

# CONSTITUTION AND ETHICS COMMITTEE



**Tuesday, 26 April 2022**

**Democratic and Members' Services**  
Fiona McMillan  
Monitoring Officer

**14:00**

New Shire Hall  
Alconbury Weald  
Huntingdon  
PE28 4YE

**Multi Function Room, New Shire Hall, Alconbury Weald,  
Huntingdon, PE28 4YE  
[Venue Address]**

## **AGENDA**

**Open to Public and Press by appointment only**

1. **Apologies for absence and declarations of interest**  
*Guidance on declaring interests is available at*  
<http://tinyurl.com/cc-conduct-code>
2. **Minutes - 25 February 2022**  
[Here](#)
3. **Establishment of a joint Cambridgeshire and Peterborough Health and Wellbeing Board** 3 - 14
4. **Contract Procedure Rules** 15 - 42
5. **Arrangements for the Appointment of Independent Person(s)** 43 - 46
6. **Local government ethical standards - government response to the Committee on Standards in Public Life report** 47 - 66

7.	<b>Scheme of Delegation</b>	<b>67 - 68</b>
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**Attending meetings and COVID-19**

Meetings of the Council take place physically and are open to the public. Public access to meetings is managed in accordance with current COVID-19 regulations and therefore if you wish to attend a meeting of the Council, please contact the Committee Clerk who will be able to advise you further. Meetings are streamed to the Council's website: [Council meetings Live Web Stream - Cambridgeshire County Council](#). If you wish to speak on an item, please contact the Committee Clerk to discuss as you may be able to contribute to the meeting remotely.

The Constitution and Ethics Committee comprises the following members:

Councillor Sebastian Kindersley (Chair) Councillor David Ambrose Smith Councillor Alex Bulat Councillor Lorna Dupre Councillor Janet French Councillor Neil Gough Councillor Mac McGuire Councillor Kevin Reynolds and Councillor Tom Sanderson

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## Establishment of a joint Cambridgeshire and Peterborough Health and Wellbeing Board

To: Constitution and Ethics Committee

Meeting Date: 26th April 2022

From: Director of Public Health

Outcome: The Committee is asked to consider new terms of reference for the new joint Cambridgeshire and Peterborough Health and Wellbeing Board and recommend them to Full Council for approval.

Recommendation: The Committee is asked to recommend to Full Council that the Terms of Reference set out in Appendix A, be approved for inclusion in the Constitution.

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## 1. Background

- 1.1 Under the Health & Social Care Act 2012 Upper Tier Local Authorities (UTLA) have a statutory function to have a Health & Wellbeing Board (HWB) as a formal committee of the local authority. In 2019 procedures were put in place to establish joint working relationships between the Cambridgeshire and Peterborough HWBs.
- 1.2 Section 198 of the Health and Social Care Act 2012 provides that two or more Health and Wellbeing Boards may make arrangements for: -
  - (a) any of their functions to be exercisable jointly
  - (b) any of their functions to be exercisable by a joint sub-committee of the Boards
  - (c) a joint sub-committee of the Boards to advise them on any matter related to the exercise of their functions.
- 1.3 In 2019 both UTLAs agreed to an approach in establishing formal joint working relationships between the HWBs. This arrangement was possible as the two HWBs had the same legal responsibilities. Both UTLAs changed their terms of references to allow for the creation of the Whole System Joint Sub-Committee and the Core Joint Sub-committee. Both sub-committees had delegated authority to act on behalf of the Cambridgeshire and Peterborough HWB “Parent boards”.

## 2. Integrated Care System

- 2.1 The landscape for HWBs has changed dramatically with the formation of the Integrated Care System and locally, consideration has been given to how existing arrangements can provide the opportunity to build greater alignment between different system partners.
- 2.2 Cambridgeshire and Peterborough health and care partners, through a number of HWB and ICP Integration development sessions have committed to establishing a single strategy for the system that will be owned by both the HWBs and ICP.
- 2.3 The approach in Cambridgeshire & Peterborough has been to establish new collaborative working arrangements between the HWBs and the developing Integrated Care Partnership (ICP), so that there is a commonality of purpose that ensures effective joined up decision making.
- 2.4 To enable delivery of this ambition, it is proposed to have common membership for the ICP and the HWB and streamline arrangements for holding meetings to allow business to proceed in a more coordinated way.

## 3. Governance

- 3.1 Guidance from the DHSC issued in September 2021 to support the implementation of Integrated Care Systems, including [Integrated Care Partnership \(ICP\) Engagement Document: Integrated Care System \(ICS\) Implementation](#) made it clear that the HWB cannot act as an ICP because they are separate legal entities with statutory responsibilities

that cannot be delegated to each other. The White paper on Integration and Innovation: Working together to improve health and social care (published in 2021) establishes Integrated Care Systems (ICSs) on a statutory footing through both the NHS Integrated Care Board and an Integrated Care Partnership (ICP).

- 3.2 The dual structure recognises that there are two forms of integration a) with the NHS to remove barriers to collaboration and to make working together across the NHS an organising principle and b) between the NHS and others, principally local authorities, to deliver improved outcomes to health and wellbeing for local people.
- 3.3 The White paper specifies that an ICP should have the following functions:-
  - System level partnership with NHS and local government as equal partners
  - Alignment of partners strategies across the system
  - Improving care, health and wellbeing for the local population.
- 3.4 Through development sessions of HWB and ICP partners in October 2021 and January 2022 the collaborative approach to developing a single strategy has started to take form. The legislation is clear that both the ICP and HWBs would be independent boards but by working in alignment it allows for a continued focus on the wider determinants of health. This approach reflects a genuine ambition across the local health and care system to develop innovative ways of working together.
- 3.5 Both ICP and HWBs would be independent boards with shared agendas. Where there is a need to take separate decisions, the function to do so could be achieved through a Part A (Shared HWB/ICP) and Part B (ICP only or HWB only) agenda. Both HWB and ICP members could sit at the one meeting with voting rights as assigned via the terms of reference. A common membership between the HWBs is proposed of around 11 members that would both be ICP and HWBs members. Both HWB and ICP will have some members that will not be shared and these are being worked through. For example Health partners will finalise membership from the acute and community provider Trusts and representatives from primary care, place based alliances and the community sector.

## 4. Terms of Reference

- 4.1 The Cambridgeshire and Peterborough Health and Wellbeing Board Whole System Joint Sub-Committee met on 25 March 2022 to consider the establishment of a joint Cambridgeshire and Peterborough Health and Wellbeing Board. It endorsed revised Terms of Reference set out in Appendix A and recommended it to both Full Councils to enable the necessary changes to be made to the respective Councils' Constitutions.
- 4.2 Changes to the terms of reference include the following:
  - Context & Introduction – providing the background to the integrated approach with the ICP and the proposal for a Joint Cambridgeshire & Peterborough HWB.
  - Removal of the existing Cambridgeshire HWB and the two sub-committees – i.e. Whole System Joint Sub-Committee (replaced by the Cambridgeshire & Peterborough HWB) and the removal of the Core Joint Sub-Committee (functions also replaced by the Cambridgeshire & Peterborough HWB)
  - Membership proposals – refining current membership so that a shared membership

exists with the ICP to allow for collaborative decision making.

## 5. Appendices

### 5.1 Appendix A – Revised Terms of Reference

## 6. Source documents

### 6.1 [Cambridgeshire and Peterborough Health and Wellbeing Board Whole System Joint Sub-Committee meeting 25/03/2022](#)

[Health and Social Care Act 2012](#)

[White Paper - Integration & Innovation: Working together to improve health and social care for all](#)

## 12. Cambridgeshire & Peterborough Health and Wellbeing Board

### Introduction

The Cambridgeshire & Peterborough Health and Wellbeing Board (HWB) is established as a committee of the County Council under section 102 of the Local Government Act 1972. Its remit is to work to promote the health and wellbeing of Cambridgeshire's communities and its focus is on securing the best possible health outcomes for all residents. This will involve a system level partnership with NHS and Local Government as equal partners and the alignment of partners' strategies across the system.

In consideration of the developments around the Integrated Care Partnerships (ICPs), Cambridgeshire & Peterborough HWB aims to ensure that integration is closely linked to prevention and tackling the wider determinants of health. A joint Cambridgeshire & Peterborough HWB will have collective accountability and responsibility for population health care outcomes. This board will maintain its separate statutory identity from the ICP but will where possible meet as a committee in common where agenda items will be split between the ICP in one section and HWB in the other. It is the intention to have one shared Cambridgeshire & Peterborough Health & Wellbeing Strategy that is owned across the local system.

### Membership

\* denotes statutory members of the Health and Wellbeing Board as required by Section 194 of the Health and Social Care Act 2012.

There is also a statutory requirement for at least one Local Authority Councillor, and at least one representative of the ICS NHS Board, to be a member of the HWB.

### Local Authority Members

- Cambridgeshire County Council (CCC) Vice-Chair of Adults & Health Committee (Lead member for HWB)\*
- CCC Chair of Adults & Health Committee
- Peterborough City Council (PCC) Cabinet / Lead member for Public Health/ HWB\*
- PCC/CCC Director of Public Health\*
- Executive Director of People & Communities\* (representing CCC/PCC Director Adults Services)
- PCC/CCC Director Children Services
- PCC Service Director Adults & Communities
- District Council representative (one officer on behalf of all districts to be appointed by the Cambridgeshire Public Service Board)

## Other Members

- Local Healthwatch Chair\*
- Voluntary & Community Sector Representative (same representative as ICP)
- Cambridgeshire Constabulary (Chief Constable or officer to be determined)
- Cambridgeshire and Peterborough Combined Authority (Chief Executive Officer (CEO) or officer to be determined)

## NHS Members

- CEO Integrated Care Board (ICB\*)
- Chair ICB
- NHS Commissioning Board\*
- Representative of Cambridge University Hospitals NHS Foundation Trust (CUHFT)
- Representative of North West Anglia NHS Foundation Trust (NWAFT)
- Representative of Papworth Hospital NHS Foundation Trust
- Representative of Cambridgeshire and Peterborough NHS Foundation Trust (CPFT)
- Representative of Cambridgeshire Community Services NHS Trust (CCS)

## Summary of Functions

Delegated Authority	Delegated Condition
Authority to prepare the Joint Strategic Needs Assessment (JSNA) for Cambridgeshire and Peterborough: To develop a shared understanding of the needs of the community through developing and keeping under review the JSNA and to use this intelligence to refresh the Health & Wellbeing Strategy.	Section 116, Local Government and Public Involvement in Health Act 2007 Section 196, Health and Social Care Act 2012
Authority to prepare the Joint Health and Wellbeing Strategy for Cambridgeshire and Peterborough based on the need identified in the Joint Strategic Needs Assessment and overseeing the implementation of the Strategy, which informs and influences the commissioning plans of partner agencies.	Section 116A, Local Government and Public Involvement in Health Act 2007. Section 196, Health and Social Care Act 2012
Authority to respond to consultations about commissioning plans issued by the ICB in connection with Section 26 of the Health and Social Care Act 2012.	Section 26, Health and Social Care Act 2012
Authority to encourage persons who arrange for the provision of any health or social care services in the Council's area to work in an integrated manner.	Section 195, Health and Social Care Act 2012



Delegated Authority	Delegated Condition
Authority to provide any advice, assistance and support it thinks appropriate for the purpose of encouraging the making of arrangements under Section 75 of the National Health Service Act 2006.	Section 195, Health and Social Care Act 2012 Section 75, NHS Act 2006
Authority to produce the Pharmaceutical Needs Assessment (PNA) and liaise with NHS England and Improvement (NHSE&I) to ensure recommendations and gaps in services are addressed.	NHS (Pharmaceutical and Local Pharmaceutical Services) Regulations 2013 (SI 2013/349)
To consider options and opportunities for the joint commissioning of health and social care services for children, families and adults in Cambridgeshire to meet identified needs (based on the findings of the Joint Strategic Needs Assessment) and to consider any relevant plans and strategies regarding joint commissioning of health and social care services for children and adults.	
To identify areas where joined up or integrated commissioning, including the establishment of pooled budget arrangements, would benefit improving health and wellbeing and reducing health inequalities.	
By establishing subgroups as appropriate give consideration to areas of joint health and social care commissioning, including but not restricted to services for people with learning disabilities.	
To keep under consideration, the financial and organisational implications and impact on people's experience of joint and integrated working across health and social care services, and to make recommendations for ensuring that performance and quality standards for health and social care services to children, families and adults are met and represent value for money across the whole system.	
Authority to prepare and provide Health and Wellbeing Board sign off for the Better Care Fund Plan.	
Authority to approve non-statutory joint strategies on health and wellbeing issues (e.g. Cambridgeshire and Peterborough suicide prevention strategy).	

Delegated Authority	Delegated Condition
<p>Authority to discharge any other functions specifically reserved to be undertaken by the Health and Wellbeing Boards as set out in legislation, guidance, circulars and directives received from national Government.</p>	
<p>Authority to consider whether ICS Board draft forward plans take proper account of the joint local health and wellbeing strategy which relates to the period (or any part of the period) to which the plan relates.</p>	<p>Section 14Z54 White paper</p>
<p>To provide oversight to the work undertaken by the member partners to take forward the Cambridgeshire and Peterborough ICB to deliver the “triple aim” duty for all NHS organisations of better health for the whole population, better quality of care for all patients and financially sustainable services for the taxpayer.</p>	
<p>To provide a system wide governance forum, including NHS, Local Government and wider partners, to enable collective focus and direction to the responsibilities and decision making of the individual partners.</p>	

## Cambridgeshire & Peterborough Health and Wellbeing Board (Standing Orders)

### 1. Co-optees

The Board will be entitled to appoint non-voting and voting co-opted members of the Board. It shall determine whether the co-options shall be for a specified period, for specific meetings or for specific items. Co-options may only be made if the person co-opted has particular knowledge or elected expertise in the functions for which the Board is responsible, or knowledge/responsibility for a geographic or academic agenda issue.

### 2. Notice of Meetings

Meetings of the Board will be convened by the Integrated Care Board on behalf of Cambridgeshire County Council and Peterborough City Council. The County Council and the City Council will arrange the clerking of the HWB part of the agenda and recording of the whole meeting (a member of Cambridgeshire County Council's or Peterborough City Council's Democratic Services Team will act as clerk or business support lead).

### 3. Chair

The appointment of the Chair will be determined by the Board at each meeting. It will be based on a rotating arrangement between CCC, PCC and the ICP.

### 4. Quorum

The quorum for all meetings of the Board will be nine members and must include at least one elected representative from CCC and PCC and a representative of the ICB.

### 5. Appointment of Substitute Members

Nominating groups may appoint a substitute member for each position. These members will receive electronic versions of agendas and minutes for all meetings. Notification of a named substitute member must be made in writing or by email to the clerk. Substitute members may attend meetings after notifying the clerk of the intended substitution before the start of the meeting either verbally or in writing. Substitute members will have full voting rights when taking the place of the ordinary member for whom they are designated substitute.

## 6. Decision Making

It is expected that decisions will be reached by consensus, however, if a vote is required it will be determined by a simple majority of those members present and voting. If there are equal numbers of votes for and against, the Chair will have a second or casting vote. There will be no restriction on how the Chair chooses to exercise a casting vote.

## 7. Meeting Frequency

The Board will meet at least four times a year. In addition, extraordinary meetings may be called from time to time as and when appropriate. A Board meeting may be called by the Chair, by any three members of the Board or by the Director of Public Health if they consider it necessary or appropriate.

## 8. Supply of information

The Cambridgeshire and Peterborough Health and Wellbeing Board may, for the purpose of enabling or assisting it to perform its functions, request any of the following persons to supply it with such information as may be specified in the request—

- (a) the local authority that established the Health and Wellbeing Board;
- (b) any person who is represented on the Health and Wellbeing Board by virtue of section 194(2)(e) to (g) or (8) of the Health and Social Care Act 2012 (“the 2012 Act”);
- (c) any person who is a member of a Health and Wellbeing Board by virtue of section 194(2)(g) or (8) but is not acting as a representative.

A person who is requested to supply information under (a), (b) and (c) must comply with the request. Information supplied to a Health and Wellbeing Board under this section may be used by the Board only for the purpose of enabling or assisting it to perform its functions.

## 9. Status of Reports

Meetings of the Board shall be open to the press and public and the agenda, reports and minutes will be available for inspection on the CCC and PCC’s website at least five working days in advance of each meeting. [This excludes items of business containing confidential information or information that is exempt from publication in accordance with Part 5A and Schedule 12A to the Local Government Act 1972 as amended.] Other participating organisations may make links from their website to the Board’s papers on CCC or PCC’s website.

## 10. Press Strategy

An electronic link to agendas for all meetings will be sent to the local media.

CCC and/or PCC will be responsible for issuing press releases on behalf of the Board and dealing with any press enquiries. Press releases issued on behalf of the Board will be agreed with the Chair or Vice-Chair and circulated to all Board members.

## 11. Members' Conduct

Part 5 - Codes and Protocols of the Cambridgeshire County Council's Constitution applies to all elected and 'co-opted' members of the Board.

## 12. Amendment of the Terms of Reference

The Board may recommend variations to its Terms of Reference by a simple majority vote by the members provided that prior notice of the nature of the proposed variation is made and included on the agenda for the meeting.

## 13. Governance and Accountability

The Board will be accountable for its actions to its individual member organisations. There will be sovereignty around decision making processes. Representatives will be accountable through their own organisations for the decisions they take. It is expected that Members of the Board will have delegated authority from their organisations to take decisions within the terms of reference. Decisions within the terms of reference will be taken at meetings and will not normally be subject to ratification or a formal decision process by partner organisations. However, where decisions are not within the delegated authority of the Board members, these will be subject to ratification by constituent bodies. It is expected that decisions will be reached by consensus. Board members bring the responsibility, accountability and duties of their individual roles to the Board to provide information, data and consultation material appropriate to inform the discussions and decisions.

## 14. Reporting

The Board will take an annual report to Full Council in CCC and PCC and will report to NHS England and Improvement (NHSEI) via the regional Team reports as required.



## Contract Procedure Rules

To: Constitution and Ethics Committee

Meeting Date: 26<sup>th</sup> April 2022

From: Director of Resources & Chief Finance Officer

Outcome: The Committee is asked to consider the amended Contract Procedure Rules to determine if they can be recommended to Full Council for approval.

Recommendation: The Committee is asked to recommend to Full Council that the amended Contract Procedure Rules, set out in Appendix 1 of this report, be approved for inclusion in the Constitution.

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## 1. Background

- 1.1 The Council's Contract Procedure Rules (Rules) form part of the Constitution and govern the way in which the Council buys goods, services and works. They must operate in compliance with Public Contract Regulations (2015) which contain rules to ensure that public sector procurements operate in a fair, proportionate, transparent and non-discriminatory manner.
- 1.2 The current Rules were adopted in February 2020 and updated in May 2021. It is essential that the Rules are kept under continuous review to ensure that they reflect changes in law (including case law), best practice and information from internal reviews/audits. Used properly the Rules provide the Council with protection against legal challenge; accountability at all levels and enable the Council to achieve value for money through its purchasing activities.
- 1.3 Recent feedback on the operation of the Rules has highlighted areas of internal practice which could be improved to enable officers to conduct procurement activity in a timely, efficient and effective manner.

## 2. Main Issues

- 2.1 It is important that the Rules set out the rules which must be followed by those involved in procurement activity at the Council. Additional guidance and support is available from the Central Procurement Team, but that guidance does not need to be included in the Rules.
- 2.2 It is equally as important that the Rules operate in a way that promotes good working practice; that they facilitate procurements rather than hinder them.
- 2.3 In order to ensure that these two objectives are met, the following changes have been included in the amended Rules:
  - i. Procurement guidance has been removed to ensure that the remaining rules are clear and can be easily followed. The Procurement Guide contains all supporting procurement guidance and template procurement documents are available on the Intranet.
  - ii. There is an increase in the value at which contracts need sealing, from £100,000 to £500,000, except for construction contracts. The only benefit to sealing a contract is to increase the defects liability period from six (6) to twelve (12) years which is not a benefit to most contracts and adds time and money to the procurement process.
  - iii. The concept of the Responsible Officer has been introduced with a clear list of responsibilities set out within the Rules.
  - iv. There is a new requirement that where a contract is valued over £100,000, a signed PDF copy of that contract must be sent to the Central Procurement Team for secure filing. This ensures that there is a central record of all significant contracts and enables the Central Procurement Team to spot check that the relevant Rules have been followed in the creation of that contract. Audits have previously identified that



the Council has sometimes been unable to quickly locate these records when needed.

- v. There is an amendment to the waiver requirement to remove the need for a waiver when a competitive process (for example a framework agreement further competition or tender) yields less than three quotes.
- vi. There is a new requirement that all procurements valued over £100,000 must have a procurement plan and award report to support thorough planning and compliance through the procurement process. These documents will be signed off in compliance with the Delegated Authorities Matrix set out in Appendix 2 of the amended Rules.
- vii. The removal of the requirement for the Monitoring Officer to approve contracts that are longer than four years, however, the Monitoring Officer will still have to approve contracts valued over the key decision threshold.

### 3. Appendices

#### 3.1 Appendix 1 – amended Rules

### 4. Source documents

#### 4.1 [UK Public Contract Regulations 2015](#)

#### 4.2 Procurement Guide: contact Clare Ellis (Head of Procurement)



## Contract Procedure Rules

### 1 Introduction

- 1.1 These Contract Procedure Rules (Rules) clearly set out the rules that apply to all officers involved in procurement for and on behalf of the Council. The Rules must be read in conjunction with any other relevant laws, regulations, policies and/or procedures including the Council's Financial Procedure Rules, the Officer Scheme of Delegation, English law and the Procurement Guide.
- 1.2 Officers involved in procurement activities and making procurement decisions must be fully aware and comply with the Rules as they form part of the Council's Constitution.
- 1.3 All procurements must realise value for money through the optimum combination of whole life costs and quality of outcome.
- 1.4 The Rules seek to protect the Council's reputation by minimising the risk of allegations of corruption, dishonesty and failure to meet legal obligations. As these rules are required by law, failure to comply with them could lead to disciplinary action. If in doubt and/or if advice on compliance with legislative requirements is required, this may be obtained from Pathfinder Legal Services and the Central Procurement Team.
- 1.5 The Procurement Guide is an invaluable source of operational guidance to support any procurement activity and the correct application of these rules. The Guide can be found on the intranet's procurement page.
- 1.6 Should a conflict be found between these rules, the law and the Procurement Guide, the order of precedence shall be the law, the Rules and then the Procurement Guide.
- 1.7 All procurement activities must be carried out in a fair, open, transparent, proportionate and non-discriminatory manner. The Council reserves the right to consider the application of intervening government guidance when making decisions about the application of these rules.
- 1.8 The Rules apply to contracts or agreements with external organisations where the Council pays for:
  - Goods and/or services
  - Works of any kind

- Hire, rental or lease of equipment, material and/or plant.

1.9 The Rules do not apply in the following circumstances:

- 1.9.1 The purchase or lease of property, land acquisition, interest in land, transaction in land or disposal. This does not extend to any goods, services or works contracts that may be required to make the land and/or existing buildings ready for acquisition, disposal or leasing.
- 1.9.2 Direct employment of permanent or fixed term employees or of interim or agency staff. For the avoidance of doubt, the Rules do apply to consultancy and employment agency contracts and in those circumstances the responsible officer must have regard to the Council's Policy Relating to the Appointment of External Consultants and Interims.
- 1.9.3 The lending or borrowing of money by the Council.
- 1.9.4 Section 75 of the NHS Act (2006), arrangements where the Council delegates the health-related functions to its partner(s), the arrangements are not subject to the Rules other than that the details of the agreement must be recorded on the Council's Contract Register.
- 1.9.5 Goods, services or works purchased through the ESPO General Catalogue up to a value of £10,000 per transaction and as long as the responsible officer is satisfied that the Catalogue offers value for money. This does not include other ESPO provisions, such as frameworks, for which these CPRs do still apply.
- 1.10 When commissioning goods, services or works through collaborative joint procurements, where one of the other contracting authorities is acting as procurement lead, the responsible officer must satisfy themselves that the procurement complies with all relevant applicable laws.
- 1.11 Any award of grants of money must be in accordance with the Constitution and the Council's Grants to External Organisations Policy. Prior advice should be sought from the Pathfinder Legal Services in relation to the governance process for the award of grants and the legal documentation that must be implemented. Unless the terms of the grant stipulate otherwise, value for money and the Rules should be followed in the award of grants.
- 1.12 The Monitoring Officer in consultation with the Head of Procurement shall have the power to make incidental amendments from time to time to the

Rules, for example when updates are required from changes to legislation, changes to job titles and roles.

- 1.13 Members have a key role to play in providing oversight to the Rules set out below, making key decisions on major projects, considering risks and ensuring that the Council takes best advantage of the public procurement rules. Full details on the role that Members play in procurement activity can be found in the LGA's [A Councillor's Guide to Procurement, 2019 edition \(local.gov.uk\)](http://local.gov.uk)

## 2 Exceptions to the Rules

- 2.1 The Rules apply to every procurement carried out by, or on behalf of, the Council except for those listed below in section 2.7.
- 2.2 Exceptions will only be valid if the Council's online waiver system is used, and appropriate approval has been sought and gained prior to the contract start date. Retrospective exceptions (waivers) are only permitted where:
- It has been necessary to act urgently because of an unforeseen emergency which involves immediate risk of injury or damage or to prevent serious disruption to services.
  - It is necessary for the responsible officer in either adults or children's social care to act immediately to secure care for a vulnerable person.
- 2.3 Exception requests (waivers) cannot be sought for requirements equal to or above the Council's key decision threshold, nor can they be granted if the contract value is over the relevant UK procurement threshold. Should a waiver valued over the relevant UK procurement threshold be considered, legal advice must be sought as to the applicability of Regulation 32 of the Public Contract Regulations (2015) which in certain circumstances will include urgent requirements.
- 2.4 In instances where a repeat exception is requested, the value of the requested exception must be added to the value of any previous exceptions and the appropriate rule/regulation applied.
- 2.5 Where the total value of the ensuing contract exceeds £5,000, it must be added to the Council's Contract Register to ensure compliance with Local Government Transparency Code 2015.
- 2.6 An award notice is required to be published for all contracts valued over £25,000.

## 2.7 Valid exceptions are:

- 2.7.1 Genuine emergencies: critical preventative or remedial work where there is a real and imminent risk to the life and/or safety of people or property arising from hitherto unforeseen 'catastrophic' events or incidents, for example fire, flood or pandemic.
- 2.7.2 Collaborative/Joint Procurement: where another contracting authority is acting as the 'lead buyer' and provided that the responsible officer can demonstrate those arrangements comply with the relevant applicable laws and best practice.
- 2.7.3 Value for Money: where proprietary or patented goods or services; or the requirement is of such a specialist nature that it can genuinely only be fulfilled by one person or organisation; or the compatibility with existing goods or services is required and/or where those existing goods or services can only be sourced from the same supplier.
- 2.7.4 Urgent Situations not of the Council's Own Making: the urgency must have been reasonably unforeseeable (e.g. an existing supplier going out of business) and genuinely be a case of time is of the essence. Urgency arising from the Council's own making (e.g. lack of planning) shall not justify an exception. Where this exception is used, a compliant procurement process must be implemented as soon as possible.

## 3 Exceptions for Care Placements

- 3.1 Adult social care placements and placements made for children in care or children and young people with an Education, Health and Care Plan (EHCP) are not subject to the Rules but are subject to the requirements set out below.
- 3.2 Tier 1 Block Contracts: when a supplier is procured with guaranteed service levels and pre-agreed prices, the Council may refer users to over the contract period. The Rules apply to the procurement of block contracts and responsible officers must endeavour to maximise the use of block contracts.
- 3.3 Tier 2 Dynamic Purchasing System (DPS)/Framework Agreements: procured lists of providers with fixed or average rates to which the Council may refer users over the contract period. The Rules apply to the procurement of all DPSs and framework agreements which must be utilised only when the block contracts are unable to meet the required needs.

3.4 Tier 3 Spot purchased placements: non procured providers which can only be used when the required needs cannot be met by either a Tier 1 or Tier 2 provider. The relevant budget holder, or commissioning head of service, may award spot contracts if the following criteria are satisfied:

- The requirement is such that only one provider in a reasonable proximity can meet the individual's needs;
- The requirement is both complex and unique to the individual;
- There is no accessible Tier 1 or Tier 2 contract available for the individual; and
- The requirement has been approved in writing by the head of service.

All spot purchased contracts must be recorded on the Council's Contract Register ensuring that data protection requirements are met and confidentiality is maintained.

## 4 The Role of the Responsible Officer

4.1 The responsible officer will be the officer named in the Procurement Plan or by the director responsible for the budget or, in the absence of the above, the officer responsible for the budget that the expenditure is being made against subject to the delegated authority being adequate.

4.2 Responsible officers:

4.2.1 Are individually responsible for ensuring that they fully understand and comply with all aspects of the Rules, failure to do so may result in disciplinary action.

4.2.2 Must check whether a suitable corporate contract or other publicly available contract/framework agreement is available before seeking to procure another contract. Where such a contract does exist, its use should be considered.

4.2.3 Must ensure that they have the correct authorisation to procure and award the contract before proceeding.

- 4.2.4 Add any contract valued at or over £5,000 to the Council's Contract Register to ensure compliance with the Local Government Transparency Code 2015.
- 4.2.5 Must ensure that the contracts for which they are responsible are effectively managed and monitored to ensure they deliver the requirement as intended and to address any performance issues as soon as possible.
- 4.2.6 Must keep a record of all decisions made in connection with the procurement, records should also include minutes from any meetings held.
- 4.2.7 Must consider whether the procurement constitutes a key decision. If it does then the responsible officer must seek approval from the relevant committee before commencing the procurement. If the responsible officer is unsure, advice on what constitutes a key decision should be sought from Democratic Services.
- 4.2.8 Must ensure that a PDF copy of the signed contract is forwarded to the Central Procurement Team for all contracts valued over £100,000.
- 4.3 Supporting information about the role of the responsible officer can be found in the Procurement Guide.

## 5 Chief Officer Responsibilities

- 5.1 Chief officers must ensure that they and their officers comply with these Rules at all times.
- 5.2 Chief officers must ensure that value for money is achieved in all procurements.

## 6 Prevention of Corruption/Declaration of Interests

- 6.1 Where an officer has a potential conflict of interest in a procurement, the officer must declare this immediately to the relevant director. The officer may be required to withdraw from the procurement process. Any officer who fails to declare such a conflict of interest may be subject to disciplinary proceedings and risks being prosecuted under the Bribery Act 2010.
- 6.2 Officers involved in procurement activity must comply with the Council's Code of Conduct and must not offer, promise or give any gift or reward in



respect of the award or performance of any contract, unless the contract is financially constructed in such a way to pay the supplier payment by results.

- 6.3 Members involved in procurement activity will at all times act in a manner consistent with their Code of Conduct.

## 7 Income Generation/Concession Contracts

- 7.1 The responsible officer must seek legal, financial and procurement advice for any contracts which will generate income for the Council, including to determine if the Concession Contract Regulations (2016) apply.

## 8 Procuring via a Framework Agreement or Dynamic Purchasing System (DPS)

- 8.1 The responsible officer must ensure that there is no corporate contract/framework agreement/DPS available before undertaking an alternative procurement process.
- 8.2 A contract of any value can be procured via a framework agreement or DPS. Compliance with the Rules and relevant national law is achieved through compliance with the framework agreement/DPS terms and conditions. If the proposed call off is valued over £100,000, the Central Procurement Team must be consulted before the procurement is started.
- 8.3 For the avoidance of doubt, a framework agreement or DPS is considered a compliant procurement route where:
  - 8.3.1 It has been entered into by the Council in compliance with the Rules;
  - Or
  - 8.3.2 Another contracting authority, purchasing consortium or central government has tendered the framework agreement or DPS in compliance with national procurement law and the Council is named as a potential user of the arrangement.
- 8.4 Most framework agreements are available via mini competition or direct award, the responsible officer should always seek to use a competitive process where one is available. Where a direct award is being considered, approval must first be sought from the Central Procurement Team.

- 8.5 The responsible officer shall carry out due diligence checks at contract award and for the duration of the contract. These checks shall include evidence of fulfilment of any selection criteria and that there are no grounds for exclusion.
- 8.6 Approval for award of a contract must be sought in compliance with the Delegated Authorities Matrix at Appendix 2.
- 8.7 The contract must be signed or sealed in accordance with the Delegated Authorities Matrix at Appendix 2. If the contract is valued over £100,000 a signed PDF copy must be sent to the Central Procurement Team.
- 8.8 Where the call-off contract is valued over £25,000 an award notice is required to be published on Contracts Finder.
- 8.9 Where the Council is using an external framework agreement/DPS and the total value of the contract is £5,000 or over, the responsible officer must add the Contract to the Council's Contract Register to ensure compliance with the Local Government Transparency Code 2015.

## 9 Procurements up to £5,000 in Total Value

- 9.1 Whilst obtaining value for money remains the primary objective, multiple quotations are not essential.
- 9.2 The responsible officer must first ensure that there is no corporate contract, framework agreement or DPS before procuring goods, services or works.
- 9.3 The responsible officer must raise a purchase order. The terms of the purchase order should suffice for a contract, unless the officer believes the complexity of the purchase requires more bespoke terms from Pathfinder Legal Services. The purchase order must specify clearly what the officer requires from the supplier.

## 10 Procurements valued over £5,000 but below £25,000

- 10.1 The responsible officer must not seek to procure any goods, services or works if the requirement can be satisfied using an existing corporate contract, framework agreement or DPS.
- 10.2 The responsible officer must obtain a minimum of three comparable written quotations. Wherever possible at least two quotations must be from a local provider.

10.3 The written quotations must include the following information as a minimum:

- Details of the goods, services or works to be supplied;
- Where and when the supply is to take place;
- The total value of the contract; and
- The terms and conditions to apply to the procurement including price and payment terms.

10.4 Quotations may be submitted by letter, email or via the Council's e procurement system.

10.5 The contract award must be approved in accordance with the Delegated Authorities Matrix at Appendix 2.

10.6 A purchase order must be raised, the terms of the purchase order should suffice for a contract unless the responsible officer believes the complexity of the purchase requires more bespoke terms from the Pathfinder Legal Services. The purchase order should include the information provided by the winning supplier as detailed in section 10.3 above.

10.7 The responsible officer must add the contract to the Council's Contract Register to ensure compliance with Local Government Transparency Code 2015.

## 11 Procurements valued between £25,000 and £100,000

11.1 The responsible officer must not seek to procure any goods, services or works if the requirement can be satisfied using an existing corporate contract, framework agreement or DPS.

11.2 The responsible officer must obtain a minimum of three written quotations and whenever possible, at least two of those quotations must be from a local supplier.

11.3 The responsible officer must use the formal Request for Quotation documents available on the procurement pages of the intranet unless otherwise agreed with the Central Procurement Team.

- 11.4 The inclusion of social value criteria in the evaluation methodology should be considered in discussion with the Central Procurement Team if necessary.
  - 11.5 An advert and award notice must be placed on Contracts Finder by the responsible officer, usually via the Council's e-procurement system.
  - 11.6 The evaluation criteria must be established before the advert is published and those same criteria must be used when evaluating the quotations received.
  - 11.7 The responsible officer must raise a purchase order and ensure that the Council's standard terms and conditions (located on the procurement pages of the Intranet) are used unless the responsible officer believes that the complexity of the procurement requires the amendment of those terms by Pathfinder Legal Services.
  - 11.8 All bidders must be notified of the award decision simultaneously in writing by the responsible officer either via email or the Council's e-procurement system.
  - 11.9 If an unsuccessful bidder makes a written request to the Council for a further debrief in relation to the award decision, the responsible officer must provide appropriate information within fifteen calendar days of receipt of the written request. The confidentiality of the quotations received and the identity of other bidders must be preserved at all times and information about one bidder's response must not be disclosed to another bidder. Under no circumstances should the responsible officer provide a verbal debriefing to any bidder.
  - 11.10 The responsible officer must add the contract to the Council's Contract Register to ensure compliance with Local Government Transparency Code 2015.
  - 11.11 Relevant documentation from the procurement process, particularly the quotations received, evaluation process and the signed contract must be retained by the service so that it can be made available for audit purposes.
- 12 Procurements valued over £100,000
- 12.1 The responsible officer must not seek to procure any goods, services or works if the requirement can be satisfied using an existing corporate contract, framework agreement or DPS.

- 12.2 The responsible officer must consult with the Central Procurement Team and Pathfinder Legal Services before commencing the procurement.
- 12.3 A Procurement Plan will be developed by the responsible officer and the Central Procurement Team and will be used to ensure that proper authority is granted for the procurement process and if relevant contract award.
- 12.4 The inclusion of social value criteria in the evaluation methodology should be considered in discussion with the Central Procurement Team.
- 12.5 For procurements valued below the relevant UK procurement threshold, an open tender process will be followed. For procurements valued over the relevant UK Procurement Threshold, the Central Procurement Team will provide advice as to the most appropriate process.
- 12.6 The responsible officer will work with the Central Procurement Team to develop all relevant procurement documents and these must include full details of the tender evaluation criteria.
- 12.7 An advert must be placed on Contracts Finder and if the procurement is valued over the relevant UK procurement threshold on Find a Tender Service. These adverts must be placed via the Council's e-procurement system.
- 12.8 The procurement process must be managed electronically via the Council's e-procurement system.
- 12.9 Tenders must be evaluated according to the advertised evaluation criteria. Clarification questions may be asked as long as the response would not have the effect of materially changing the tender received.
- 12.10 The bidder with the highest evaluation score will normally be awarded the contract, if this is not the case further advice must be sought from the Central Procurement Team and Pathfinder Legal Services.
- 12.11 Authorisation of award must be granted in accordance with the Delegated Authorities Matrix in Appendix 2 before award can take place.
- 12.12 All bidders must be notified of the award decision simultaneously via the Council's e-procurement system whether or not their bid was successful using the template letters available on the procurement pages of the intranet.
- 12.13 Where the procurement is valued over the relevant UK procurement threshold, the notification of award letters will take a specific format to be

compliant with Public Contract Regulations (2015) and will include a mandatory standstill period of not less than ten days. Such letters must be drafted by the Central Procurement Team. If during the standstill period, a challenge or request for feedback is received from an unsuccessful bidder, the standstill period must be paused until the matter is successfully resolved. No contract award can take place in the intervening period. The officer in receipt of this communication must immediately contact the Central Procurement Team and Pathfinder Legal Services for advice before any response is made.

- 12.14 The responsible officer must raise a purchase order and ensure that the contract and description in that purchase order are sufficiently clear.
- 12.15 The responsible officer must add the contract to the Council's Contract Register to ensure compliance with Local Government Transparency Code 2015.
- 12.16 Relevant documentation from the procurement process, particularly the tenders received and the evaluation process, must be retained by the service so that it can be made available for audit purposes.
- 12.17 The responsible officer must send a signed PDF copy of the contract to the Central Procurement Team as soon as possible.

### 13 Use of Presentations/Site Visits or Demonstrations

- 13.1 The responsible officer should not use presentations, site visits or demonstrations in the procurement process except in exceptional circumstances where a clear justification has been agreed with the Central Procurement Team.
- 13.2 If used, all bidders must be given the opportunity to engage in these presentations, site visits or demonstrations and the procurement documentation must clearly state what weighting these have.

### 14 Late tenders, Irregular Tenders or Errors in Tenders

- 14.1 Tenders received after the fixed closing date and time or tenders which are not submitted in accordance with the Rules and any criteria set out in the procurement documentation, will be disqualified unless otherwise agreed by the Monitoring Officer.

- 14.2 Irregular tenders must be reported to the relevant chief officer. The chief officer, in agreement with the Monitoring Officer, may accept the irregular tender if they determine that the bidder has gained no unfair advantage from its irregularity. The reasons for such acceptance should be recorded in writing.
- 14.3 The relevant chief officer, with the prior approval of the Monitoring Officer, may permit a bidder to correct an error or omission that, in the opinion of the chief officer, is an obvious one and if they determine that the bidder will gain no unfair advantage from correcting the error. Any such corrections must be recorded.

## 15 Clarifications and Negotiation

- 15.1 Bidders may seek clarifications throughout the procurement process. Such clarification requests must be recorded in writing and where the response may be of value to all potential bidders, the anonymised response must be circulated to those potential bidders.
- 15.2 Under no circumstances can clarification processes be used as an opportunity to conduct negotiations.
- 15.3 Negotiations are only permitted above the relevant UK procurement threshold and then only in compliance with the Public Contract Regulations (2015). This includes the use of post tender negotiations. If negotiation is being considered, the Central Procurement Team must be contacted as soon as possible.

## 16 Forming Contracts

- 16.1 All expenditure with external organisations must be confirmed in writing.
- 16.2 Sections 9, 10, 11 and 12 detail the nature of the contract that should be used at each procurement threshold.
- 16.3 All contracts must be approved, signed by an appropriate officer (as detailed in the Delegated Authorities Matrix) or sealed by Pathfinder Legal Services if valued over £500,000 or if deemed necessary for other reasons.
- 16.4 A PDF copy of the signed contract must be forwarded to the Central Procurement Team where the contract value is over £100,000.

16.5 All contracts valued over £5,000 must be entered on to the Council's Contract Register by the responsible officer.

16.6 Any changes to a contract should also be entered on to the Council's Contract Register by the responsible officer.

## 17 Bonds, Parent Company Guarantees and Other Sureties

17.1 Where a bond or guarantee is required to ensure satisfactory contract performance and/or to protect the Council, the requirement must be notified to bidders in the procurement documentation and must be in place no later than four weeks after contract signature.

17.2 The responsible officer should consult with the Chief Finance Officer and Pathfinder Legal Services as to whether such a bond or guarantee is required where:

- The total value of the contract exceeds £500,000; or
- It is proposed to make stage or other payments in advance of receiving the whole of the subject matter of the contract; or
- There is concern about the stability of the supplier no matter what the value.

17.3 The Council must never give a bond or other guarantee.

## 18 Non-Compliance with the Rules

18.1 If an officer becomes aware of any non-compliance with the Rules which cannot be remedied, they must notify the Monitoring Officer or Chief Finance Officer at the earliest opportunity. The consequences of such non-compliance may lead to suspension or dismissal from the Council.

## 19 Contract Management

19.1 All contracts valued over £100,000 must have a named contract manager.

19.2 During the life of the contract, the contract manager must monitor the overall performance of the contract in line with the specification, agreed service levels and contract terms.



- 19.3 In any case where a variation to an existing contract means that the contract value exceeds the relevant UK procurement threshold, or where there is any material change to the contract, the contract must be treated as a new procurement under these rules. The Central Procurement Team should be contacted for further advice in these circumstances.
- 19.4 Legal advice must be sought before assignments or novations are entered into.
- 19.5 Contracts may be extended where:
- There is budgetary provision; and
  - Value for money can be clearly demonstrated; and
  - There is provision in the original contract for such an extension.
- 19.6 Extensions are not permitted where they are not provided for in the original contract or where such an extension would take the contract value over the relevant UK procurement threshold.

## 20 Other Matters

### 20.1 Abnormally Low Bids

20.1.1 Under the Public Contract Regulations (2015) the Council is required to request an explanation of the price or costs proposed in a tender where that price or those costs appear to be abnormally low in relation to the requirement.

20.1.2 Advice should be sought from the Central Procurement Team during this process to ensure that the legal requirements are adequately complied with.

### 20.2 UK GDPR

20.2.1 Officers conducting a procurement should ensure that a Data Protection Impact Assessment is conducted prior to the procurement being conducted.

20.2.2 Further advice may be sought from the Central Procurement Team and/or the Data Protection Team before further action is taken.

20.3 Retention of Records

20.3.1 The responsible officer must have due regard to the Council's Retention Policy in all procurement activity and record keeping.

## Definitions

Assignment	Transfer of contractual benefit by one party to another.
Award notice	A notice published on Contracts Finder or Find A Tender which provides details of the winning bidder and the final value of the contract. Award notices are required for all procurements valued over £25,000.
Bidder	Any person or organisation who asks for or is invited to submit a quotation or tender.
Call Off	A specific requirement which can be met under the terms of a framework agreement/DPS and which is issued under the terms of the framework agreement/DPS.
Chief Officer	The Council officer as defined in the Constitution.
Collaborative joint procurement	Combining procurements together with likeminded contracting authorities for mutual benefit.
Contract	A legally binding agreement between two or more parties for performing some specified act(s) in exchange for a lawful consideration.
Contract Extension	An extension to the duration of a contract beyond the initial term but not including any alteration to the scope of the contract.
Contract Management	The process for managing contract creation, execution and analysis to maximise operational and financial performance of an organisation all while reducing financial risk.
Contract Manager	The officer responsible for the budget and the management of the contract, including the performance management and ensuring compliance with its terms and conditions.
Contract Register	The register that stores details of the Council's contracts such as duration and expiry dates.
Contract Term	The length of the contract including the initial terms and any extension periods proposed.
Contract Value	The total value over the whole life of the contract including potential extension periods.
Contract Variation	An alteration to the scope, term or any other part of a contract. The limitations of the Public Contract Regulations should be borne in mind when varying a contract.
Contracting Authority	Has the definition contained with the Public Contract Regulations 2015.
Corporate Contract	A contract that has already been let by the Council.

Council	Cambridgeshire County Council.
Dynamic Purchasing System (DPS)	A completely electronic system of limited duration which is established to purchase commonly used goods, services or works and which is open throughout its duration for the admission of suppliers who satisfy the selection criteria specified.
E-Procurement System	A system that enables the Council and suppliers to conduct the key activities of the procurement lifecycle over the internet.
Exception	Approval given as appropriate to except a procurement or contract from the Rules.
Evaluation	The process of assessing received tenders or quotations against the published criteria to identify the winning bidder.
Framework Agreement	A formal tendered arrangement which sets out the terms and conditions under which specific purchases (call-offs) can be made from the successful bidders in unpredicted quantities at different times throughout the term of the framework agreement.
Goods	Tangible assets including electricity, hardware, software, plant hire etc.
Initial term	The initial period of the contract which may be subsequently extended.
Invitation to Tender	Means the document(s) containing the specification, proposed terms and conditions, and other appropriate information, as issued to bidders to solicit formal tenders.
Irregular Tender	A tender that does not comply with the instructions set out in the Invitation to Tender document.
Light Touch Regime	Refers to those social and other specific services covered by Part 2: Chapter 3 – Section 7 and the CPV codes detailed in Schedule 3 of the Public Contract Regulations (2015).
Local	Areas covered by the Business Board of the Cambridgeshire and Peterborough Combined Authority. An organisation which is not local in its address but that can help the local area may be included in this definition.
Members	Democratically elected representatives that represent the interests of the people of Cambridgeshire at a local, regional and national level.
Monitoring Officer	The officer appointed by the Council under Section 5 of the Local Government and Housing Act 1989.

Novation	The substitution of a new contract for one already existing. The new contract may be between the new parties or may involve the introduction of a new party. A novation also takes place when the original parties continue their obligation to one another but a new agreement is substituted for an existing one.
Officer	An employee of the Council.
Open tender	A one stage tender process whereby all bidders are invited to bid in response to an advertisement.
Pathfinder Legal Services	The Council's legal advisors.
Publicly Available Contract	A contract that has been let by another Contracting Authority or a public purchasing consortium and which is available for use by the Council. The Council must have been named specifically or generally within the procurement documentation in order to enable access.
Quotation	An offer to sell goods, services or works at a stated price under specified conditions.
Responsible Officer	The officer responsible for the procurement and the budget under which the contract is being let.
Services Contract	Means public contracts which have as their object the provision of services other than those referred to in the works definition.
Specification	An exact statement of the particular need to be satisfied or essential characteristics that the Council requires and which a bidder must deliver.
Tender	A formal offer from a bidder which is capable of being accepted by the Council and which is submitted in response to an Invitation to Tender. It shall include all documents comprising the submission including pricing, technical specifications and method statements as well as information about the bidder.
UK GDPR	The UK General Data Protection Regulation which consists of the EU General Data Protection Regulation as incorporated into the law of England and Wales, Scotland and Northern Ireland by virtue of Section 3 of the European Union (withdrawal) Act 2018 and amended by Schedule 1 to the Data Protection, Privacy and Electronic Communications (Amendments etc) (EU Exit) Regulations 2019.
UK Procurement Threshold	The contract value at which the Public Contract Regulations (2015) must be applied. See Appendix 3 for further information.
Value for Money	Not necessarily the lowest price, it combines goods, services or works that fully meet the needs with the level of quality required, delivered at the time needed and at an appropriate price.

Waiver	A means of seeking an exception from one or more of these CPRs.
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## Delegated Authorities Matrix

Procurement Stage	Budget support	Budget manager (Project Manager for Capital)	Head of Service	Service Director / Asst Director	Exec Director	Joint Commissioning Board (JCB)	Committee	Central Procurement Team
		Tier 4	Tier 3	Tier 2	Tier 1			
Procurement Plan approval <sup>1</sup>	N/A	N/A	N/A	N/A	N/A	Over £100,000	Inc. to approve start	£100,000 - £500,000 Senior Category Manager Over £500,000 Head of Procurement
'Start procurement' approval <sup>2</sup>	N/A	Up to £200,000	Up to £500,000	Up to £500,000	Up to £500,000	Over £25,000 for P&C	Over £500,000 key decision	N/A
Contract award approval <sup>3</sup>	N/A	Up to £200,000	Up to £500,000	Up to £500,000	Up to £500,000	N/A	Over £500,000 unless delegated	N/A
Sign or seal contract <sup>4</sup>	N/A	Up to £200,000	Up to £500,000	Up to £500,000	Up to £500,000	N/A	N/A	N/A

<sup>1</sup> Procurement Plans that relate to People and Communities must be approved by the JCB, Plans that are for joint procurements by PCC and CCC must be approved by Heads of Procurement at PCC and CCC. All other Plans should be approved by the relevant Chief Officer or their named delegate.

<sup>2</sup> Procurements that are not valued over £500, 000 but still are related to Key Decisions need to be approved by the appropriate Committee.

<sup>3</sup> Approval to award of contracts valued over £100,000 will require an Award Report to be prepared by the Responsible Officer and the Procurement Officer.

<sup>4</sup> Contracts can be signed up to £500,000 unless the Monitoring Officer requires them to be sealed. Contracts over £500,000 should be sealed by Pathfinder Legal Services.

Official order <sup>5</sup>	Up to £5,000	Up to £200,000	Up to £500,000	Up to £1m	Unlimited	N/A	N/A	N/A
Enhanced order for specific business areas <sup>6</sup>	Up to £5,000	Up to £1m	Up to £5m	Up to £1m	Unlimited	N/A	N/A	N/A

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<sup>5</sup> Approval of orders (in ERP Gold) are subject to prior thresholds being authorised, e.g. over £500,000 a Committee Report must have been approved

<sup>6</sup> Approval of orders (in ERP Gold) are subject to prior thresholds being authorised, e.g. over £500,000 a Committee Report must have been approved



## UK Procurement Thresholds

These thresholds are effective from 1<sup>st</sup> January 2022 and are inclusive of VAT.

Works threshold: £5,336,937

Services threshold: £189,330

Light Touch Regime threshold: £663,540

Concessions threshold: £5,336,937



## Arrangements for the appointment of Independent Person(s)

To: Constitution and Ethics Committee

Meeting Date: 26th April 2022

From: Director of Law and Governance & Monitoring Officer

Outcome: The Committee is asked to recommend the appointment of an Independent Person or Persons to Council for approval in preparation for the expiry of the current appointments on 15 October 2022.

Recommendation: That the Committee recommends that:

- (a) Council authorise the reappointment of Gillian Holmes and Grant Osbourn for a period of two years until 15 October 2024 or the Monitoring Officer, in consultation with the Chair of the Constitution and Ethics Committee, takes all necessary steps towards the selection of suitable candidates to be recommended to Full Council for appointment as an Independent Person; and
- (b) Council set the level of remuneration for Independent Person(s).

### Officer contact:

Name: Michelle Rowe  
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Email: [michelle.rowe@cambridgeshire.gov.uk](mailto:michelle.rowe@cambridgeshire.gov.uk)  
Tel: 01223 699180

### Member contact:

Names: Councillors Sebastian Kindersley and Alex Bulat  
Post: Chair / Vice-Chair  
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# 1. Background

## 1.1 Legal framework

- 1.1.1 Chapter 7 of the Localism Act 2011 sets out the duty of a local authority to promote and maintain high standards of conduct by members and co-opted members of the authority.
- 1.1.2 Section 28 of the Act, on codes of conduct, requires an authority to provide for the appointment of at least one independent person whose views will be sought and taken into account in connection with the process for dealing with allegations that members have breached the code.
- 1.1.3 Section 28 sets out those persons who would not be considered to be independent, who include members, co-opted members and officers of the authority and their relatives and close friends. However, it provides that the person(s) appointed do not cease to be independent as a result of being paid allowances or expenses for performing the duties of the appointment.
- 1.1.4 Section 28 also sets out the conditions for the process of appointing such persons. These conditions are that
- i. the vacancy has been advertised in such manner as the authority considers is likely to bring it to the attention of the public,
  - ii. the person has submitted an application to fill the vacancy to the authority, and
  - iii. the person's appointment has been approved by a majority of the members of the authority.
- 1.1.5 The requirements of the role of the independent person were added to by the Local Authorities (Standing Orders) (England) Regulations 2015, which changed the requirements relating to disciplinary action or dismissal of one of the specified chief officers and removes the requirement to procure a report from a designated independent person.
- 1.1.6 The Council is now required to have a procedure which instead provides:
- (a) that the appointment of the Head of the Paid Service must be approved by a resolution of full council;
  - (b) a new process for dismissal of the Head of the Paid Service, Section 151 Officer or Monitoring Officer, who can now only be dismissed with the approval of a resolution of full Council;
  - (c) that when considering any such dismissal, full Council must consider the advice, view or recommendations of a panel;
  - (d) the panel must be an advisory committee (i.e. a committee without decision making powers) and the membership of the Panel must include at least two 'independent persons';
  - (e) the Council must appoint 'independent persons' to the panel. The only people who qualify are people who have been appointed by the Council (or another

council) for the purposes of advising in cases relating to the member code of conduct.

- (f) In selecting independent persons the Council is required to prioritise Cambridgeshire County Council appointed 'independent persons' who are local government electors in Cambridgeshire. If for any reason the Council's appointed 'independent persons' are unable to attend then it is entitled to use independent persons appointed by another local authority.

## 2. Local implementation

- 2.1 At an early stage of making arrangements to implement the Localism Act 2011, the Standards Committee concluded that it would be sensible to appoint two independent persons, in case one was not available, or already had prior knowledge of a complaint or the parties to the complaint. Full Council in July 2012 authorised 'the Monitoring Officer, in consultation with the Chairman of the Constitution and Ethics Committee, to take all necessary steps towards the selection of a suitable candidate to be recommended to Full Council for appointment as an 'Independent Person'.
- 2.2 A panel composed of members of the Constitution and Ethics Committee conducted the recruitment exercise, advertising the posts in the local press and on the Council's website, shortlisting applications, and interviewing shortlisted candidates. The panel recommended to Constitution and Ethics Committee in September 2012 that Sean Brady and Gillian Holmes be appointed, and the Committee recommended their appointment to Council.
- 2.3 On 16 October 2012, Full Council agreed to appoint Sean Brady and Gillian Holmes to the role of Independent Person for Cambridgeshire County Council with immediate effect for a period of one year, and to delegate to the Constitution and Ethics Committee the power to extend these appointments for up to a further three years thereafter. The Committee exercised that power on 7 November 2013, extending the appointments to 15 October 2016, and on 19 April 2016 extending the appointments to 30 October 2019.
- 2.4 As independent persons are not members or co-opted members of Council, their remuneration falls outside the Members' Allowances Scheme, and can be determined without reference to an Independent Remuneration Panel. The current independent persons receive an annual allowance of £500 each.
- 2.5 Sean Brady resigned from the position of Independent Person on 11 October 2017.
- 2.6 On 4 April 2019, the Constitution and Ethics Committee considered the appointment of an Independent Person on Persons for recommendation to Council. It agreed to authorise the Monitoring Officer, in consultation with the Chairman/woman of the Constitution and Ethics Committee, to take all necessary steps towards the selection of suitable candidates to be recommended to Full Council for appointment as an Independent Person. It also set the level of remuneration at £500 for each Independent Person so that it could be included in information supplied to applicants for the post of Independent Person.
- 2.7 It is important to note that when the Council advertised in 2019, it did not receive any applications for the position. On the advice of the Monitoring Officer, the Democratic Services Manager contacted Cambridge City Council, and East Cambridgeshire,

Fenland, Huntingdonshire and South Cambridgeshire District Councils to see whether their Independent Person(s) would be interested in the role. The Council received one expression of interest from the Independent Person for South Cambridgeshire District Council.

- 2.8 At its meeting on 1 October 2019, the Committee agreed to recommend to Council to extend the current appointment of Gillian Holmes as an Independent Person to 15 October 2022 and to appoint Grant Osbourn as the second Independent Person for the same period. Full Council approved the appointments at its meeting on 15 October 2019.

### 3. Current issues

- 3.1 Arrangements are needed for Full Council to appoint one or more independent persons beyond 15 October 2022. The remuneration of these appointees must also be agreed.
- 3.2 In addition to a flat annual fee of £500, the current independent persons have their travelling and other expenses reimbursed whenever they are required to conduct Council business.
- 3.3 Full Council meets on 10 May, 19 July and 18 October 2022. It is suggested, if appropriate, that the recommendations of this report be presented to Council in May.

### 4. Source documents

[Chapter 7 of the Localism Act 2011](#)

[The Local Authorities \(Standing Orders\) \(England\) \(Amendment\) Regulations 2015 \(legislation.gov.uk\)](#)

[Constitution and Ethics Committee Minutes - 4 April 2019](#)

[Council - 15 October 2019](#)

## Local government ethical standards - government response to the Committee on Standards in Public Life report

To: Constitution and Ethics Committee

Meeting Date: 26th April 2022

From: Director of Law and Governance & Monitoring Officer

Outcome: The Committee is asked to consider the Government's response to the individual recommendations in the Committee on Standards in Public Life report on Local Government Ethical Standards and consider any future actions, including revisiting its previous review of the Council's Code of Conduct.

Recommendation: The Committee is asked to identify any future actions or further reports following the Government's response to the recommendations from the Committee on Standards in Public Life on Local Government Ethical Standards.

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# 1. Background

- 1.1 The Committee on Standards in Public Life issued a report into Local Government Ethical Standards in January 2019, which made a number of recommendations, including strengthening the available sanctions for breaching the code of conduct by re-introducing the ability to suspend a councillor for up to six months. Many of the report's recommendations required primary legislation changes to the Localism Act 2011, whilst others included the introduction of a new model code of local government conduct drafted by the LGA.
- 1.2 The CSPL report was considered by the Constitution and Ethics Committee at its meeting on 4th April 2019.

# 2. Government Response

- 2.1 The Government has now published its response to the Committee on Standards in Public Life's report, which is attached as Appendix A.
- 2.2 The Government indicated that it was committed to working with local government to ensure it was supported in reinforcing its reputation for ethical local standards and that the Government should build on the sector-wide enthusiasm for improvement. It agreed with the Committee's conclusion that there have been benefits from local authorities being responsible for ethical standards, including the flexibility and discretion to resolve standards issues informally and recognised the role of Government in ensuring that the system is robust.
- 2.3 However, the CPSL recommendations made a considerable number of requests for legislative change, many of which could "be more appropriately, effectively and swiftly taken forward by local authorities as best practice".
- 2.4 The Government has rejected the recommendation that local authorities should be able to suspend councillors without allowances for up to six months for breaches of the code of conduct, concluding that "on the rare occasions" where notable breaches of the code of conduct had occurred, local authorities were not without sanctions under the current regime, including party discipline and ultimate accountability via the ballot box.
- 2.5 Further work on options for strengthening sanctions is to take as the Government is to "engage with sector representative bodies of councillors and officers of all tiers of local government to seek views on options to strengthen sanctions to address breaches of the code which fall below the bar of criminal activity and related sanctions but involve serious incidents of bullying and harassment or disruptive behaviour".
- 2.6 The Chairman of the Committee on Standards in Public Life, Lord Evans, responded to the DLUHC response as follows: "While we note the government's commitment to further work to support local government, the Committee is disappointed that many of its careful recommendations have not been accepted. It was clear from our evidence that the sector backed our call to strengthen the arrangements in place to support high ethical standards, whilst respecting the benefits of a localised approach. We are pleased that many local authorities have already reviewed their approach as a result of this work and are adopting the best practice points from the report. Across all tiers of local government, decisions are taken about a wide range of local services using public funds, so it is important that there are robust governance arrangements that command public confidence."



2.7 The CSPL recommendations are set out below with the Government's responses and potential areas for the Committee to consider:

- **Recommendation 1 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.**

The LGA published an updated code of conduct in January 2021.

The Constitution and Ethics Committee at its meeting on 29 September 2021 reviewed the new code against the Council's current code and agreed to retain the current one for the time being. However, it did agree to keep the Council's Members' Code of Conduct under review, pending a response from the Government to the recommendations from the Committee on Standards in Public Life. The Committee may wish to revisit this now the response has been issued.

- **Recommendation 2 The government should ensure that candidates standing for or accepting public offices are not required publicly to disclose their home address. The Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012 should be amended to clarify that a councillor does not need to register their home address on an authority's register of interests.**

The Government agrees with the principle behind this recommendation – which safeguards elected representatives - and considers amending the Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012 would be an option to achieve it. The Government will engage with interested parties on the best means to ensure that candidates and councillors are not required publicly to disclose their home address. Notwithstanding, it is important that home addresses are internally registered with monitoring officers, to help avoid conflicts of interest.

- **Recommendation 3 Councillors should be presumed to be acting in an official capacity in their public conduct, including statements on publicly accessible 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.**

The Government's view is that it is for individual local authorities to consider if their code of conduct is adequate in addressing the issue of inappropriate use of social media.

At its meeting on 27 June 2019, the Committee considered a report proposing the introduction of a Social Media Code for Members, which it agreed unanimously. Then at its meeting on 1 October 2019, at the request of Full Council, it considered amendments to the Social Media Code, which had been approved at the meeting in June. At this meeting, it was agreed unanimously: to withdraw the Council's Social Media Code; consult with a Member representative from each district council, along with their Monitoring Officers, to develop a countywide approach to social media guidance; request an update on the process from the Monitoring Officer at the Committee meeting on 21 November 2019; and request the Monitoring Officer to present a new County Council social media guidance at a future Committee meeting. At the 30 June 2020 meeting it was agreed that a report on Review of Social Media Guidance, would be deferred to a later date following the completion of the LGA's review of the model code of conduct. At the September 2021 meeting

the Committee reviewed the LGA new model code and agreed to retain the council's current code for the time being but to keep the code under review, pending a response from the Government to the recommendations from the Committee on Standards in Public Life.

- **Recommendation 4 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 a representative of the local authority.**

It is for individual local authorities to ensure that their codes of conduct are regularly updated, comprehensive and fit for purpose. Elected members receive the necessary training to make them aware of their personal responsibilities in upholding the code. The Government will keep this matter under review but has no immediate plans to amend the regulations.

As set out above, the new LGA Model Code of Conduct has been reviewed against the Council's current Members' Code of Conduct. Almost all CCC councillors have undertaken Standards and Governance training by either attending the session or watching the recording.

- **Recommendation 5 The Relevant Authorities (Disclosable Pecuniary Interests) 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.**

The Government will keep this matter under review but has no immediate plans to amend the regulations.

- **Recommendation 6 Local authorities should be required to establish a register of gifts and hospitality, with councillors required to record gifts and 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.**

Local authorities have the autonomy to set gifts and hospitality requirements in their own codes of conduct. The Government accepts that there is merit in best practice guidance on the thresholds for gifts and hospitality and agrees that a register of gifts and hospitality should be publicly available.

The Committee at its meeting on 27 June 2019 agreed to set the financial limit for declarations at £100 as this would also cover the Chair of the Council acting in their civic capacity and agreed to add an additional column to gifts and hospitality forms explaining the commensurate benefit to the Council of the gift/hospitality and that the form should be an online form.

- **Recommendation 7 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 the matter”.**

The Government will keep this matter under review but has no immediate plans to repeal Section 31 of the Localism Act 2011.

- **Recommendation 8 The Localism Act 2011 should be amended to require that Independent Persons are appointed for a fixed term of two years, renewable once.**

The Government does not accept this recommendation as appropriate for legislation on the basis that it would be likely to be unworkable. The Government’s view is that it would be more appropriately implemented as a best practice recommendation for local authorities. In principle, it may be attractive to limit the terms Independent Persons serve to keep their role and contribution “fresh” and avoid them becoming too closely affiliated with the overriding organisational culture. However, discussions with Monitoring Officers indicate that in practice most local authorities would likely find servicing this rate of turnover unachievable.

There is a separate report on the agenda in relation to the appointment of independent persons.

- **Recommendation 9 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 notice or minutes.**

The Government does not agree with this. The Local Government Transparency Code is a statutory requirement to publish information; it does not regulate the content of councils’ minutes or decision notices.

The response to recommendations 10, 12, 13, 14 and 16 have been grouped together

- 10 A local authority should only be able to suspend a councillor where the authority’s Independent Person agrees both with the finding or a breach and that suspending the councillor would be a proportionate sanction.**
- 12 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 allegations and impose sanctions.**
- 13 Councillors should be given the right to appeal to the Local Government Ombudsman if their local authority imposes a period of suspension for breaching the code of conduct.**
- 14 The Local Government Ombudsman should be given the power to investigate and decide upon an allegation of a code of conduct breach by a councillor, and the appropriate sanction, an appeal by a councillor who has had a suspension imposed. The Ombudsman’s decision should be binding on the local authority.**
- 16 Local authorities should be given the power to suspend councillors, without allowances, for up to six months.**

There is no provision in current legislation for a sanction to suspend a councillor found to have breached the code of conduct, and this was a deliberate policy decision by the Government at the time to differentiate it from the previous Standards Board regime. These proposals would effectively reinstate that flawed regime.

On the rare occasions where notable breaches of the code of conduct have occurred, local authorities are not without sanctions under the current regime. Councillors can be barred from Cabinet, Committees, or representative roles, and may be publicly criticised. If the elected member is a member of a political group, they would also expect to be subject to party discipline, including being removed from that group or their party. Political parties are unlikely to reselect councillors who have brought their group or party into disrepute. All councillors are ultimately held to account via the ballot box.

As part of the Government's response to the Committee's report on intimidation in public life, the Government recommended that every political party establish their own code of conduct for party members, including elected representatives. The Government will engage with sector representative bodies of councillors and officers of all tiers of local government to seek views on options to strengthen sanctions to address breaches of the code which fall below the bar of criminal activity and related sanctions but involve serious incidents of bullying and harassment or disruptive behaviour.

- **Recommendation 11 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.**

The Government endorses providing legal indemnity for Independent Person as local authority best practice but does not currently see the need to require this through secondary legislation.

- **Recommendation 15 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 sanctions applied.**

The Government does not believe that there is a requirement to prescribe to local authorities the form and content of such Standard Committee annual reports.

- **Recommendation 17 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.**

The occasion where councils would seek to bar councillors from council premises are thought to be extremely rare so the Government will consider this further.

- **Recommendation 18 The criminal offences in the Localism Act 2011 relating to Disclosable Pecuniary Interests should be abolished.**

The Government does not agree with this recommendation, but rather believes the

criminal offence of a non-disclosure of pecuniary interest to be a necessary and proportionate safeguard and deterrent against corruption. The high bar of police involvement has served to discourage politically motivated and unfounded complaints.

- **Recommendation 20 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.**

The Government does not agree that this is necessary and has no plans to repeal Section 27(3) of the Localism Act 2011.

- **Recommendation 21 Section 28 (11) of the Localism Act 2011 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.**

The Government has no current plans to repeal Section 28 (11) of the Localism Act 2011 but will give this matter further consideration.

- **Recommendation 22 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.**

The Government agrees in principle with this recommendation and recognises this will be pertinent to Monitoring Officers who may not necessarily be afforded the same seniority in the organisational hierarchy of a local authority as the two other statutory officers (Head of Paid Service and the Section 151 Officer), and who may be subject to personal pressures when conducting high profile breach of conduct investigations. The Government will engage with sector representative bodies of all tiers of local government to seek views on amending the Local Authorities (Standing Orders) (England)(Amendment) Regulations to provide disciplinary protections for statutory officers.

- **Recommendation 23 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.**

The Council's whistleblowing policy is available here [Whistleblowing Policy - Cambridgeshire County Council](#)

- **Recommendation 24 Councillors should be listed as 'prescribed persons' for the purposes of the Public Interest Disclosure Act 1998.**

Local councillors would not meet the criteria of being external to an individual's workplace in relation to matters affecting the council and could therefore not be considered as a 'prescribed person' for the purposes of the Public Interest Disclosure Act 1998. Disclosures relating to local authorities can be made to the external auditor of the relevant authority, the Comptroller and Auditor General (National Audit Office), or a Member of Parliament. However, the Government recognises that this may provide a further check and balance against council corruption or wrongdoing and is

open to further representations on the matter on how local accountability can be strengthened in this regard.

### 3. Source documents

Constitution and Ethics Committee Minutes - 4 April 2019

Constitution and Ethics Committee - 27 June 2019

Constitution and Ethics Committee - 1 October 2019

Constitution and Ethics Committee - 29 September 2021



Department for Levelling Up,  
Housing & Communities

**Kemi Badenoch MP**

*Minister of State for Equalities and Levelling Up  
Communities*

**Department for Levelling up, Housing and  
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Dear Lord Evans,

On behalf of the Government, I would like to thank the Committee on Standards in Public Life for its report and the recommendations arising from its review of Local Government Ethical Standards, and to all those who engaged with the Committee's work. Attached is the Government response to the Committee's individual recommendations that were directed at Government.

Vibrant local democracies flourish where the reputation of the local authority is held in high regard, where councillors' decision-making is transparent, valued and trusted by the communities they serve, and where people are willing and confident to put themselves forward as potential candidates. The standards and conduct framework within which local authorities operate must drive out corruption and promote commitment to the principles on standards in public life, and tolerance to the differing views of others. In responding to the review, the Government has taken into account the importance of protecting free speech and freedom of association within the law.

The Government is committed to working with local authorities and their representative organisations to ensure that local government is supported in reinforcing its reputation for ethical local standards.

The fact that this review had been conducted in such a collaborative way with the sector has been apparent from the outset and is borne out in the final report. I am keen that Government builds on the sector-wide enthusiasm for improvement.

The Government agrees with the Committee's conclusion that there have been benefits from local authorities being responsible for ethical standards, including the flexibility and

discretion to resolve standards issues informally. However, we also recognise the role of Government in ensuring that the system is robust.

The number of requests for legislation in the Committee's recommendations to strengthen the standards and conduct framework and its safeguards is considerable. As indicated in this response, the Government believes that some of these suggestions do not need a legislative response but can be more appropriately, effectively, and swiftly taken forward by local authorities as best practice. The Committee will recognise that the Government and Parliament has taken a different view on these matters when it legislated for the Localism Act 2011.

I thank the Committee for their work on the review and for their patience whilst Government carefully considered their recommendations, and I personally look forward to continuing to work with you as Government progresses the commitments made in this response with the sector.

Yours sincerely,

A handwritten signature in black ink that reads "Kemi Badenoch". The signature is written in a cursive, flowing style.

**KEMI BADENOCH MP**

**Minister of State for Equalities  
and Levelling Up Communities**



# Government response to the Committee on Standards in Public Life review of local government ethical standards

This Government response confines itself to the Committee's recommendations directed at Government, other than with regards to the first recommendation. The response to recommendations 10, 12, 13, 14 and 16 have been grouped together and therefore appear out of numerical order below.

## **Recommendation 1**

**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.**

The Localism Act 2011 states that relevant authorities must promote and maintain high standards of conduct by members and co-opted members. It requires these authorities to adopt a code of conduct for their councillors.<sup>1</sup> Authorities can determine the content of their own code of conduct. However, codes must conform to the seven 'Nolan' principles of standards in public life: selflessness, integrity, objectivity, accountability, openness, honesty, and leadership. Relevant authorities for the purposes of these requirements include local authorities in England, namely county councils, district councils, London borough councils and parish and town councils.

It is for individual councils to set their own local code, in line with the Act. The Government has previously published a light-touch illustrative code of conduct.

The Local Government Association has worked with sector representative bodies to update its own suggested code of conduct, with the intention that this new suggested code could establish a consistent benchmark that local authorities can amend or add to as they see fit to reflect local circumstances and priorities. The Local Government Association published the updated code of conduct in January 2021. However, it remains a local decision on whether this model code is adopted.

## **Recommendation 2**

**The government should ensure that candidates standing for or accepting public offices are not required publicly to disclose their home address. The Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012 should be amended to clarify that a councillor does not need to register their home address on an authority's register of interests.**

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<sup>1</sup> References to councillors in this document also should be deemed to include elected mayors.

This issue was brought up in the Committee's work on intimidation in public life, and the Government has already taken forward several steps in this regard. The Government is open and receptive to further steps to help prevent intimidation.

The Government agrees with the principle behind this recommendation – which safeguards elected representatives - and considers amending the Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012 would be an option to achieve it.

The Government will engage with interested parties on the best means to ensure that candidates and councillors are not required publicly to disclose their home address.

Notwithstanding, it is important that home addresses are internally registered with monitoring officers, to help avoid conflicts of interest.

### **Recommendation 3**

**Councillors should be presumed to be acting in an official capacity in their public conduct, including statements on publicly accessible 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.**

The Government's view is that it is for individual local authorities to consider if their code of conduct is adequate in addressing the issue of inappropriate use of social media.

As the Government outlined to Parliament in March 2021 on tackling intimidation in public life: 'It is important to distinguish between strongly felt political debate on the one hand, and unacceptable acts of abuse, intimidation and violence on the other. British democracy has always been robust and oppositional. Free speech within the law can sometimes involve the expression of political views that some may find offensive': a point that the Government has recognised in a Department for Education policy paper<sup>2</sup>. But a line is crossed when disagreement mutates into intimidation, which refuses to tolerate other opinions and seeks to deprive others from exercising their free speech and freedom of association.'

It is important to recognise that there is a boundary between an elected representative's public life and their private or personal life. Automatically presuming (irrespective of the context and circumstances) that any comment is in an official capacity risks conflating the two.

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<sup>2</sup> Higher education: free speech and academic freedom Feb 2021  
<https://www.gov.uk/government/publications/higher-education-free-speech-and-academic-freedom>

#### **Recommendation 4**

**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 a representative of the local authority.**

The Government agrees that local authority elected representatives should act in good faith in the public interest and not seek to influence decisions for personal gain, for malicious intent or to further the interests of any business or any other organisations which they may be affiliated with.

The Local Government Association have updated their [own suggested code of conduct](#) to state that the code applies when “[a member’s] actions could give the impression to a reasonable member of the public with knowledge of all the facts that [they] are acting as a [member]”.

It is for individual local authorities to ensure that their codes of conducts are regularly updated, comprehensive and fit for purpose. Elected members receive the necessary training to make them aware of their personal responsibilities in upholding the code.

The Government will keep this matter under review but has no immediate plans to amend the regulations.

#### **Recommendation 5**

**The Relevant Authorities (Disclosable Pecuniary Interests) 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.**

The electorate must have confidence that the decisions of their elected representatives are being made in the best interests of the community they have been elected to serve. Unpaid roles may need to be declared if it is relevant to council business, and councillors should recuse themselves if necessary if discussions relate to private bodies, they are involved in.

The Government is mindful that councillors have a right to a private life, and rights of freedom of association outside their role as a councillor. It is frequently the case that people in public life have a complex pattern of interests and play a variety of roles with different types of organisations, including community interest groups and charities.

The Government will keep this matter under review but has no immediate plans to amend the regulations.

## **Recommendation 6**

**Local authorities should be required to establish a register of gifts and hospitality, with councillors required to record gifts and 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.**

The Local Government Association's suggested code of conduct published in January 2021 includes a requirement for members to "register... any gift or hospitality with an estimated value of at least £50". However, it did not contain any requirements relating to the total value of gifts or hospitality received from the same source over a sustained period.

Local authorities have the autonomy to set gifts and hospitality requirements in their own codes of conduct. The Government accepts that there is merit in best practice guidance on the thresholds for gifts and hospitality and agrees that a register of gifts and hospitality should be publicly available.

## **Recommendation 7**

**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 the matter".**

Section 31 of the Localism Act 2011 requires that a councillor must not participate in a discussion or vote on a matter where they have a disclosable pecuniary interest in any matter to be considered at the meeting. Section 30(3) of the Localism Act 2011 further provides that any relevant pecuniary interests of a councillor's spouse or partner are considered as a disclosable pecuniary interest of the councillor.

The Committee's report reflects concerns that the disclosable pecuniary interest arrangements infringe on the privacy of a councillor's spouse or partner. Where there would be a potential conflict of interest, the principle of integrity requires that any such interests should nevertheless be declared and resolved.

The Government will keep this matter under review but has no immediate plans to repeal Section 31 of the Localism Act 2011.

## **Recommendation 8**

**The Localism Act 2011 should be amended to require that Independent Persons are appointed for a fixed term of two years, renewable once.**

The Government does not accept this recommendation as appropriate for legislation on the basis that it would be likely to be unworkable. The Government's view is that it would be more appropriately implemented as a best practice recommendation for local authorities.

In principle, it may be attractive to limit the terms Independent Persons serve to keep their role and contribution "fresh" and avoid them becoming too closely affiliated with the overriding organisational culture. However, discussions with Monitoring Officers indicate that in practice most local authorities would likely find servicing this rate of turnover unachievable. There is frequently a small pool of people capable and willing to undertake the role, who also fit the stringent specifications of being amongst the electorate, having no political affiliation, no current or previous association with the council, and no friends or family members associated with the council.

When local authorities have found effective Independent Persons who demonstrate the capability, judgement and integrity required for this quite demanding yet unpaid role, it is understandable that they may be reluctant to place limitations on the appointment.

## **Recommendation 9**

**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 notice or minutes.**

The Government does not agree with this. The Local Government Transparency Code is a statutory requirement to publish information; it does not regulate the content of councils' minutes or decision notices.

The substantive policy suggestion has merit but will depend on circumstances. In cases where there is no case to answer from an unfounded complaint, it should not necessarily be a legal requirement to publish details of that unfounded complaint.

## **Recommendation 10**

**A local authority should only be able to suspend a councillor where the authority's Independent Person agrees both with the finding or a breach and that suspending the councillor would be a proportionate sanction.**

## **Recommendation 12**

**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 allegations and impose sanctions.**

## **Recommendation 13**

**Councillors should be given the right to appeal to the Local Government Ombudsman if their local authority imposes a period of suspension for breaching the code of conduct.**

## **Recommendation 14**

**The Local Government Ombudsman should be given the power to investigate and decide upon an allegation of a code of conduct breach by a councillor, and the appropriate sanction, an appeal by a councillor who has had a suspension imposed. The Ombudsman's decision should be binding on the local authority.**

## **Recommendation 16**

**Local authorities should be given the power to suspend councillors, without allowances, for up to six months.**

There is no provision in current legislation for a sanction to suspend a councillor found to have breached the code of conduct, and this was a deliberate policy decision by the Coalition Government at the time of the Localism Act 2011 to differentiate from the previous, failed Standards Board regime. The Standards Board regime allowed politically motivated and vexatious complaints and had a chilling effect on free speech within local government. These proposals would effectively reinstate that flawed regime.

It would be undesirable to have a government quango to police the free speech of councillors; it would be equally undesirable to have a council body (appointed by councillors, and/or made up of councillors) sitting in judgment on the political comments of fellow councillors.

On the rare occasions where notable breaches of the code of conduct have occurred, local authorities are not without sanctions under the current regime. Councillors can be barred from Cabinet, Committees, or representative roles, and may be publicly criticised. If the elected member is a member of a political group, they would also expect to be subject to party discipline, including being removed from that group or their party. Political parties are unlikely to reselect councillors who have brought their group or party into disrepute. All councillors are ultimately held to account via the ballot box.

As part of the Government's response to the Committee's report on intimidation in public life, the Government recommended that every political party establish their own code of conduct for party members, including elected representatives.

The Government will engage with sector representative bodies of councillors and officers of all tiers of local government to seek views on options to strengthen sanctions to address breaches of the code which fall below the bar of criminal activity and related sanctions but involve serious incidents of bullying and harassment or disruptive behaviour.

### **Recommendation 11**

**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.**

The Government agrees in principle.

Initial soundings with the sector indicate that some local authorities already provide legal indemnity for Independent Persons.

The Government endorses providing legal indemnity for Independent Person as local authority best practice but does not currently see the need to require this through secondary legislation.

### **Recommendation 15**

**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 sanctions applied.**

The Government believes that this is better addressed through the sector adopting as best practice a regular pattern of annual reporting by Standard Committees of the cases and complaints handled and would encourage this as best practice by the sector.

The Government does not believe that there is a requirement to prescribe to local authorities the form and content of such Standard Committee annual reports.

### **Recommendation 17**

**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.**

The criminal law, overseen by the police and courts, provides for more appropriate and effective action against breaches of public order, for anti-social behaviour, and against harassment.

The occasion where councils would seek to bar councillors from council premises are thought to be extremely rare. We will consider this further.

### **Recommendation 18**

#### **The criminal offences in the Localism Act 2011 relating to Disclosable Pecuniary Interests should be abolished.**

It is a criminal offence to fail to declare pecuniary interests, which acts as a strong deterrent against corruption.

The Government does not agree with this recommendation, but rather believes the criminal offence of a non-disclosure of pecuniary interest to be a necessary and proportionate safeguard and deterrent against corruption.

The high bar of police involvement has served to discourage politically motivated and unfounded complaints.

### **Recommendation 20**

#### **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.**

The Government does not agree that this is necessary and has no plans to repeal Section 27(3) of the Localism Act 2011.

The Government considers that the adoption of the principal authority's code or the new model code is a matter for local determination.

There are merits in achieving consistency within principal authority areas to eliminate potential confusion amongst constituents and elected members but there may be instances where a parish council may want to add to the code of their principal authority to reflect local circumstances.



## **Recommendation 21**

**Section 28 (11) of the Localism Act 2011 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.**

The Government has no current plans to repeal Section 28 (11) of the Localism Act 2011 but will give this matter further consideration.

## **Recommendation 22**

**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.**

The three statutory officers in local government are the Monitoring Officer, the Head of Paid Service (Chief Executive) and the Chief Finance Officer (often referred to as the Section 151 Officer).

Under the current disciplinary arrangements for statutory officers, any decision to dismiss a statutory officer must be taken by full council, following a hearing by a panel that must include at least two Independent Persons. The Committee consider that the disciplinary protections for statutory officers should be enhanced, by extending disciplinary protections to all disciplinary actions (such as suspension or formal warnings), not just dismissal.

The Government agrees in principle with this recommendation and recognises this will be pertinent to Monitoring Officers who may not necessarily be afforded the same seniority in the organisational hierarchy of a local authority as the two other statutory officers (Head of Paid Service and the Section 151 Officer), and who may be subject to personal pressures when conducting high profile breach of conduct investigations.

The Government will engage with sector representative bodies of all tiers of local government to seek views on amending the Local Authorities (Standing Orders) (England)(Amendment) Regulations to provide disciplinary protections for statutory officers.

## **Recommendation 23**

**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.**

The Government agrees with the principle that openness is essential.

Most local authorities already publish their whistleblowing policy, procedures and a named contact on their websites, and Government is recommending that this is adopted as a best practice recommendation.

The Government published the UK National Action Plan for Open Government 2021 – 2023 in January 2022. This includes a commitment on local transparency.<sup>3</sup> The Department for Levelling Up Housing and Communities (DLUHC) will work with the local government community to develop a set of specific actions to advance transparency in the sector. DLUHC will support local government to solidify their transparency policies and processes and encourage proactive publication of open data across councils.

## **Recommendation 24**

### **Councillors should be listed as ‘prescribed persons’ for the purposes of the Public Interest Disclosure Act 1998.**

Prescribed persons are individuals or organisations that a worker may approach outside their workplace to report suspected or known wrongdoing and still be protected by the rights afforded to them under whistleblowing legislation. They are prescribed by an order made by the Secretary of State (for Business, Energy and Industrial Strategy) for this purpose. A complete list of prescribed persons is available here: <https://www.gov.uk/government/publications/blowing-the-whistle-list-of-prescribed-people-and-bodies--2>.

Local councillors would not meet the criteria of being external to an individual’s workplace in relation to matters affecting the council and could therefore not be considered as a ‘prescribed person’ for the purposes of the Public Interest Disclosure Act 1998. Disclosures relating to local authorities can be made to the external auditor of the relevant authority, the Comptroller and Auditor General (National Audit Office), or a Member of Parliament.

However, the Government recognises that this may provide a further check and balance against council corruption or wrongdoing and is open to further representations on the matter on how local accountability can be strengthened in this regard.

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<sup>3</sup> <https://www.gov.uk/government/publications/uk-national-action-plan-for-open-government-2021-2023/uk-national-action-plan-for-open-government-2021-2023#local-transparency>

## Scheme of Delegation

To: Constitution and Ethics Committee

Meeting Date: 26th April 2022

From: Director of Law and Governance & Monitoring Officer

Outcome: To enable the Council to agree the scheme of delegation or such part of it as the Constitution determines it is for the Council to agree (as set out in Part 3 of this Constitution).

Recommendation: The Constitution and Ethics Committee is invited to:  
  
Recommend to Council that it agree the Scheme of Delegation or such part of it as the Constitution determines it is for Council to agree (as set out in Part 3 of the Constitution).

### Officer contact:

Name: Michelle Rowe  
Post: Democratic Services Manager  
Email: [michelle.rowe@cambridgeshire.gov.uk](mailto:michelle.rowe@cambridgeshire.gov.uk)  
Tel: 01223 699180

### Member contact:

Names: Councillors Sebastian Kindersley and Alex Bulat  
Post: Chair / Vice-Chair  
Email: [skindersley@hotmail.com](mailto:skindersley@hotmail.com), [alex.bulat@cambridgeshire.gov.uk](mailto:alex.bulat@cambridgeshire.gov.uk)  
Tel: 01223 706398

## 1. Background

- 1.1 The Scheme of Delegation to Officers (Part 3D of the Council's Constitution) describes the extent and nature of the authority delegated to officers to undertake functions on behalf of the Council.
- 1.2 Section 1.2 (vi) of the Council Procedure Rules (Part 4.1 of the Council's Constitution) states that the annual meeting will agree the Scheme of Delegation or such part of it as the Constitution determines it is for Council to agree (as set out in Part 3 of the Constitution).

## 2. Source documents

[Council Constitution - Cambridgeshire County Council](#)

## Constitution and Ethics Agenda Plan

The following are standing agenda items which are considered at every Committee meeting:

- Apologies and Declarations of Interest
- Minutes of previous meeting
- Agenda Plan

26.04.22	Agenda Items		
	1.	Health and Wellbeing Board Terms of Reference	M Rowe
	2.	Revised Contract Procedure Rules	C Ellis
	3.	Appointment of Independent Person(s)	M Rowe
	4.	Publication of the Government Response to the CSPL Review of Local Government Ethical Standards	F McMillan
	5.	Scheme of Delegation	M Rowe

21.06.22	Agenda Items		
Report Deadline: 3.06.22 Agenda Despatch: 10.06.22		No items currently scheduled	

