigning

The third element of the consultation focuses on the expansion of social media and the information available during elections and referendums. It is important that voters are aware of who is targeting them online to preserve the integrity of our electoral system.

OFFICIAL

The consultation does not cover the content of digital material, nor intimidation and abusive material. After considering the current state of knowledge and practice, it concludes with practical and technical questions about how imprints can be included in the wide range of online communications.

Imprint requirement

Election material is already defined in UK law, as any material which can reasonably be regarded as intended to promote or procure electoral success at any relevant election for a registered party or candidate (section 143A Political Parties, Elections and Referendums Act 2000 (PPERA)). It extends to political parties, third party campaigners and referendum campaigners.

The basic requirement is for printed election material to contain certain details (referred to as an “imprint”) to show who is responsible for its production. Printed material such as leaflets and posters must include the name and address of the printer, the promoter (the person who has authorised the material to be printed) and any person on behalf of whom the material is being published.

Consultation and jurisdiction

The consultation is restricted to the imprints regime for parliamentary elections in the United Kingdom, local government elections in England and Northern Ireland and police and crime commissioner elections in England and Wales.

The Cabinet Office is also seeking views on whether a new system for digital imprints should apply for national referendums and local referendums in England.

Competence for local government elections in Wales and Scotland has been devolved to the Welsh Assembly and Scottish Parliament. The imprints regime is different in Northern Ireland.

The issue of jurisdiction and extent of the current law is again complex: see page 41 paragraphs 10.15 – 10.18 for detail.

There is already provision in PPERA to extend the rules for printed electoral material to digital communications and to design a new system which puts the confidence of the voter first.

Learning from experience

The **Scottish referendum campaign** rules required that ‘any digital material which ‘wholly or mainly related to the referendum’ had to include certain details in an imprint. The breadth of the definition unfortunately led to confusion amongst campaigners and the public about what was and what was not covered.

In the **United States**, a current consultation on extending rules on printed material to social media, is asking the public to decide between two alternative options for online disclaimers: the first would add specific disclaimer requirements adapted to social media, the second would be a simple transfer of rules already in place for printed materials.

The US Federal Electoral Commission had already consulted on whether the definition of public communications should include those placed on an ‘internet-enabled device or application’, in addition to placement on a website.

Social media companies have started taking action as the risks to voters emerge. In the United States, Facebook, Twitter and Google have already introduced verification requirements.

Some stark information emerged during the **Republic of Ireland referendum** in May 2018 leading to a volunteer monitoring initiative concluding that greater transparency from social media companies is needed in terms of full disclosure of who and how much has been paid for online advertising. Despite Facebook banning all foreign advertisements relating to the referendum, the initiative showed that a large number of adverts from anonymous or untraceable pages still got through.

Purpose in introducing an imprint requirement

Transparency in who has placed and paid for online material is relevant as it will:

- allow voters to see who is behind digital material

OFFICIAL

- allow the Electoral Commission to see how and where money is being spent, whether on employing people to post messages or acquiring software to boost content where content can otherwise be posted without cost
- allow the Commission to see who is behind larger campaigns, and what should count towards a campaigner's spending limit
- further assist the Electoral Commission by defining who needs to register and make a return

There is no spending threshold before being required to include an imprint on printed electoral material and this should apply to online material too, to avoid uncertainty about when an imprint should be included.

When should an imprint be required

The law requires an imprint on which can 'reasonably be regarded' as intending to influence voters. Following the Scottish Referendum, the Electoral Commission and Law Commission support extension on these lines, subject to striking a balance between regulation and reasonable practicality.

On time period, there is also a question as to whether the requirement should be for an election period, or all year round as for printed material at present. Material designed to influence voters is distributed all year round, and it is proposed that the same requirement would apply to digital publication too.

Forms and responsibility for digital publication

A wide variety of mechanisms and platforms exist and are expanding. Should there be a limit of any kind?

Incorporation of the imprint will present different challenges, though experience of the Scottish referendum does show that it is manageable. This is an area in which the government needs practical assistance. Social media companies will need to be involved, but campaigners and candidates will be able to comment on how visible an imprint should be.

Whether those who subsequently share digital electoral material can be required to include an imprint if they forward it will depend on what technical solutions are available.

Enforcement

Existing civil and criminal enforcement provisions for print materials would apply to digital publication. The Electoral Commission would exercise its investigation and enforcement powers, and can impose fines of up to £20,000.

It is a criminal offence not to comply with the requirement for an imprint, and an illegal practice under electoral law, so that electoral sanctions would also apply. The promoter of the material, any other person on behalf of whom the material is published, or the printer, commits an offence. Fines range from an upper limit of £5000 in Scotland to an unlimited amount in England and Wales.

The Law Commissions considered **liability for digital publication**. The publisher's name is not required as part of the imprint (only the promoter who caused it to be published, who is usually the candidate or election agent), and there would continue to be a due diligence defence for printers, publishers and promoters of the material. A "reasonably practicable" defence, of the kind that was available in the Scottish independence referendum campaign, would protect the online publisher who had taken all reasonable means to verify the information given to them.

Details of enforcement provisions can be found at 10.49, page 49 of the consultation document.

Reporting mechanisms would mean that users – members of the public – can report content and behaviours which contravene the platforms' terms and conditions, even if content is based outside the UK. The government's draft [social media code of practice \(PDF document\)](#) includes guidance to social media companies on adequate reporting mechanisms and moderation processes for abusive content, which it is proposed could provide the framework.

Consultation questions

Question: In what capacity are you giving the information? Eg: as a voter, an elected representative, an organisation.

Section 1: A New Electoral Offence

Question 1: Do you agree that the new electoral offence should apply electoral sanctions to existing offences of intimidatory behaviour, such as those identified by the CSPL, listed in Annex A, and equivalent offences in Scotland and Northern Ireland?

Question 2: We propose that the new electoral offence will attract the sanction of being barred from standing for elected office for 5 years. Do you agree?

Question 3: We do not propose that the new electoral offence should remove an offender's right to vote. Do you agree?

Question 4: We think that offences committed against candidates and campaigners during all types of polls should attract the additional electoral sanctions. Do you agree? If not, please explain.

Question 5: We propose that offences against campaigners during a referendum campaign should attract the additional electoral sanctions. Do you agree? If not, please explain.

Question 6: We propose that the existing definition of when someone becomes a 'candidate', with reference to any election campaign, would be clear and workable for the new electoral offence. Do you agree? If not, please explain.

Question 7a: Do you think the new electoral offence should extend to campaigners? If so, please explain which campaigners you think should fall within the scope of the new electoral offence, given the above considerations. If not, please explain.

Question 7b: If you think that campaigners should be included, do you have a suggestion as to how this could be done for use in the relevant legislation?

Question 8: Do you agree that protection should start from the period of notice of elections? If not, please explain.

OFFICIAL

Question 9: Should there be a period before notice of election for a scheduled poll during which this offence applies? If so, what would be a suitable time period of protection? If not, please explain.

Question 10a: Do you agree that protection, under the new electoral offence, should end seven calendar days after the close of poll?

Question 10b: If not, when do you think protection under the new electoral offence should end?

Question 11: Do you agree that protection, under the new electoral offence, should apply during the referendum period, as determined by the relevant referendum legislation? If not, please explain.

Question 12: Do you agree that a new electoral offence should only be applicable in cases where a candidate or campaigner is intimidated because they are a candidate or campaigner?

Section 2: Intimidation of Voters – Undue Influence

Question 13: Do you agree that the law of undue influence requires greater clarity in its application? If not, please explain.

Question 14: If it is decided to simplify the existing offence of undue influence, we do not propose to materially change the element of the offence relating to physical acts of violence or threat of violence. Do you agree? If not, please explain.

Question 15: Any act, whether lawful or unlawful, which is intended to cause harm to the individual and is carried out with the intention to make a person vote, vote in a particular way, or deter them from voting and should be captured within this offence. Do you agree? If not, please explain.

Question 16: We propose to retain reference to ‘direct and indirect’ acts which cause the elector harm. Do you agree? If not, please explain.

Question 17: We propose that the redefined offence retains reference to offences committed by or on behalf of a perpetrator in relation to acts that cause the elector harm. Do you agree? If not, please explain.

OFFICIAL

Question 18: We propose that the scope of section 115(2)(a) continues to include those acts which are carried out before and after the election. Do you agree? If not, please explain.

Question 19: Do you agree that the offence should continue to cover actions of duress? If not please explain

Question 20: Any redefined offence would still look to cover actions of trickery. Do you agree? If not, please explain.

Question 21: Do you agree that the scope of the offence should remain the same, subject to including a specific reference to intimidation at polling stations? If not, please explain.

Question 22a: Do you agree that the offence should specifically capture intimidatory behaviour carried out inside or outside of the polling station? If not, please explain.

Question 22b: If so, do you agree that the definition should include behaviour which falls below the current requirement of physical force, violence or restraint?

Section 3: Increasing Transparency in Digital Election Campaigning

Question 23: Do you as a voter believe that the current system as applied to printed election material promotes transparency and gives confidence in our systems?

Question 24: Should the imprint rules in PPERA be commenced for Northern Ireland?

Question 25: Should the imprint rules for Northern Ireland elections be the same as for the rest of the United Kingdom?

Question 26: What are your views on whether imprints should be required on all digital electoral material or only where spending on such material has been over a certain threshold?

Question 27: Should any new rules on digital material only apply to what we would already consider to be “electoral material” or should broader categories be considered?

OFFICIAL

Question 28: Do you agree that the requirement for imprints on election material can arise all year round, not just during election periods?

Question 29: Should we prioritise regulating certain forms of digital communications over others? If so, please give reasons.

Question 30: What sort of mechanisms for including an imprint should be acceptable? Are there any technical difficulties that would need to be overcome to include text which is not accessible without a further step?

Question 31: Would you find an imprint in an overarching space such as a 'bio' on Twitter sufficiently visible?

Question 32: How can these mechanisms be future-proofed in expectation of developments in media and technology?

Question 33: Should those who subsequently share digital electoral material also be required to include an imprint and, if so, whose details should be on it – theirs or the original publisher?

Question 34: Do you think the responsible bodies have sufficient enforcement powers?

Comment

Readers of this briefing will have their own fields of knowledge and expertise, and areas of responsibility. Local authorities are a focus for most aspects of the consultation, addressing as it does the security of candidates, the security of the voting process, and local publications in print and on social media.

The offence of intimidation of candidates and campaigners has to be seen as part of the wider imperative to address intimidation and abuse on social media, and the consultation questions need to be read in this context. The new offence would add significance to the penalties on conviction of any of the criminal offences which it is now clear apply to both off and online behaviour, and could act as a deterrent. Do you agree that it should apply, and attract the most severe sanctions? Should this include being prevented from voting?

OFFICIAL

Other questions may be more straightforward. Experience suggests that the new offence should apply to local elections as well as general elections. The existing definition of being a candidate would continue to apply, but reaching a clear definition of a campaigner will be more difficult, should that be the right approach. Councillors with regular election experience are in a strong position to provide useful information and to influence the final definition. The definition could be important in justifying the extension to referendums in England.

It is proposed that protection start with the announcement of the poll and end seven days after the poll. Intimidation and abuse outside that time would be dealt with by the criminal law. There is also the expectation that political parties will do more to rein in excesses on the part of their campaigners. Is this sufficient? The offence is concerned with protecting the electoral process, and this sounds right: any case for the time frame to be wider would need to be well argued.

It seems obvious that **the law of undue influence** needs clarification. The issues arise in how this can be achieved. The Law Commissions have raised some important points about vulnerable voters, which do not seem to have been taken into account in the redrafting. Any experience of vulnerable voters, or insights into how this issue can be addressed, will make valuable contributions to the consultation.

Whether the scope of the offence should be extended to include a specific reference to **intimidation at polling stations** is difficult to answer. There are risks either of increasing unnecessary prosecutions, or of failing to prosecute, due to the difficulty of making a case. And there may well be a chilling effect on the usual political party presence at polling stations. The experience of officers and elected members will be relevant.

The value of **including an imprint in online materials** is self-evident and already being implemented. The key questions are as to whether this should be determined by spending limits, whether certain forms of digital communication should be prioritised, how visible the imprint can be, and whether the imprint should be passed on when shared. Much of this appears to be determined by what is technically possible and the conviction that if particular requirements are made, then solutions

OFFICIAL

will be found. It will be valuable to consider whether the responsible bodies have sufficient enforcement powers. The limit of £20,000 on the fines that can be imposed by the Electoral Commission could well be reviewed.

Related briefings:

[Standards in Public Life: intimidation in elections and inquiry into local government standards](#)

Copyright © 2018 LGiU, All rights reserved.

You are receiving this email because your local authority or organisation is a member or triallist of LGiU.

Our mailing address is:

LGiU
251 Pentonville Road
London, N1 9NG
United Kingdom

[Add us to your address book](#)

Bolsover District Council

Standards Committee

15th October 2018

Review of the Council's Constitution

Report of the Head of Corporate Governance and Solicitor to the Council & Monitoring Officer

This report is public

Purpose of the Report

- To recommend proposed amendments to the Council's Constitution for consideration by the Standards Committee prior to submission as part of the Annual Review of the Constitution to Council for adoption.

1 Report Details

- 1.1 The Constitution is the Council's 'rulebook'. It sets out how the Council operates and how it makes decisions. Council approved its latest version of the Constitution at the Annual Council meeting in May 2018. Council also approved amended Terms of Reference for the Strategic Alliance Joint Committee in September 2018. These changes have been implemented in the version that shall be published following this review of the Constitution.
- 1.2 One of the functions of the Standards Committee is to undertake an annual review of the Council's Constitution to ensure it is up to date and in line with legislation and current circumstances. The following areas have been identified for review:

Proposals contained within this report:

- Delegation of decisions to write off debts for rent arrears
- Functions of the Joint Employment Committee
- Edit to Proper Officer Provisions in relation to Elections
- Edits to the Constitution proposed by the Portfolio Holder for Corporate Governance resulting from Member discussions.

Proposals still under review and will be reported to a future meeting:

- Review of Licensing Committee Terms of Reference and Composition
- Joint ICT Committee Terms of Reference
- Review of Members Code of Conduct
- Review of Employee Code of Conduct
- Standards Committee Terms of Reference

- Reflecting Key Decision Limits in other areas of the Constitution
 - Audit Committee Terms of Reference
 - UECC Terms of Reference
 - Safety Committee Terms of Reference
 - Harp Panel TOR / Allocations Policy
 - Functions Scheme and Articles
 - Contract Procedure Rules – Contract Formalities
 - Minor wording changes or updating of job titles (housekeeping)
- 1.3 Details of the proposed amendments in relation to the first list of areas as above are attached at **Appendix 1**. This also outlines the rationale behind each proposal.
- 1.4 Where revised versions of each section have been produced, these are also attached as appendices, showing the tracked changes in comparison to the current documents.
- 1.5 Further amendments in addition to those set out in this report may also be proposed which will correct and up-date terminology, numbering issues and references to job titles but will not amount to substantive changes to the rules or articles.

Joint ICT Committee Terms of Reference

- 1.6 The Terms of Reference for Joint ICT Committee were identified under the Constitution Review in 2017/18 were considered by the Joint ICT Committee at a meeting in April 2018.
- 1.7 The Committee did not consider it necessary to revise their Terms of Reference at that time as they agreed to continue in their role providing oversight of the ICT service and that they would refer any issues requiring decisions back to each authority. Members agreed that the Terms of Reference should be looked at again after May 2019.
- 1.8 As part of the Constitution Review Standards Committee is asked to consider the need to implement any changes necessary in time for the new Municipal Year in May 2019 rather than making changes later in that year, as this may impact on appointments and other matters of implementation. It is therefore proposed that the Standards Committee review the Joint ICT Committee Terms of Reference during 2018/19 and that the Joint ICT Committee be asked for their input in to the review at their Annual meeting in November 2018.
- 1.9 In planning the delivery of the 2018/19 review of the Constitution it has been identified that there is a need for an additional meeting in order for members of the Standards Committee to give due consideration to the proposals put before them. Therefore it is proposed that an informal meeting of the Constitution Working Group be held in late November comprising of the membership of the Standards Committee, from which recommendations can be made for approval at the January Standards Meeting.

- 1.10 Members are requested to set a meeting on one of the following options for dates:

Monday 19th November at 2pm
Friday 23rd November at 2pm
Thursday 29th November at 10am

2 Conclusions and Reasons for Recommendation

- 2.1 To ensure the Council has in place a fit for purpose Constitution which complies with English law.

3 Consultation and Equality Impact

- 3.1 The Chief Executive, Chief Financial Officer, Monitoring Officer and SAMT are consulted at various stages of the Constitution Review.
- 3.2 An Equality Impact Assessment has not been necessary as part of this review.

4 Alternative Options and Reasons for Rejection

- 4.1 Members may consider alternative options to each of the proposals put forward, where legally permitted.

5 Implications

5.1 Finance and Risk Implications

- 5.1.1 Failure to ensure the Constitution meets legal requirements can leave the Council open to challenge, as does failure to comply with the provisions of the Constitution. It is therefore essential that Constitution is regularly reviewed and given robust oversight.

5.2 Legal Implications including Data Protection

- 5.2.1 The Council is required under the Localism Act 2011 to prepare and keep up-to-date a constitution that contains its standing orders, code of conduct, such other information that the Secretary of State may direct and such other information that the authority considers appropriate.

5.3 Human Resources Implications

There are no human resources implications arising from the proposals within this review.

6 Recommendations

- 6.1 That the Committee consider the proposals for amendments to the Council's constitution as set out in Appendix 1 to the report and support that they be submitted to Council as part of the Constitution Review.

- 6.2 That the Committee give consideration to the list of areas of the constitution to be reviewed, edit it as necessary and agree for a further report to be submitted to the next meeting.
- 6.3 That the Committee conduct a review of the Joint ICT Committee Terms of Reference during the 2018/19 Municipal Year and request the Joint ICT Committee to feed in to this review at their forthcoming meeting in November 2018.
- 6.4 That a meeting of the Constitution Working Group be set for late November to consider some elements of the Constitution Review and make recommendations to the meeting of Standards in January 2019.

7 Decision Information

Is the decision a Key Decision? A Key Decision is an executive decision which has a significant impact on two or more District wards or which results in income or expenditure to the Council above the following thresholds: <i>BDC: Revenue - £75,000</i> <i>Capital - £150,000</i> <input type="checkbox"/> <i>NEDDC: Revenue - £100,000</i> <input type="checkbox"/> <i>Capital - £250,000</i> <input type="checkbox"/> <input checked="" type="checkbox"/> Please indicate which threshold applies	No
Is the decision subject to Call-In? (Only Key Decisions are subject to Call-In)	No
Has the portfolio holder been informed	Yes
District Wards Affected	None
Links to Corporate Plan priorities or Policy Framework	Demonstrating good governance

8 Document Information

Appendix No	Title
1	Summary of proposals and rationale
Background Papers (These are unpublished works which have been relied on to a material extent when preparing the report. They must be listed in the section below. If the report is going to Cabinet (NEDDC) or Executive (BDC) you must provide copies of the background papers)	
None.	
Report Author N Calver, Governance Manager	Contact Number 01246 217753

Area of Review	Proposal and Rationale	Sections of the Constitution to be revised
Delegation of decisions to write off debts for rent arrears	Currently the delegation scheme allows for the Head of Finance and Resources and Section 151 Officer to write off rent arrears in appropriate circumstances up to the value of £2500. It is proposed that the level be increased to £3500.	Paragraph 4.10.13 (6) of the Scheme of Delegation to Officers (Page 167 of the current version)
Functions of the Joint Employment Committee	<p>The Joint Employment Committee has responsibility for most employment matters relating to posts within the Strategic Alliance Management Team. The functions specify recruitment, and all matters of discipline and capability (performance and sickness). It is proposed that dismissal also be added to the functions, which would also cover redundancy.</p> <p>The proposal rectifies the omission from the functions allowing all staffing matters at this level to be considered by the same committee.</p> <p>This would also reflect the delegation given to the Chief Executive as the Head of Paid Service to determine all staffing matters including ‘the appointment, dismissal, suspension or discipline of staff, save that in relation to the Chief Executive Office, the Strategic Directors and the Heads of Service, this does not include the appointment and dismissal.’</p>	Part 3 Responsibility for Functions – Joint Employment Committee (Page 61 of the current version).
Scheme of Delegation for Officers - Elections	The Scheme of Delegation for officers under the Representation of the People’s Act 1983 currently delegates to the Elections Manager for NEDDC only the role of Deputy Acting Returning Officer for a Parliamentary Election. This is an oversight and will need to include the Elections Manager for BDC.	Part 4 Scheme of Delegation – Representation of the People’s Act 1983 S.24 (page 172 of the current version)

Area of Review	Proposal and Rationale	Sections of the Constitution to be revised
Edits to the Constitution proposed by the Portfolio Holder responsible for Corporate Governance		
Budget and Policy Framework Rules – Inclusion of informing Portfolio Holders	<p>A request has been made for the relevant Portfolio Holder to be informed in the following circumstances:</p> <p>Decisions outside the Budget or Policy Framework 4.3.4 (2) – If the Executive and any officers, area committees or joint arrangements discharging functions want to make such a decision, they shall take advice from the Monitoring Officer, the Chief Finance Officer and the Head of Paid Service as to whether the decision they want to make would be contrary to the Budget and Policy Framework, or contrary to or not wholly in accordance with the Budget AND INFORM THE RELEVANT PORTFOLIO HOLDER.</p> <p>Virements 4.3.6 - Once a budget has been approved, Executive or budget managers shall be entitled to vire across budget heads within the budget framework with the exception of salary related budgets AND REQUIRED TO INFORM THE RELEVANT PORTFOLIO HOLDER WHEN THE VIREMENT IS IN EXCESS OF £25,000.. Virements from salary related budgets can only be utilised for the use of agency and consultancy work necessary to maintain agreed service levels. Managers within the Accountancy Section shall be entitled to vire budgets for housekeeping purposes within each service area.</p>	Part 4 Budget and Policy Framework (pages 103 and 104 in current version)

Area of Review	Proposal and Rationale	Sections of the Constitution to be revised
Procurement Rules – Inclusion of informing Portfolio Holders	<p>A request has been made for the relevant Portfolio Holder to be informed in the following circumstances:</p> <p>Engagement of Consultants 4.8.12 (4) - Procurement plans and/or tenders prepared by external consultants on behalf of the Council must be referred to the Monitoring Officer, Chief Finance Officer, for approval and advice AND THE RELEVANT PORTFOLIO HOLDER INFORMED.</p>	Part 4 Procurement Rules (page 146 in current version)
Scheme of Delegation for Officers	<p>A request has been made for the following amendments to this section of the constitution:</p> <p>Introduction 4.10.1 (1) – Removal of mention of NEDDC 4.10.1 (4) - Officers shall MUST consult the local Ward Member(s) when they exercise any delegated powers specifically affecting their ward and when the matter is likely to be politically sensitive or contentious unless legal reasons prevent this.</p> <p>Transfer of Functions 4.10.7 (2) - Where a service is restructured, the Chief Executive Officer shall have authority to re-allocate the delegated powers to other posts and shall give notice of this to the Monitoring Officer AND INFORM THE RELEVANT PORTFOLIO HOLDER.</p> <p>Chief Executive’s Delegations 4.10.10 (2) - To take such action as he/she considers appropriate in an emergency following consultation with the Leader and/or Deputy Leader as he/she considers the circumstances will allow AND, WHERE APPLICABLE, INFORM THE RELEVANT PORTFOLIO HOLDER. Any decisions taken under this paragraph</p>	Part 4 Scheme of Delegation for Officers (pages 155, 157, and 160 in the current version)

Area of Review	Proposal and Rationale	Sections of the Constitution to be revised
	<p>shall be reported by the Chief Executive Officer to the next meeting of Council explaining the reasons for the decision.</p> <p>4.10.10 (5) - If there is an urgent need for a commercial decision, the Chief Executive Officer, following consultation with the Leader and/or Deputy Leader AND THE RELEVANT PORTFOLIO HOLDER shall make the decision and endorsement will be sought from the Executive or Council as appropriate.</p>	
Members Code of Conduct	<p>A request has been made for the following amendments to this section of the constitution:</p> <p>Political Neutrality 3.2 (4) Political assistants appointed on fixed term contracts in accordance with the Local Government and Housing Act 1989 are exempt from the standards set in paragraphs 3(1) to 3(3). COUNCIL WOULD NEED TO AGREE THE APPOINTMENT AND WOULD BE FOR COUNCILLORS (AS THE POLITICAL GROUP SEEKING A POLITICAL ASSISTANT) TO MANAGE. THE POST WOULD BE APPOINTABLE UNTIL THE NEXT ELECTION.</p>	Part 5 Codes and Protocols

BDC STANDARDS COMMITTEE WORK PROGRAMME 2018/19		
Meeting date	Item	Comments
2 July 2018	Gifts and Hospitality Register SAJC Terms of Reference R(Harvey) Ledbury Town Council Judgement Standards Committee Annual Report Councillor Complaints Procedure Review of Standards Committee RIPA Policy Review Complaints Update Work Programme	All completed in line with the Work Programme. Councillor Complaints Procedure and RIPA have been referred on and adopted.
15 October 2018	Local Government Ombudsman Annual Report Questions raised by the Customer Service and Transformation Scrutiny Committee in relation to their Operational Review of Standards Committee Election Candidates and Campaigns: A Consultation on New Laws. Review of Constitution Part 1 Work Programme	

14 January 2019	<p>Review of Constitution Part 2</p> <p>Appointments to Outside Bodies</p> <p>Gifts & Hospitality Review</p> <p>Public Perception of the Standards Regime in Local Government</p> <p>Complaints Update</p> <p>Work Programme</p>	
15 April 2019	<p>Whistleblowing</p> <p>Review of Constitution Part 3</p> <p>Consultation on Ethical Standards by Committee on Standards in Public – Standards to revisit the questions and responses submitted in May 2018.</p> <p>Review in reference to public questions, Members wished to monitor the effectiveness of the additional limits.</p> <p>Complaints Update</p> <p>Work Programme 2019/2020</p>	<p>See Minutes of Standards – 8th May 2018</p> <p>See Minutes of Standards – 8th May 2018</p>

STANDARDS WORK PROGRAMME 2018-19