

CSPL local government ethical standards 15 best practice recommendations

Name of local authority:

Nottinghamshire County Council (NCC)

1: Local authorities should include prohibitions on bullying and harassment in codes of conduct. These should include a definition of bullying and harassment, supplemented with a list of examples of the sort of behaviour covered by such a definition.

Progress:

This is currently not included in NCC's Councillors' Code of Conduct. It is in the LGA draft Model Code of Conduct and NCC are likely to adopt that provision. We consider that examples of best practice should be included in the Code. It is considered that there should be a separate provision to cover discrimination. NCC will consider if any further action is required after the final LGA Model Code of Conduct is published.

2: Councils should include provisions in their code of conduct requiring councillors to comply with any formal standards investigation, and prohibiting trivial or malicious allegations by councillors.

Progress:

This is not included in NCC's Councillors' Code of Conduct. It is something that NCC feels should be covered in the LGA draft Model Code of Conduct. There should also be a benchmark in the Model Code so that trivial things are excluded unless there is persistent minor behaviour. There should also be a standard sanction for not complying with Standards Investigations. NCC will consider if any further action is required after the final LGA Model Code of Conduct is published.

3: Principal authorities should review their code of conduct each year and regularly seek, where possible, the views of the public, community organisations and neighbouring authorities.

Progress:

NCC reviews its Code of Conduct, but not on an annual basis. It may be better to require "regular review" as an annual review is perhaps too onerous a requirement. NCC considers that it will be best to leave it to individual authorities to decide who to consult with as they are more aware of who would

be appropriate. This could be written into the draft LGA Model Code. NCC will consider if any further action is required after the final LGA Model Code of Conduct is published.

4: An authority's code should be readily accessible to both councillors and the public, in a prominent position on a council's website and available in council premises.

Progress:

NCC's Code of Conduct is readily accessible to Councillors on the Councillors section of the intranet and on the Council website for the public. This requirement should be included in the LGA draft Model Code. We believe that it isn't necessary to have copies of the Code on Council premises, but hard copies should be available in an accessible form when requested. NCC will consider if any further action is required after the final LGA Model Code of Conduct is published.

5: Local authorities should update their gifts and hospitality register at least once per quarter, and publish it in an accessible format, such as CSV.

Progress:

NCC has a Protocol in relation to Gifts and Hospitality together with a register. Format of register was updated last year and is a word document. This requirement for a register, updated quarterly and published in an accessible format should be referenced in the draft LGA Model Code in the section regarding Gifts and Hospitality. NCC will consider if any further action is required after the final LGA Model Code of Conduct is published.

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

Progress:

There is no public interest test within the NCC Code at present. However, in the procedure for handling complaints under the Code there is reference to proportionality in how complaints are handled. The Council's response to the draft LGA Model Code suggested that a benchmark or threshold public interest test should be included to enable such filtering and proportionate handling of each allegation. NCC will consider if any further action is required after the final LGA Model Code of Conduct is published.

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

Progress:

NCC currently has three Independent Persons.

8: An Independent Person should be consulted as to whether to undertake a formal investigation on an allegation, and should be given the option to review and comment on allegations which the responsible officer is minded to dismiss as being without merit, vexatious, or trivial.

Progress:

NCC's procedure currently states that the IP will be consulted on any matter that is referred to the Governance & Ethics Sub-Committee. Also, the Governance & Ethics Sub-Committee must take the IP's views into account before making a decision on an allegation that is subject to investigation and formal hearing. Additionally, the Member who is the subject of a complaint may consult the IP in respect of the complaint. Nothing is included about IPs being consulted about whether to undertake a formal investigation or being given the option to comment on allegations which the responsible officer is minded to dismiss as being without merit, vexatious or trivial. It is agreed that the IP should be consulted if the Monitoring Officer is minded to commence an investigation. However, the Council's view is that Monitoring Officers need to be afforded the discretion to resolve issues quickly and simply in line with their best judgement as the responsible officer for handling such complaints. Therefore, it should be for individual Monitoring Officers to assess whether they require additional support from IPs when reaching such decisions and the need for that may differ from authority to authority. NCC will consider if any further action is required after the final LGA Model Code of Conduct is published.

9: Where a local authority makes a decision on an allegation of misconduct following a formal investigation, a decision notice should be published as soon as possible on its website, including a brief statement of facts, the provisions of the code engaged by the allegations, the view of the Independent Person, the reasoning of the decision-maker, and any sanction applied.

Progress:

All findings of the Governance & Ethics Sub-Committee are to be reported on the NCC's website. This requirement should be included in the draft LGA Model Code. The amount of detail to be reported appears excessive. What would be better is just to give brief details of the allegation, the decision and the sanction.

It would be sensible for the Model Code to include a suggested template for reporting to ensure consistency across Councils. NCC will consider if any further action is required after the final LGA Model Code of Conduct is published.

10: A local authority should have straightforward and accessible guidance on its website on how to make a complaint under the code of conduct, the process for handling complaints, and estimated timescales for investigations and outcomes.

Progress:

There is guidance on how to make a complaint on NCC's website and the process. There is limited information about timescales and outcomes. The Council believes that it is difficult to have estimated timescales because each individual matter is unique, and some will be more complex than others. Also, progress will depend on people's availability. There could, however, be a requirement that the initial consideration of a complaint should start within a particular period of time. NCC will consider if any further action is required after the final LGA Model Code of Conduct is published.

11: Formal standards complaints about the conduct of a parish councillor towards a clerk should be made by the chair or by the parish council as a whole, rather than the clerk in all but exceptional circumstances.

Progress:

Not applicable to upper tier authorities.

12: Monitoring Officers' roles should include providing advice, support and management of investigations and adjudications on alleged breaches to parish councils within the remit of the principal authority. They should be provided with adequate training, corporate support and resources to undertake this work.

Progress:

Not applicable to upper tier authorities.

13: A local authority should have procedures in place to address any conflicts of interest when undertaking a standards investigation. Possible steps should include asking the Monitoring Officer from a different authority to undertake the investigation.

Progress:

NCC will consider if any further action is required after the final LGA Model Code of Conduct is published. Any review will consider whether additional arrangements to deal with conflicts of interest are needed, such as mutual arrangements with the Monitoring Officer from another authority to carry out any investigation if there was a conflict of interest.

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

Progress:

This recommendation appears to go beyond the requirements of the Model Code of Conduct and stray into broader governance issues which is a matter for each authority. It should be a matter for individual authorities to determine appropriate reporting arrangements and regard must be had to the fact that each body is a separate legal entity with its own governance arrangements and in some cases reporting requirements under the Companies Act or Charity legislation. Issues of commercial sensitivity and confidentiality must also be taken into account when designing any relevant arrangements.

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

Progress:

NCC does hold such meetings with political group leaders but the topics discussed cover a broader range of issues than just standards issues.
