

Standards Committee

9th April 2019

Committee Standards in Public Life – Key Recommendations

Summary of report:

The purpose of the report is to provide information to the Committee in respect of the report produced by the Committee on Standards in Public Life in respect of Local Government Ethical Standards, which contains various recommendations to Government and Local Authorities in respect of proposed changes to the Local Government Standards regime, and recommends best practice for local authorities to implement.

Background papers:

Appendix 1 - Excerpt from report on Local Government Ethical Standards setting out various recommendations and best practice.

Recommendation:

To note the content of the Report

1. Recommend that the Monitoring Officer write to all Elected Members informing them of the recommendations of the Committee on Standards in Public Life

1.0 Background

- 1.1 The Committee on Standards in Public Life (CSPL) advises the Prime Minister on ethical standards across the whole of public life in England. It monitors and reports on issues relating to the standards of conduct of all public office holders. It conducts broad inquiries into Standards of Conduct and promotes the Nolan principles of standards in public life. CSPL is an advisory non-departmental public body, sponsored by the [Cabinet Office](#).
- 1.2 The Committee on Standards in Public Life (the Committee) was established in 1994 by the then Prime Minister, and is responsible for promoting the Seven Principles of Public Life: selflessness, integrity, objectivity, accountability, openness, honesty, and leadership – commonly known as the Nolan Principles.
- 1.3 The Committee has had a long-standing interest in local government, which was the subject of its third report in 1997, and which it has considered on a number of occasions since then. Since we last reviewed standards arrangements in local government, the Committee has maintained a watching brief, and has received regular correspondence relating to local government. Our other recent reviews have also received evidence relevant to the maintenance of standards in local government. This review was not prompted, however, by any specific allegations of misconduct or council failure, but rather

to review the effectiveness of the current arrangements for standards in local government, particularly in light of the changes made by the Localism Act 2011.

1.4 The terms of reference for the review were to:

“1. Examine the structures, processes and practices in local government in England for:

- a. Maintaining codes of conduct for local councillors
- b. Investigating alleged breaches fairly and with due process
- c. Enforcing codes and imposing sanctions for misconduct
- d. Declaring interests and managing conflicts of interest
- e. Whistleblowing

2. Assess whether the existing structures, processes and practices are conducive to high standards of conduct in local government.

3. Make any recommendations for how they can be improved.

4. Note any evidence of intimidation of councillors, and make recommendations for any measures that could be put in place to prevent and address such intimidation.”

1.5 The review covered all local authorities in England, of which there are 353 principal authorities, with 18,111 councillors in 2013, and an estimated 10,000 parish councils in England, with around 80,000 parish councillors. The CSPL did not take evidence relating to Combined Authorities, metro mayors, or the Mayor of London and so did not address these areas of local government in this report.

1.6 As part of this review, the CSPL received 319 written submissions to their consultation, from a range of local authorities, representative bodies, stakeholder organisations, officers, councillors, and members of the public. In addition the CSPL held two roundtable seminars; one with Monitoring Officers, clerks and Independent Persons, and one with academics and think tanks. We held 30 individual stakeholder meetings. The CSPL also visited five local authorities across different regions of England and tiers of local government speaking to councillors, officers, county associations, Independent Persons, and representatives from town and parish councils.

1.7 As a consequence the CSPL have made a number of recommendations and identified best practice to improve ethical standards in local government. Their recommendations are made to government and specific groups of public office holders. The best practice recommendations for local authorities should be considered a benchmark of good ethical practice, which the CSPL expect all local authorities to implement and they will review the implementation of our best practice in 2020.

- 1.8 Out of the 15 Best Practice recommendations the Council already has 9 fully in place; 3 in part; and 2 not in place but these will be addressed in the annual changes to the constitution at annual council; two further recommendations are not relevant.
- 1.9 It is important that the Standards Committee and elected members as a whole are kept informed and updated on Standards issues and proposed changes in the standards regime. This is important in maintaining the statutory requirements set out in s27 Localism Act 2011 to promote high standards of conduct. This is vital in ensuring a strong ethical culture across the Council as a whole and maintaining good governance. The committee identified three common threads of corporate governance failings all of which in the committee linked to failure in upholding the seven principles of Public Life. The first is where there is an unbalanced relationship between officers and elected members which involves a breakdown in the structures of accountability and objectivity which should allow officers to provide quality, impartial advice to members who are ultimately accountable for the work of the council. When this is unbalanced with either officers or members becoming over-dominant, or a blurring of the official and political, there is a risk that decisions are not made in the public interest. Secondly, is a lack of understanding and appreciation of governance processes and scrutiny. Thirdly is a culture of bullying and fear which could lead to a risk that people are fearful to challenge poor behaviour. As a consequence councils needs to identify when standards and governance are at risk, and develop an ethical culture, to protect against those risks. This is a requirement on both officers and elected members.

2.0 Resource and legal considerations:

- 2.1 None directly related to this report. Any required changes to the Standards Regime will be met from existing resources. The council has a duty to promote good standards of conduct by elected members under the Localism Act 2011.

3.0 Performance and Risk Management issues:

- 3.1 Performance and risk management are a feature of all council functions. It is important that council policies and procedures are reviewed and updated on a regular basis. If the council fails to do this there is an increased risk that the council will be subject to legal challenge or litigation.
- 3.2 In terms of performance it is important that both Elected Members have a clear framework of standards to follow in delivering services to residents and the community. These frameworks provide accountability and transparency in respect of the way in which the council delivers services. The council needs to be aware of any proposed changes or suggested best practice in respect of maintaining and supporting good conduct by Elected Members.

4.0 Equality Implications:

- 4.1 In maintaining up to date policies and procedures the council will ensure that services are delivered fairly in an open and transparent manner.

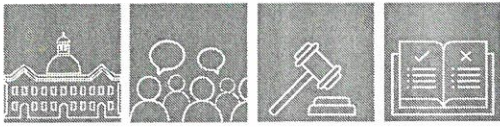
There are specific requirements in both codes that Elected Members and officers observe equalities. As part of good governance the council is required to comply with the public sector equality duty.

5.0 Consultation:

- 5.1 There is no requirement to consult on this report.

Author:

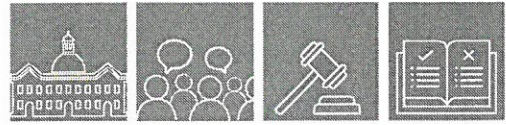
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List of recommendations

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Number	Recommendation	Responsible body
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.	Local Government Association
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.	Government
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.	Government
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.	Government
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.	Government
6	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

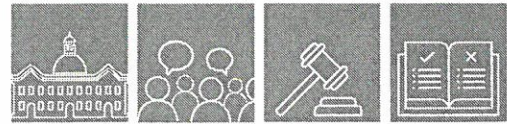


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7	Section 31 of the Localism Act 2011 should be repealed, and replaced with a requirement that councils include in their code of conduct that a councillor must not participate in a discussion or vote in a matter to be considered at a meeting if they 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



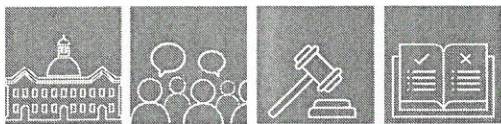
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14	The Local Government Ombudsman should be given the power to investigate and decide upon an allegation of a code of conduct breach by a councillor, and the appropriate sanction, on appeal by a councillor who has had a suspension imposed. The Ombudsman's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



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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.	Government
24	Councillors should be listed as 'prescribed persons' for the purposes of the Public Interest Disclosure Act 1998.	Government
25	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
26	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

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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.

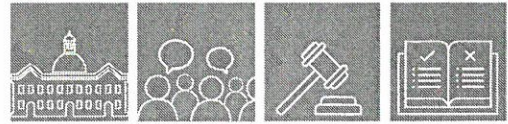
Best practice 4: An authority's code should be readily accessible to both councillors and the public, in a prominent position on a council's website and available in council premises.

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.