

LONDON BOROUGH OF MERTON**STANDARDS AND GENERAL PURPOSES COMMITTEE****DATE: 9TH SEPTEMBER 2019****REPORT OF: MONITORING OFFICER****SUBJECT: COMMITTEE ON STANDARDS IN PUBLIC LIFE ON
LOCAL GOVERNMENT ETHICAL STANDARDS – BEST
PRACTICE RECOMMENDATIONS****WARDS: ALL****1. Summary**

- 1.1 The Committee considered at its last meeting the ‘best practice’ recommendations to local authorities from the Committee on Standards in Public Life report on Local Government Ethical Standards, published on 30th January 2019.
- 1.2 The committee resolved to further consider 4 best practice recommendations for incorporation into Merton Council’s practices and procedures.

2. Recommendation

- 2.1 The Committee is recommended to:

Agree the best practice actions described in paragraphs 3.5 and 3.6, 4.3,5.2 and 6.3(b) below, to be recommended for adoption by Council.

3. Best Practice Recommendations

- 3.1 At its last meeting the Committee considered 15 best practice recommendations and considered an assessment of Merton Council’s current practice against these. It was agreed that Merton’s approach to ethical standards is largely compliant with the best practice recommendations, although further amendments were recommended to be fully compliant with all 15 best practice recommendations set out in the report on Local Government Ethical Standards
- 3.2 **Incorporate definitions on bullying and harassment with examples**

Recommendation - “Local authorities should include prohibitions on bullying and harassment in codes of conduct. These should include a

definition of bullying and harassment, supplemented with a list of examples of the sort of behaviour covered by such a definition.”

3.3 Merton Council has in place a member/officer protocol incorporated into its Code of Conduct for Councillors. The protocol provides:

3.4 “4.2 Bullying or harassment of officers, including sexual and racial, by members is unacceptable. Members should not use their position and knowledge of the Council to place undue pressure on officers to take a different course of action than they would otherwise have done.
(Workplace bullying is defined by Unison, the public sector union, as ‘offensive, intimidating, malicious, insulting or humiliating behaviour, abuse of power or authority which attempts to undermine an individual or group of employees and which may cause them to suffer stress.’ The Council has defined racial harassment as ‘offensive conduct of a racial nature, or conduct based on race, which is offensive to the recipient’. Sexual harassment has been defined as ‘unwanted conduct of a sexual nature, or conduct based on sex, which is offensive to the recipient.’)

3.5 The following examples are given by ACAS

Behaviour that is considered bullying by one person may be considered firm management by another. Most people will agree on extreme cases of bullying and harassment but it is sometimes the ‘grey’ areas that cause most problems. It is good practice for employers to give examples of what is unacceptable behaviour in their organisation and this may include:

- spreading malicious rumours, or insulting someone by word or behaviour
- copying e mails that are critical about someone to others who do not need to know
- ridiculing or demeaning someone
- picking on them or setting them up to fail exclusion or victimisation unfair treatment
- overbearing supervision or other misuse of power or position
- unwelcome sexual advances
- touching, standing too close, display of offensive materials, asking for sexual favours
- making decisions on the basis of sexual advances being accepted or rejected
- making threats or comments about job security without foundation
- deliberately undermining a competent worker by overloading and
- constant criticism preventing individuals progressing by intentionally blocking promotion or training opportunities.

Bullying and harassment is not necessarily face to face, it may occur through written communications, visual images (for example pictures of a sexual nature or embarrassing photographs of colleagues), email, phone, and automatic supervision methods – such as computer recording of downtime from work, or recording of telephone conversations – if these are not universally applied to all workers.”

- 3.6 It is suggested these examples are appropriate and should be incorporated within the Council's Member/Officer protocol.

4. Compliance with a formal Standards Investigation

- 4.1 recommendation - "Councils should include provisions in their code of conduct requiring councillors to comply with any formal standards investigation, and prohibiting trivial or malicious allegations by councillors"

- 4.2 The Council's procedure for the consideration of complaints provides that trivial or malicious allegations will not be investigated.

- 4.3 It is recommended that a provision be inserted into the Council's Member/Officer protocol at paragraph 3.3 (which sets out what officers can expect of member) a further bullet point:

"Compliance with any formal standards investigation"

5. An annual review of the code of Conduct

- 5.1 Recommendation - "Principal authorities should review their code of conduct each year and regularly seek, where possible, the views of the public, community organisations and neighbouring authorities."

- 5.2 It is recommended the Committee introduce to its work programme an annual report on the effectiveness of the Code of Conduct at its September meeting as a yearly review. This review should incorporate an invitation to the public and local organisations to submit their views throughout the year.

6. Separate Bodies

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

- 6.2 The Council's annual governance statement has recently introduced a section which sets out the separate bodies the Council has established and describes the relationship with them. The Annual Governance Statement for 2019 approved by this Committee provides:

- 6.3 "A review was carried out by the Committee on Standards in Public Life on Local Government Ethical Standards in January 2019, which recommended areas of best practice. Best Practice 14: Councils should report on separate bodies they have set up or which they own as part of

their annual governance statement, and give a full picture of their relationship with those bodies. Separate bodies created by local authorities should abide by the Nolan Principles of openness, and publish their board agendas and minutes and annual reports in an accessible place.

6.4 Merton council has 2 companies set up;

6.5 CHAS 2013 Ltd (CHAS). The company was incorporated on the 28th March 2013, to provide both desktop and onsite supplier/contract risk management assessment and services. There are 4 directors, the Director of Environment and Regeneration, the Assistant Director of Business Improvements, the Head of Legal Services and a managing director. The accounts are audited by EY and filed and published with Companies House. A note is also included in the Council's main accounts.

6.6 Merantun Development Limited. The company was incorporated on the 9th August 2017, to undertake new housing build for 77 residential units. There are 2 council officers listed as directors, the Assistant Director of Resources and the Assistant Director of Sustainable Communities. The recruitment of a managing director is in progress. The shareholders board (Merantun Development Limited subcommittee) has 3 councillors; the Leader of the council, Cabinet Member for Regeneration, Housing and Transport and the Deputy Leader and Cabinet Member for finance. The sub committee meets 3 or 4 times a year and minutes and agendas are published on the council's website. The accounts are audited by EY and are filed and published with Companies House."

It is considered that the adoption of the recommendation in the drafting of the Annual Governance Statement complies with the best practice recommendation.

When members considered this recommendation at its previous meeting members commented that there could also be consideration of the appropriate oversight of shared services arrangements within the Council. These arrangements have been established through collaboration agreements rather than the establishment of separate bodies and are therefore retained as in house departments of the Council with the usual mechanisms for oversight. The three shared service functions that members will be familiar with are:

- a) South West London Audit Partnership – a collaboration hosted by the London Boroughs of Wandsworth and Richmond formed of the audit and investigation teams of five London Boroughs including Merton. The service is governed through an officer Governance Board and reports to this Audit Committee.
- b) The South London Legal Partnership – The SLLP is hosted by Merton and delivers legal services to five London Boroughs. It is managed by a Governance Board at officer level and reports to the

Cabinet Member for Finance and Corporate Services. An annual report is considered by the Governance Board and reported to the partner Council's. If members consider wider member oversight within Merton would be beneficial it is suggested this could be provided with the annual report being presented to a scrutiny panel for members consideration and any recommendations.

- c) The Regulatory Services Partnership – A collaboration between the London Boroughs of Merton, Wandsworth and Richmond, hosted by Merton, and providing a range of regulatory services to the three boroughs including trading standards, food safety, noise and nuisance and licencing. The partnership is overseen at member level through the Joint Regulatory Services Committee.

7. Financial Implications

None

8. Policy and Equality Implications

The report seeks to ensure that the Council maintains high standards of service. There are no equality issues arising from this report.

9. Legal Considerations

The Review by the Committee on Standards in public Life suggest changes to the current Standards framework contained in the Localism Act 2011. There are no specific legal implications from the report at this stage.

10. Background Papers

None

11 Contacts

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