



# Uttlesford District Council

Chief Executive: Dawn French

## Standards Committee

**Date:** Monday, 16th March, 2020

**Time:** 5.00 pm

**Venue:** Committee Room - Council Offices, London Road, Saffron Walden,  
Essex CB11 4ER

**Chair:** Councillor N Reeve

**Members:** Councillors H Asker, S Barker, M Foley, N Gregory, V Isham (Vice-Chair), A Khan, B Light and E Oliver

**Other** Mrs G Butcher-Doulton, Mr D Pearl and Mrs C

**Attendees:** Wellingbrook-Doswell (Independent Persons)

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## AGENDA PART 1

### Open to Public and Press

#### **1 Apologies for Absence and Declarations of Interest**

To receive any apologies for absence and declarations of interest.

#### **2 Minutes of Previous Meetings**

4 - 8

To consider the minutes of the meetings on 17 June 2019 and 21 January 2020.

**3 Committee on Standards in Public Life: Local Government Ethical Standards Report** 9 - 18

To receive the executive summary, recommendations and best practice note from the Local Government Ethical Standards report from the Committee on Standards in Public Life.

The full report is available [here](#):

Most of the major recommendations, including strengthening sanctions, require primary legislation but there is no indication of when this might be brought forward. Recommendations around promoting a revised national Code do not, however, need legislation. Solicitors and consultants have been appointed to work on a draft Code. In February, they hosted 3 workshops at the Local Government Association to discuss the content of the new code, attended by representatives from the LGA, local government lawyers, the National Association of Local Councillors and the Society of Local Council Clerks.

The hope was that a draft Code would be available for consultation in Spring but no firmer date is available. The Standards Committee will be invited to comment on the draft.

**4 Committee on Standards in Public Life: Artificial Intelligence Report** 19 - 22

To receive the executive summary and recommendations of the Artificial Intelligence report from the Committee on Standards in Public Life.

The full report is available at [here](#).

**5 Committee on Standards in Public Life: Intimidation in Public Life: Letter to Political Parties on Election Pledge** 23 - 25

To receive the letter to political parties on intimidation in public life from the Committee on Standards in Public Life.

**6 Member Training for 2020/21**

To discuss member training needs for 2020/21 municipal year.

**7 Review of Standards Panel Hearing on 21 January 2020**

This is an opportunity for Panel members to reflect on the hearing and to lead a discussion with other members.

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# Agenda Item 2

**STANDARDS COMMITTEE held at COMMITTEE ROOM - COUNCIL OFFICES, LONDON ROAD, SAFFRON WALDEN, ESSEX CB11 4ER, on MONDAY, 17 JUNE 2019 at 5.00 pm**

Present: Councillor N Reeve (Chair)  
Councillors S Barker, M Foley, N Gregory, A Khan and E Oliver

Officers in attendance: A Bochel (Democratic Services Officer) and S Pugh (Assistant Director - Governance and Legal)

Also present: G Butcher-Doulton and C Wellingbrooke-Doswell (Independent Persons)

## ST1 **APOLOGIES FOR ABSENCE AND DECLARATIONS OF INTEREST**

Apologies for absence were received from David Pearl (Independent Person).

## ST2 **MINUTES OF THE PREVIOUS MEETING**

The minutes of the previous meeting were approved and signed by the Chair.

## ST3 **ROLES AND RESPONSIBILITIES OF THE STANDARDS COMMITTEE, INDEPENDENT PERSONS AND THE MONITORING OFFICER**

The Assistant Director – Governance and Legal Services said the role of the Committee was to promote ethical behavior, and it also had a role in determining code of conduct complaints, when it was necessary to hold a hearing. The appointed “Independent Persons” provided an independent, external source of advice at each stage of consideration of a code of conduct complaint.

Catherine Wellingbrooke-Doswell said the Code had been rewritten by the previous council to make it fit for purpose. The point of having three independent members was so that each member could be involved in the complaints procedure at different steps of the process.

## ST4 **UTTLESFORD DISTRICT COUNCIL'S CODE OF CONDUCT**

The Assistant Director – Governance and Legal Services said the code aimed to promote high standards of personal and ethical behavior by councillors.

It was agreed that the Chair would send out a message to all councillors in the Members’ Bulletin asking that they make themselves aware of the importance of the code and high standards of behaviour.

**ST5 UTTLESFORD DISTRICT COUNCIL'S PROCEDURE FOR CONSIDERATION OF COMPLAINTS**

Members noted that the Standards Committee had a limited sanctions power. This was on the agenda for the government to address in the light of recommendations made by the report of the Committee on Standards in Public Life on Local Government Ethical Standards.

In response to a Member question, the Assistant Director – Governance and Legal said commissioning investigations and resolving complaints within a specific target time was a difficult thing. Investigations might take some time for a variety of reasons. Georgina Butcher-Doulton said the issue was not so much timescales as that the process was expensive and every opportunity should be taken to resolve the issue in the best way possible. Being the subject of a complaint was often a difficult experience.

**ST6 LOCAL GOVERNMENT ETHICAL STANDARDS: A REVIEW BY THE COMMITTEE ON STANDARDS IN PUBLIC LIFE**

Georgina Butcher-Doulton said it was unclear when the recommendations in the report by the Committee on Standards in Public Life were going to be dealt with. The Independent Members were concerned about the recommended term limits for independent persons. It was hard to recruit suitable people for these posts, and it was important for standards committees to have an element of continuity.

The Assistant Director – Governance and Legal Services said he would be happy to discuss suggestions for engaging with town and parish councils on the matter of the code of conduct. The Local Councils Liaison Forum was one option for this. Georgina Butcher-Doulton said the committee needed to explore the options more, including visiting parish councils at their meetings. The Chair said he was happy to take on board the request to give the matter some further thought and report back.

In response to a Member question, the Assistant Director – Governance and Legal Services said there was currently no sanction against a vexatious or malicious complainant.

**ST7 TRAINING NEEDS FOR THE STANDARDS COMMITTEE**

The Assistant Director – Governance and Legal Services said training had been scheduled for 4.30pm on 15 July. It would focus on the role of Standards Committee members in sitting as members of a hearing panel considering a Code of Conduct complaint.

The meeting ended at 6.20.

**STANDARDS COMMITTEE HEARING PANEL held at COMMITTEE ROOM -  
COUNCIL OFFICES, LONDON ROAD, SAFFRON WALDEN, ESSEX CB11  
4ER, on TUESDAY, 21 JANUARY 2020 at 10.00 am**

Present: Councillor S Barker (Chair)  
Councillors A Khan and N Reeve  
G Butcher-Doulton (Independent Person)

Officers in attendance: A Bochel (Democratic Services Officer) and S Pugh (Assistant Director - Governance and Legal)

Also present: Parish Councillor Couchman and a friend  
Parish Councillors Barrow, Carter and Cook (Complainants)  
S Pearson (Advisor to the Panel)  
K Cole (Investigating Officer)  
Witness 1 and Witness 2

**ST8 APOLOGIES FOR ABSENCE AND DECLARATIONS OF INTEREST**

Councillor Reeve noted he had been rung by one of the witnesses to be called by Councillor Couchman, and he had assured him the meeting would follow proper process.

**ST9 EXCLUSION OF THE PRESS AND PUBLIC**

RESOLVED that under section 100I of the Local Government Act 1972, the public be excluded for the following item of business on the grounds that it involved the likely disclosure of exempt information as defined in paragraphs 1 and 2 part 1 of Schedule 12A of the Act

**ST10 COMPLAINT AGAINST A COUNCILLOR**

The Investigating Officer gave a summary of her report into complaints against Councillor Couchman. The complaints were:

- 1) That Councillor Couchman had disclosed confidential information contrary to the Parish Council's Code of Conduct.
- 2) That Councillor Couchman had failed to declare a personal interest as required by the Parish Council's Code of Conduct.

There were two elements to the complaint regarding breaches of confidentiality:

- That Councillor Couchman had disclosed confidential information to a third party relating to a former employee
- That he had shared confidential information relating to a legal dispute with third parties.

The complaint regarding failure to declare an interest related to consideration by the Parish Council of the award of work to a third party contractor with whom Councillor Couchman had a close personal association. Councillor Couchman had, on occasion, declared an interest and on others he had not.

Councillor Couchman had previously accepted that he should not have disclosed information relating to the former employee. Following a meeting with Uttlesford DC's Monitoring Officer he had agreed to give an apology at a Parish Council meeting to the Parish Council, to the Parishioners of Clavering and to the individuals concerned unreservedly. The "individuals concerned" included the Clerk. In the event, the apology given by Councillor Couchman excluded the Parish Council and the former employee.

Councillor Couchman denied disclosing confidential information relating to the legal dispute and called witnesses in support.

The Panel retired to consider its decision. On its return, The Chair said the Panel believed that Councillor Couchman had breached the Code of Conduct by:

- 1) Disclosing confidential information relating to the former employee against the provisions set out in paragraph 3.3.5 of the Code of Conduct.
- 2) Failing to disclose an interest under Part 2 of the Code.

Councillor Couchman said he would be prepared to undergo further code of conduct training and would be more consistent in declarations of interest. He would consider making an apology.

The Panel retired again to prepare its full decision, which was read to those present.

**Decision of the Extraordinary Standards Committee, Uttlesford District Council  
held on 21 January 2020 Chaired by Cllr S Barker**

1. We find that Cllr Couchman has failed to declare a personal interest relating to Part 2 of the Councillors Code of Conduct relating to Clavering Parish Council. We determine that Cllr Couchman must undertake Governance training on declarations of interest and code of conduct matters within an agreed timescale.
2. We find that Cllr Couchman has disclosed confidential information in relation to a matter concerning a former employee, also in breach of Part 2 of the Councillors Code of Conduct and further determine that the letter of apology from Cllr Couchman previously issued by him should be expanded to include an apology to the Parish Council and is sent within 14 days. Should this not be done within 14 days then Cllr Couchman will be subject to a formal censure.

3. In response to the matter involving the alleged disclosure of information in relation to a dispute between Clavering Parish Council and third parties, we find there is not sufficient evidence to find against Cllr Couchman.
4. In making our decision, we acknowledge the long service of Cllr Couchman
5. These findings will be reported to the Clavering Parish Council, who we believe would benefit from further training in matters of governance.

The meeting closed at 15.20.



## Executive summary

Local government impacts the lives of citizens every day. Local authorities are responsible for a wide range of important services: social care, education, housing, planning and waste collection, as well as services such as licensing, registering births, marriages and deaths, and pest control. Their proximity to local people means that their decisions can directly affect citizens' quality of life.

High standards of conduct in local government are therefore needed to protect the integrity of decision-making, maintain public confidence, and safeguard local democracy.

Our evidence supports the view that the vast majority of councillors and officers maintain high standards of conduct. There is, however, clear evidence of misconduct by some councillors. The majority of these cases relate to bullying or harassment, or other disruptive behaviour. There is also evidence of persistent or repeated misconduct by a minority of councillors.

We are also concerned about a risk to standards under the current arrangements, as a result of the current rules around declaring interests, gifts and hospitality, and the increased complexity of local government decision-making.

Giving local authorities responsibility for ethical standards has a number of benefits. It allows for flexibility and the discretion to resolve standards issues informally. We have considered whether there is a need for a centralised body to govern and adjudicate on standards. We have concluded that whilst the consistency and independence of the system could be enhanced, there is no reason to reintroduce a centralised body, and that local

authorities should retain ultimate responsibility for implementing and applying the Seven Principles of Public Life in local government.

We have made a number of recommendations and identified best practice to improve ethical standards in local government. Our recommendations are made to government and to specific groups of public office-holders. We recommend a number of changes to primary legislation, which would be subject to Parliamentary timetabling; but also to secondary legislation and the Local Government Transparency Code, which we expect could be implemented more swiftly. Our best practice recommendations for local authorities should be considered a benchmark of good ethical practice, which we expect that all local authorities can and should implement. We will review the implementation of our best practice in 2020.

### Codes of conduct

Local authorities are currently required to have in place a code of conduct of their choosing which outlines the behaviour required of councillors. There is considerable variation in the length, quality and clarity of codes of conduct. This creates confusion among members of the public, and among councillors who represent more than one tier of local government. Many codes of conduct fail to address adequately important areas of behaviour such as social media use and bullying and harassment. An updated model code of conduct should therefore be available to local authorities in order to enhance the consistency and quality of local authority codes.



There are, however, benefits to local authorities being able to amend and have ownership of their own codes of conduct. The updated model code should therefore be voluntary and able to be adapted by local authorities. The scope of the code of conduct should also be widened, with a rebuttable presumption that a councillor's public behaviour, including comments made on publicly accessible social media, is in their official capacity.

### **Declaring and managing interests**

The current arrangements for declaring and managing interests are unclear, too narrow and do not meet the expectations of councillors or the public. The current requirements for registering interests should be updated to include categories of non-pecuniary interests. The current rules on declaring and managing interests should be repealed and replaced with an objective test, in line with the devolved standards bodies in Scotland, Wales and Northern Ireland.

### **Investigations and safeguards**

Monitoring Officers have responsibility for filtering complaints and undertaking investigations into alleged breaches of the code of conduct. A local authority should maintain a standards committee. This committee may advise on standards issues, decide on alleged breaches and sanctions, or a combination of these. Independent members of decision-making standards committees should be able to vote.

Any standards process needs to have safeguards in place to ensure that decisions are made fairly and impartially, and that councillors are protected against politically-motivated, malicious, or unfounded allegations of misconduct. The Independent Person is an important safeguard in the current system. This safeguard should be strengthened and clarified: a local authority should only be able to suspend a councillor where the Independent

Person agrees both that there has been a breach and that suspension is a proportionate sanction. Independent Persons should have fixed terms and legal protections. The view of the Independent Person in relation to a decision on which they are consulted should be published in any formal decision notice.

### **Sanctions**

The current sanctions available to local authorities are insufficient. Party discipline, whilst it has an important role to play in maintaining high standards, lacks the necessary independence and transparency to play the central role in a standards system. The current lack of robust sanctions damages public confidence in the standards system and leaves local authorities with no means of enforcing lower level sanctions, nor of addressing serious or repeated misconduct.

Local authorities should therefore be given the power to suspend councillors without allowances for up to six months. Councillors, including parish councillors, who are suspended should be given the right to appeal to the Local Government Ombudsman, who should be given the power to investigate allegations of code breaches on appeal. The decision of the Ombudsman should be binding.

The current criminal offences relating to Disclosable Pecuniary Interests are disproportionate in principle and ineffective in practice, and should be abolished.



## **Town and parish councils**

Principal authorities have responsibility for undertaking formal investigations of code breaches by parish councillors. This should remain the case. This responsibility, however, can be a disproportionate burden for principal authorities. Parish councils should be required to adopt the code of their principal authority (or the new model code), and a principal authority's decision on sanctions for a parish councillor should be binding. Monitoring Officers should be provided with adequate training, corporate support and resources to undertake their role in providing support on standards issues to parish councils, including in undertaking investigations and recommending sanctions. Clerks should also hold an appropriate qualification to support them to uphold governance within their parish council.

## **Supporting officers**

The Monitoring Officer is the lynchpin of the current standards arrangements. The role is challenging and broad, with a number of practical tensions and the potential for conflicts of interest. Local authorities should put in place arrangements to manage any potential conflicts. We have concluded, however, that the role is not unique in its tensions and can be made coherent and manageable with the support of other statutory officers. Employment protections for statutory officers should be extended, and statutory officers should be supported through training on local authority governance.

## **Councils' corporate arrangements**

At a time of rapid change in local government, decision-making in local councils is getting more complex, with increased commercial activity and partnership working. This complexity risks putting governance under strain. Local authorities setting up separate bodies risk a governance 'illusion', and should

take steps to prevent and manage potential conflicts of interest, particularly if councillors sit on these bodies. They should also ensure that these bodies are transparent and accountable to the council and to the public.

Our analysis of a number of high-profile cases of corporate failure in local government shows that standards risks, where they are not addressed, can become risks of corporate failure. This underlines the importance of establishing and maintaining an ethical culture.

## **Leadership and culture**

An ethical culture requires leadership. Given the multi-faceted nature of local government, leadership is needed from a range of individuals and groups: an authority's standards committee, the Chief Executive, political group leaders, and the chair of the council.

Political groups have an important role to play in maintaining an ethical culture. They should be seen as a semi-formal institution sitting between direct advice from officers and formal processes by the council, rather than a parallel system to the local authority's standards processes. Political groups should set clear expectations of behaviour by their members, and senior officers should maintain effective relationships with political groups, working with them informally to resolve standards issues where appropriate.

The aim of a standards system is ultimately to maintain an ethical culture and ethical practice. An ethical culture starts with tone. Whilst there will always be robust disagreement in a political arena, the tone of engagement should be civil and constructive. Expected standards of behaviour should be embedded through effective induction and ongoing training. Political groups should require their members to attend code of conduct training provided by a local authority, and this should also be



written into national party model group rules. Maintaining an ethical culture day-to-day relies on an impartial, objective Monitoring Officer who has the confidence of all councillors and who is professionally supported by the Chief Executive.

An ethical culture will be an open culture. Local authorities should welcome and foster opportunities for scrutiny, and see it as a way to improve decision making. They should not rely unduly on commercial confidentiality provisions, or circumvent open decision-making processes. Whilst local press can play an important role in scrutinising local government, openness must be facilitated by authorities' own processes and practices.



# List of recommendations

<b>Number</b>	<b>Recommendation</b>	<b>Responsible body</b>
<b>1</b>	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.	Local Government Association
<b>2</b>	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.	Government
<b>3</b>	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.	Government
<b>4</b>	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.	Government
<b>5</b>	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.	Government
<b>6</b>	Local authorities should be required to establish a register of gifts and hospitality, with councillors required to record any 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.	Government



Number	Recommendation	Responsible body
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 that matter”.	Government
8	The Localism Act 2011 should be amended to require that Independent Persons are appointed for a fixed term of two years, renewable once.	Government
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.	Government
10	A local authority should only be able to suspend a councillor where the authority’s Independent Person agrees both with the finding of a breach and that suspending the councillor would be a proportionate sanction.	Government
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.	Government / all local authorities
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.	Government
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.	Government



Number	Recommendation	Responsible body
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, on appeal by a councillor who has had a suspension imposed. The Ombudsman's decision should be binding on the local authority.	Government
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.	Government
16	Local authorities should be given the power to suspend councillors, without allowances, for up to six months.	Government
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.	Government
18	The criminal offences in the Localism Act 2011 relating to Disclosable Pecuniary Interests should be abolished.	Government
19	Parish council clerks should hold an appropriate qualification, such as those provided by the Society of Local Council Clerks.	Parish councils
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.	Government
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.	Government
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.	Government



<b>Number</b>	<b>Recommendation</b>	<b>Responsible body</b>
<b>23</b>	The Local Government Transparency Code should be updated to provide that local authorities must ensure that their whistleblowing policy specifies a named contact for the external auditor alongside their contact details, which should be available on the authority's website.	Government
<b>24</b>	Councillors should be listed as 'prescribed persons' for the purposes of the Public Interest Disclosure Act 1998.	Government
<b>25</b>	Councillors should be required to attend formal induction training by their political groups. National parties should add such a requirement to their model group rules.	Political groups National political parties
<b>26</b>	Local Government Association corporate peer reviews should also include consideration of a local authority's processes for maintaining ethical standards.	Local Government Association



# List of best practice

Our best practice recommendations are directed to local authorities, and we expect that any local authority can and should implement them. We intend to review the implementation of our best practice in 2020.

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

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

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

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

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

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

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

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



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

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

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

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

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

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

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



## Executive summary

Artificial intelligence has the potential to revolutionise the delivery of public services, creating an opportunity for more innovative and efficient public service delivery. Machine learning in particular will transform the way decisions are made in areas as diverse as policing, health, welfare, transport, social care, and education.

This review found that the Nolan Principles are strong, relevant, and do not need reformulating for AI. The Committee heard that they are principles of good governance that have stood, and continue to stand, the test of time. All seven principles will remain relevant and valid as AI is increasingly used for public service delivery.

If correctly implemented, AI offers the possibility of improved public standards in some areas. However, AI poses a challenge to three Nolan Principles in particular: openness, accountability, and objectivity. This review examined how public officials and government departments can uphold these principles as AI is increasingly rolled out across our public services.

Our concerns here overlap with key themes from the field of AI ethics. Under the principle of openness, a current lack of information about government use of AI risks undermining transparency. Under the principle of accountability, there are three risks: AI may obscure the chain of organisational accountability; undermine the attribution of responsibility for key decisions made by public officials; and inhibit public officials from providing meaningful explanations for decisions reached by AI. Under the principle of objectivity, the prevalence of data bias risks embedding and amplifying discrimination in everyday public sector practice.

This review found that the government is failing on openness. Public sector organisations are not sufficiently transparent about their use of AI and it is too difficult to find out where machine learning is currently being used in government. It is too early to judge if public sector bodies are successfully upholding accountability. Fears over 'black box' AI, however, may be overstated, and the Committee believes that explainable AI is a realistic goal for the public sector. On objectivity, data bias is an issue of serious concern, and further work is needed on measuring and mitigating the impact of bias.

### Governance and regulation

To uphold public standards, government and public sector organisations should set effective governance to mitigate the risks we have identified. In this sense, AI is a new challenge that can be solved with existing tools and established principles. Public standards can be upheld with a traditional risk management approach.

This is not a challenge that public sector organisations can tackle alone. Government needs to identify and embed authoritative ethical principles and issue accessible guidance on AI governance to those using it in the public sector. Government and regulators must also establish a coherent regulatory framework that sets clear legal boundaries on how AI should be used in the public sector.

Attempts to establish this governance and regulatory framework are emerging and developments are fast-moving. In the area of ethical principles and guidance, the Department for Culture, Media and Sport (DCMS), the Centre for Data Ethics and Innovation (CDEI) and the Office for AI have all published ethical principles for data-driven technology and AI. The Office for AI, the Government Digital Service (GDS), and the Alan Turing Institute have jointly issued A Guide to Using Artificial Intelligence in the Public Sector and draft guidelines on AI procurement. The Information Commissioner's Office (ICO) has also published its Auditing Framework for AI.



In the area of regulation, the use of AI is subject to the provisions of the GDPR, the Equality Act, and sections of administrative law. The government has also established the Centre for Data Ethics and Innovation to advise on regulation.

These developments are positive and are to be welcomed. However, at the time of writing, this review has found that the governance and regulatory framework for AI in the public sector is still a work in progress and one with significant deficiencies.

This is mostly because key documents have only recently been published and government AI institutions are very new. Multiple sets of ethical principles are confusing and the application of each is unclear. Public sector guidance is not yet widely used and public officials with no AI expertise may find it difficult to understand and comply with.

We conclude that a new AI regulator is not needed but existing regulators will need to adapt to face the challenges AI brings. They will need assistance from a central body to do so, but the CDEI does not yet have a clearly defined purpose and is not yet on a statutory footing. Two areas in particular – transparency and data bias – are in need of urgent attention in the form of new regulation and guidance.

### **Our recommendations**

Our recommendations to government and regulators are intended to assist in the development of a stronger and more coherent regulatory and governance framework for AI in the public sector.

We recommend that government should establish consistent and authoritative ethical principles and issue easier to use guidance. Procurement processes should be reformed and the Digital Marketplace should offer greater assistance to public bodies seeking technologies that are compliant with public standards.

Though no new AI regulator is needed, the CDEI should advise regulators on how to adapt to new technologies and be set on an independent statutory footing. The application of anti-discrimination law to AI needs to be clarified and new transparency guidelines are needed. AI impact assessments should be mandatory, published, and set by the CDEI, and new guidelines are needed to enforce transparency.

We also provide recommendations to providers of public services, both public and private, to help them develop effective risk-based governance for AI. During project planning, our recommendations focus on legal and legitimate AI, system design, and diversity. During project implementation, our recommendations cover setting responsibility, internal and external oversight, monitoring and evaluation, appeal and redress, and training and education.

The Nolan Principles remain a valid guide for public sector practice in the age of AI. However, this new technology is a fast-moving field, so government and regulators will need to act swiftly to keep up with the pace of innovation. Our recommendations set out what we believe is needed to ensure the Seven Principles of Public Life are upheld as the public sector transitions into a new AI-enabled age.



# List of recommendations

## Recommendations to government, national bodies and regulators

The Committee makes eight recommendations to government, national bodies and regulators to help create a strong and coherent governance and regulatory framework for AI in the public sector.

### Recommendation 1: Ethical principles and guidance

There are currently three different sets of ethical principles intended to guide the use of AI in the public sector – the FAST SUM Principles, the OECD AI Principles, and the Data Ethics Framework. It is unclear how these work together and public bodies may be uncertain over which principles to follow.

- a. The public needs to understand the high level ethical principles that govern the use of AI in the public sector. The government should identify, endorse and promote these principles and outline the purpose, scope of application and respective standing of each of the three sets currently in use.
- b. The guidance by the Office for AI, the Government Digital Service and the Alan Turing Institute on using AI in the public sector should be made easier to use and understand, and promoted extensively.

### Recommendation 2: Articulating a clear legal basis for AI

All public sector organisations should publish a statement on how their use of AI complies with relevant laws and regulations before they are deployed in public service delivery.

### Recommendation 3: Data bias and anti-discrimination law

The Equality and Human Rights Commission should develop guidance in partnership with both the Alan Turing Institute and the CDEI on how public bodies should best comply with the Equality Act 2010.

### Recommendation 4: Regulatory assurance body

Given the speed of development and implementation of AI, we recommend that there is a regulatory assurance body, which identifies gaps in the regulatory landscape and provides advice to individual regulators and government on the issues associated with AI.

We do not recommend the creation of a specific AI regulator, and recommend that all existing regulators should consider and respond to the regulatory requirements and impact of the growing use of AI in the fields for which they have responsibility.

The Committee endorses the government's intention for CDEI to perform a regulatory assurance role. The government should act swiftly to clarify the overall purpose of CDEI before setting it on an independent statutory footing.

### Recommendation 5: Procurement rules and processes

Government should use its purchasing power in the market to set procurement requirements that ensure that private companies developing AI solutions for the public sector appropriately address public standards.

This should be achieved by ensuring provisions for ethical standards are considered early in the procurement process and explicitly written into tenders and contractual arrangements.



### **Recommendation 6: The Crown Commercial Service's Digital Marketplace**

The Crown Commercial Service should introduce practical tools as part of its new AI framework that help public bodies, and those delivering services to the public, find AI products and services that meet their ethical requirements.

### **Recommendation 7: Impact assessment**

Government should consider how an AI impact assessment requirement could be integrated into existing processes to evaluate the potential effects of AI on public standards. Such assessments should be mandatory and should be published.

### **Recommendation 8: Transparency and disclosure**

Government should establish guidelines for public bodies about the declaration and disclosure of their AI systems.

## **Recommendations to front-line providers, both public and private, of public services**

The Committee makes seven recommendations to front-line providers of public services to help establish effective risk-based governance for the use of AI.

### **Recommendation 9: Evaluating risks to public standards**

Providers of public services, both public and private, should assess the potential impact of a proposed AI system on public standards at project design stage, and ensure that the design of the system mitigates any standards risks identified.

Standards review will need to occur every time a substantial change to the design of an AI system is made.

### **Recommendation 10: Diversity**

Providers of public services, both public and private, must consciously tackle issues of bias and discrimination by ensuring they have taken into account a diverse range of behaviours, backgrounds and points of view. They must take into account the full range of diversity of the population and provide a fair and effective service.

### **Recommendation 11: Upholding responsibility**

Providers of public services, both public and private, should ensure that responsibility for AI systems is clearly allocated and documented, and that operators of AI systems are able to exercise their responsibility in a meaningful way.

### **Recommendation 12: Monitoring and evaluation**

Providers of public services, both public and private, should monitor and evaluate their AI systems to ensure they always operate as intended.

### **Recommendation 13: Establishing oversight**

Providers of public services, both public and private, should set oversight mechanisms that allow for their AI systems to be properly scrutinised.

### **Recommendation 14: Appeal and redress**

Providers of public services, both public and private, must always inform citizens of their right and method of appeal against automated and AI-assisted decisions.

### **Recommendation 15: Training and education**

Providers of public services, both public and private, should ensure their employees working with AI systems undergo continuous training and education.



Committee  
on Standards  
in Public  
Life

Dear Candidate,

## **General Election December 2019: Joint Standard of Conduct**

We are writing to you at the time of this General Election to update you on our ongoing work with all political parties in Westminster on the Joint Standard of Conduct, one of the key recommendations of the *Intimidation in Public Life* report published in December 2017.

The *Intimidation in Public Life* report was a direct result of the harassment, abuse and intimidation experienced by candidates from all parties at the 2017 General Election. And we are delighted that the work we are doing is progressing and has been supported across the political spectrum. However, more still needs to be done. As a candidate in this election, you can play an important role.

The Joint Standard seeks to help protect candidates during an election campaign and agree a responsible framework for legitimate public debate, and it will actively promote the seven Nolan Principles. It is a positive, aspirational document that will set out minimum standards of behaviour expected from all political party members, based upon a review of existing codes. Please be assured that it will *not* replace existing party codes of conduct nor does it advantage any party over another.

**Tackling intimidation is a cross-party issue; the abuse and intimidation we are witnessing knows no political boundaries. However this Election is an opportunity for us all to show the country that we can unite in rejecting the toxicity of discourse and debate, and agree to disagree civilly - a powerful message that is sorely needed.**

**We know you are busy campaigning on the doorsteps, but we call upon you to pledge to take three key actions - which come directly from the Joint Standard - as the country goes to the polls. We attach some graphics for you to share on social media to indicate your support for this approach:**

- To take responsibility for setting an appropriate tone when campaigning;
- To lead by example to encourage and foster constructive democratic debate and tolerance of other points of view;

- To promote and defend the dignity of others, including political opponents, treating all with courtesy and respect.

As an example of what can be achieved, today all the candidates standing in Jo's former constituency of Batley and Spen agreed to commit to the attached pledge. The attached press release gives details of their commitment. If and when all or most of the candidates standing in your constituency have agreed the pledge, The Jo Cox Foundation would be happy to issue a similar press release to your local media.

Thank you. Your commitment to the principle of the Joint Standard, and your positive engagement with some of these key behaviours, will send a powerful message of hope to the electorate, and we are grateful for your support.

Yours sincerely,



*Jacqui Smith*

**The Rt Hon. Jacqui Smith, Chair, The Jo Cox Foundation**



*Jonathan Evans*

**Lord Evans of Weardale KCB DL, Chair, Committee on Standards in Public Life**

## THIS GENERAL ELECTION, I PLEDGE TO...

- 1** Set an appropriate tone when campaigning
- 2** Lead by example to foster constructive democratic debate
- 3** Promote and defend the dignity of others, including my opponents

#moreincommon



THE JO COX  
FOUNDATION