

APPENDIX A

ITEM A1

Standards Advisory Committee

7.5.19

No	Recommendation	Responsible body	Comments	Action Required By KBC
R1	The Local Government Association should create an updated model code of conduct, in consultation with representative bodies of councillors and officers of all tiers of local government.	LGA	Lawyers in Local Government (MO Body) have offered to help but no sign of progress at this stage.	Not at this stage
R2	The government should ensure that candidates standing for or accepting public offices are not required publicly to disclose their home addresses. The Relevant Authorities (DPI) Regulations 2012 should be amended to clarify that a councillor does not need to register their home address on an authority's register of interest	Government	The government have implemented this change already	None, except to reflect the new rules when administering elections and bye-elections.
R3	Councillors should be presumed to be acting in an official capacity in their public conduct, including statements on publicly –accessibly social media. Section 27(2) of the Localism Act 2011 should be amended to permit local authorities to presume so when deciding upon code of conduct breaches.	Government	The current Code of Conduct goes as far as it can towards this presumption until the primary legislation is changed.	Not at this stage
R4	Section 27(2) of the Localism Act 2011 should be amended to state that a local authority's code of conduct applies to a member when they claim to act, or give the impression they are acting, in their capacity as a member or as representative of the local authority.	Government	Current Code goes as far as it can towards this presumption until the primary legislation is changed.	Not at this stage. However, when the LGA Code is available it is likely that it will be recommended for adoption by KBC and town and parish councils with minimal changes.

R5	The Relevant Authorities (DPI) Regulations 2012 should be amended to include; unpaid directorships; trusteeships; management roles in a charity or a body of a public nature; and membership of any organisations that seek to influence opinion or public policy	Government	These are already captured by our current arrangements for declaring interests.	It would do no harm to re-iterate this advice in future communications and when someone is newly elected.
R6	Local authorities should be required to establish a register of gifts or hospitality, with councillors required to record any gifts or hospitality received over a value of £50, or totalling £100 over a year from a single source. This requirement should be included in an updated model code of conduct	Government	£50 is the amount noted in the KBC Code but the Code doesn't include £100 from a single source element.	No - Suggest that this amendment in draft Code for Shadow Unitary Council
R7	Section 31 of the Localism Act 2011 should be repealed, and replaced with a requirement that councils include in their code of conduct that a councillor must not participate in a discussion or vote in a matter to be considered at a meeting if they have any interest, whether registered or not, "if a member of the public, with knowledge of the relevant facts, would reasonably regard the interest as so significant that it is likely to prejudice your consideration or decision-making in relation to that matter".	Government	Legislation required to change rules but KBC Code can be updated to include this once it has.	No – consider for Shadow Unitary Code and include in guidance
R8	The Localism Act 2011 should be amended to require that Independent Persons are appointed for a fixed term of two years, renewable once.	Government	The current independent person has served for more than two terms. There has never been any significant interest in filling this role, and it may make it harder to fill the role at all if it has to change every four years.	None at this stage.
R9	The Local Government Transparency Code should be updated to provide that the view of the independent person in relation to a decision on which they are consulted should be formally recorded in any decision on which they are consulted should be formally recorded in any decision notice or minutes.	Government	Currently often included in Initial Assessment but needs to be more formally captured in future reports.	Straightforward to implement.

R10	A local authority should only be able to suspend a councillor where the authority's Independent Person agrees both with the finding of a breach and that suspending the councillor would be a proportionate sanction.	Government	Requires new legislation to implement.	Not at this stage
R11	Local authorities should provide legal indemnity to Independent Persons if their views or advice are disclosed. The government should require this through secondary legislation if needed.	Government/ LAs	Legal advice to be sought to see if this can be implemented without change of legislation	Yes – MO to seek advice in conjunction with other authorities in the county.
R12	Local authorities should be given the discretionary power to establish a decision-making standards committee with voting independent members and voting members from dependent parishes, to decide on allegation and impose sanctions.	Government	This is already the situation in Kettering	No further action
R13	Councillors should be given the right to appeal to the LGO if their local authority imposes a period of suspension for breaching the code of conduct.	Government	Requires new legislation to implement. Would be a departure into new territory for the Ombudsman	Not at this stage
R14	The LGO should be given the power to investigate and decide upon an allegation of a code of conduct breach by a councillor who has a suspension imposed. The Ombudsman's decision should be binding on the local authority.	Government	Requires new legislation to implement	Not at this stage
R15	The Local Government Transparency Code should be updated to require councils to publish annually: the number of code of conduct complaints they receive; what the complaints broadly relate to (e.g. bullying; conflict of interest); the outcome of those complaints, including if they are rejected as trivial or vexatious; and any sanction applied.	Government	This would be a new responsibility of the Council to implement.	It is proposed that an annual report on complaints received and investigated should be submitted to this committee.
R16	Local authorities should be given the power to suspend councillors, without allowances, for up to six months.	Government	Requires new legislation to implement	Not at this stage
R17	The government should clarify if councils may lawfully bar councillors from council premises or withdraw facilities as sanctions. These powers should be put beyond doubt in legislation if necessary.	Government	Required government action	Not at this stage
R18	The criminal offences in the Localism Act 2011 relating to Disclosable Pecuniary Interests should be abolished.	Government	Requires new legislation to implement	Not at this stage

R19	Parish council clerks should hold an appropriate qualification, such as those provided by the Society of Local Council Clerks.	Parish Council	For town and parish councils to implement; this may be an additional burden for small parish councils and should perhaps allow for a provision of- “working towards a qualification” to avoid reducing the supply of new parish clerks, who generally speaking arrive without qualifications.	Not at this stage
R20	Section 27(3) of the Localism Act 2011 should be amended to state that parish councils must adopt the code of conduct of their principal authority with the necessary amendments, or the new model code.	Government	Requires new legislation to implement	Not at this stage. All parish and town council have adopted the KBC code in this Borough.
R21	Section 28 (11) of the Localism Act should be amended to state that any sanction imposed on a parish councillor following the finding of a breach is to be determined by the relevant principal authority.	Government	Requires new legislation to implement	Not at this stage
R22	The Local Authorities (Standing Orders) (England) (Amendment) Regulations 2015 should be amended to provide that disciplinary protections for statutory officers extend to all disciplinary action, not just dismissal.	Government	Requires new legislation to implement	Not at this stage
R23	The Local Government Transparency Code should be updated to provide that local authorities must ensure that their whistleblowing policy specifies a named contact for the external auditor alongside their contact details, which should be available on the authority’s website	Government	Needs updating anyway for latest change in External Auditor and add named contact details	Yes – as noted
R24	Councillors should be listed as ‘prescribed persons’ for the purposes of the Public Interest Disclosure Act 1998	Government	Requires new legislation to implement	Not at this stage
R25	Councillors should be required to attend formal induction training by their political groups. National parties should add such a requirement to their model group rules.	Political Groups	Requires action by others	Not at this stage

		National political parties		
R26	Local Government Association corporate peer reviews should also include consideration of a local authority's processes for maintaining ethical standards.	LGA	Requires action by others	Not at this stage

	Best Practice Recommendations	Comments	Action Required By KBC
BP1	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	The KBC Code references the need to avoid behaviour which is bullying, or intimidatory or breaches UK equalities legislation. The protocol on councillor staff relations goes into more detail about appropriate behaviour and gives examples. This of course does not govern member interaction with people who are not employees. The code does not seek to define bullying and harassment.	There will be the opportunity for the Code as applied to the new Shadow Authority and future unitary authority to include these provisions; the view of the Committee as to whether the current code should be changed now is sought.
BP2.	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.	The KBC Code doesn't include reference to the need to comply with Standards investigations. The Monitoring Officer Protocol and the Procedure Rules for dealing with standards allegations gives the MO the opportunity to determine if an allegation is "substantive" before investigating it and contains reference to the potential reasons for not pursuing an investigation including if it is trivial, politically motivated, vexatious or happened too long ago.	
BP3.	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.	The KBC Code or component parts of it have been regularly reviewed, most recently in June 2018. The oldest part of the code dates from June 2013.	Not at this stage.
BP4.	An authority's code should be readily accessible to both councillors and the public, in a	The KBC Code is included on its website under the Constitution. It is also sign-posted from the Complaints against Councillors web-page. It is unlikely that	Not at this stage

	prominent position on a council's website and available in council premises	higher prominence would be seen as important for a website that has a transactional focus.	
BP5.	Local authorities should update their gifts and hospitality register at least once per quarter, and publish it in an accessible format, such as CSV.	Notifications of Gifts and Hospitality by Cllrs are included in the relevant Register of Interest when notified to the Monitoring Officer and whenever there is a change, the website is updated.	No
BP6.	Councils should publish a clear and straightforward public interest test against which allegations are filtered.	The relevant parts of the constitution give guidance but does not include a clear and straightforward test of the type highlighted in the report. This would require a significant review of this section of the constitution.	Not at this stage
BP7.	Local authorities should have access to at least two Independent Persons.	KBC has access to an Independent Person but does not have a reserve IP There has never been any difficulty accessing the appointed IP	It is not felt necessary to appoint a reserve IP
BP8.	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.	The KBC Procedure includes consultation with the IP at Initial Assessment stage	None
BP9.	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.	This is already provided for within the Procedure rules for dealing with standards allegations.	None
BP10.	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.	There are clear and easy to find pages on the websites on how to make a complaint under the code of conduct.	No

BP11.	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.	The procedure allows for the clerk or the chair of a parish council to make a complaint, and both routes have been used in the past. It is not clear what this provision is seeking to achieve, as it is conceivable that a legitimate complaint could be blocked using this recommended approach.	It is not recommended that BP11 is adopted.
BP12.	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.	The Monitoring Officer has always taken a proactive and supportive stance in relations to governance and standards issues at town and parish councils.	No
BP13.	A local authority should have procedures in place to address any conflicts of interest when undertaking a standards investigation. Possible step should include asking the Monitoring Officer from a different authority to undertake the investigation.	This "mutual support" facility is in place in the county and Kettering has both benefited from utilising the services of another Monitoring Officer and has lent its services to another authority in the past.	No
BP14.	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	The Council is party to joint arrangements such as the Joint Planning Committee and the Nolan principles apply to such bodies already. The advice to councillors is that they should abide by the code of conduct which applies to the body to which they are appointed.	No
BP15.	Senior officers should meet regularly with political group leaders or group whips to discuss standards issues.	There is no formal process in place for this, and standards matters are not so frequent that they would trigger such discussions, the opportunity exists for these interactions to happen when appropriate using normal channels.	No