

Standards Committee – 20th April 2015

Updating Report in respect of the sanctions available to the Standards Hearing Committee

Summary of report

The Standards Committee requested an update in respect of sanctions available to the Committee if there is a breach of the code of conduct by an elected member. This was as a result of a report to Standards Committee on the 'Sanctions under the Arrangements for Dealing with Complaints' in October 2014.

Recommendations

1. That the report be noted.

1.0 Background

1.1 The Standards Committee previously received a report on the 14th October 2014 in respect of Sanctions under the Arrangements for Dealing with Complaints. Elected Members wished for the Monitoring Officer to contact the Local Government Association to establish whether or not they were or intended to lobby central government about increasing the sanctions to be imposed on elected members if they were to be found to have breached the code of conduct. The applicable correspondence is set out in Appendix 1 and 2 to this report.

2.0 Resource and legal considerations

- 2.1 There are no resource or legal considerations.

Citizen impact

The work of the Standards Committee is intended to ensure that effective governance arrangements are in place. This protects the council and its officers and provides an assurance to stakeholders and citizens regarding the security of the council's operations, and their ability to complain about elected member behaviour where they feel it may have breached the Local Code of Conduct as approved by council. This helps to retain confidence in standards of behaviour by elected members in the way in which they carry out their work in their official capacity.

Performance and risk management issues

Performance and risk management form part of the corporate governance framework. Ensuring High standards of elected member supports the governance of the council.

Equality implications

None arising from this report.

Consultation

None required

AuthorA handwritten signature in black ink, appearing to read 'Anthony Cox', is displayed within a rectangular box. The signature is written in a cursive style.

Tony Cox
Head of Legal and Democratic Services
☎ 01922 654822
✉ tcx@walsall.gov.uk

From: Cox Tony
Sent: 26 January 2015 14:26
To: 'info@local.gov.uk'
Subject: Elected Members - Standards Regime under the Localism Act 2011
Attachments: Comments of Committee for Standards in Public Life.docx

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Dear Sirs,

I am writing to you following a Standards Committee Meeting at the Council on the 6th October 2015 when the committee were debating a report regarding the sanctions available under the Localism Act 2011, particularly the removal of the power to suspend an elected member from acting as a councillor where they were found guilty of breaching the code of conduct, as had previously been possible under the standards regime in place under the Local Government Act 2000.

I am aware that concern was expressed about the new standards regime implemented by the Localism Act 2011, by the Committee for Standards in Public Life, which made comment in its Annual Report 2012-13. I set out those comments in the documents attached.

The standards committee asked me to write to the LGA to see if there was any research being carried out as to the whether or not the new standards regime under the Localism Act 2011 has had any significant change on elected member behaviour, good or bad?

They also asked me to enquire whether or not there has been any research or discussion with central government about the operation of the new standards regime and in particular whether or not any consideration had been given to reviewing the regime and reconsidering whether or not there should be a power to suspend elected members if they are found guilty of breaching the code of conduct. Elected Members also remain concerned about the removal of independent members from the standards regime as they felt at the time, and continue to feel, that it increased the risk of politicising standards complaints.

I would be grateful if you could provide me with any assistance on this matter.

Kind Regards

Tony Cox
Head of Legal & Democratic Services and Monitoring Officer
Legal Services
Civic Centre, Darwall Street, Walsall, WS1 1TP
cox.t@walsall.gov.uk
01922 654824

<https://www.walsall.gov.uk>

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Appendix 2

From: Local Government Association

Sent: 27 January 2015 17:13

To: Cox Tony

Subject: RE: Elected Members - Standards Regime under the Localism Act 2011

Dear Tony,

Thank you for your email of 26 January regarding the above, which has been passed to me.

As you might be aware, the LGA worked with the Association of Council Secretaries and Solicitors (ACSeS) and the Society of Local Authority Chief Executives (SOLACE) to produce a model code of conduct in response to the new standards regime introduced in the Localism Act 2011. This involved consideration of the role of councils working with their members in the light of the changes included in the Act.

The LGA strongly believes that elected members should behave appropriately and respectfully to all colleagues – elected or otherwise – but that adequate sanctions do currently exist locally if an elected member does not do so. Alongside the ballot box, these include issuing formal letters, formal censure by motion, removal of the member from one or more committees and adverse publicity. Councils are still required to nominate an independent person under the current arrangements.

The law clearly puts the responsibility for the new arrangements on elected members. We believe that councils are best placed to ensure high standards of behaviour of elected members through an effective local standards regime based on a locally agreed code of conduct and existing legislation. To date, we are not aware of any research by central government or other organisation into whether the change in arrangements has had 'any significant change on elected member behaviour.'

As you will be aware, the new standards regime was fully introduced on 1 July 2012. The Secretary of State, Eric Pickles MP, indicated in June 2012 that his Department would review the policy in three to five years' time and if we receive any indication that this is imminent we will of course communicate this with our member councils. LGA lead members have been clear that this is not an issue that they would wish to take up with Government at the present time, although we will continue to collect and monitor the views of our member authorities.

Kind regards,

Senior Adviser, Localism
Local Government Association
Direct: 020 7187 7384
Mobile: 07921 604 237

Comments of Committee for Standards in Public Life

"38. Under the Localism Act 2011 the new local government standards regime came into effect on 1 July 2012. The Committee welcomed the introduction of a mandatory requirement for local authorities to adopt a local code of conduct based on the Seven Principles of Public Life and the intention to encourage a greater sense of local responsibility for standards and to reduce the number of vexatious complaints.

39. While we recognise that the new system needs time to properly bed in, we do, however, have certain concerns:

Due to the emphasis on local ownership of standards we would expect the new regime, like the previous one, to function well in those areas where party leaders are prepared to provide the necessary leadership and example. It is likely to do less well where such leadership is inadequate. History suggests that problems are most likely in areas with monolithic political cultures and correspondingly little political challenge, where partisan rivalry is most bitter and tit-for-tat accusations most common, or in those predominantly rural areas with significant numbers of independent members without the benefit of party discipline.

Under the previous arrangements local authorities and an independent tribunal had the power to suspend members for varying periods of time as a sanction against poor behaviour. The only sanctions now available, apart from through the use of a political party's internal discipline procedures are censure or criminal prosecution for deliberately withholding or misrepresenting a financial interest. We do not think these are sufficient. The last few years have seen a number of examples of inappropriate behaviour which would not pass the strict tests required to warrant a criminal prosecution, but which deserves a sanction stronger than simple censure. While censure may carry opprobrium in the political arena it is often considered unacceptably lenient by the public relative to other areas of their experience. Coercion of other members or officers is one category of offence with which it will be difficult to deal adequately under the new arrangements.

Under the previous arrangements allegations about poor behaviour were determined by standards committees independently chaired by individuals who were not themselves members of the local authority. Under the new arrangements every local authority must appoint at least one independent person whose views it will seek, and take into account, before making its decision on an allegation that it has decided to investigate. We doubt that this will be sufficient to provide assurance that justice is being done and, equally important, that it is seen to be done.

In the transition to the new system local authorities may have lacked proper time to prepare. In early June 2012 we wrote to all local authorities in England to ask about their preparations for implementing the new regime which came into force on 1 July 2012. The Committee was concerned that so late in the day, nearly half of those who responded had yet to adopt a new code and around four fifths had yet to appoint an independent person. The fact that the Regulations and Order which took effect from 1 July were laid only on 6 June cannot have helped their preparations.

40. While inevitably there have been various teething problems with the new regime, the Committee will continue to monitor the implementation and its effectiveness, particularly in relation to public confidence that any wrongdoing is tackled promptly and transparently in the absence of any external investigation and scrutiny."