

Standards Committee – 5th April 2022

Response of the Government to the report by the Committee for Standards in Public Life

Summary of report:

This is a report to provide an update to Elected Members in respect of the response of central government to the report issued by the Committee for Standards in Public Life in relation to ethical standards in Local Government. This report was published in January 2019 containing a list of 26 recommendations and a number of good practice suggestions.

Recommendation:

1. That the committee note the report.
2. That the Monitoring Officer make all councillors aware of the government response to the report.

1.0 Background

- 1.1 The Committee for Standards in Public Life carried out a review in relation to Local Government Ethical Standards culminating in a report in January 2019 containing 26 recommendations for consideration by central government that would, in the opinion of the committee, enable councillors to be held to account effectively and would enhance the fairness and transparency in the standards process. The Committee felt that introducing a power of suspension and a model code of conduct would enable councillors to be held to account for the most serious or repeated breaches and support officers in addressing such behaviour. Strengthening the role of the Independent Person and introducing a right of appeal for suspended councillors will enhance the impartiality and fairness of the process, which is vital to ensure that councillors are protected from malicious or unfounded complaints. Greater transparency on how complaints are assessed and decided in a system which is currently too reliant on internal party discipline will also provide a safeguard against opaque decision-making and provide reassurance to the public. A number of the recommendations required legislative change which the committee believed the government should implement.
- 1.2 The Government responded to the Committee for Standards in Public Life report on the 18th March 2022, and this response is summarised below.

(Numbering refers to the CSPL's recommendation numbers)

1. The recommendation for a model code has been actioned and published by the LGA.

2. The government agrees with the principal not to require public disclosure of home addresses for candidates and councillors and will engage with interested parties to ensure such disclosure is not required (whilst noting that it is important to register internally with MO's). See *Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012*.
3. Creating a presumption that a councillor is acting in an official capacity including on publicly accessible social media should be dealt with by use of the code of conduct recognising the boundary between public and private life. No amendment to s27(2) Localism Act 2011.
4. Whilst keeping under review, the government has no immediate plans to legislate for the code of conduct to apply when a councillor claims to act or gives the impression as acting in their capacity (note this is in the LGA's model code).
5. Whilst keeping under review, the government has no immediate plans to amend the *Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012* to include other interests not currently specified.
6. It is for local authorities to set gifts and hospitality registration requirements. The government sees merit in best practice guidance and agrees that the register should be publicly available.
7. Whilst keeping under review, the government has no immediate plans to repeal s31 Localism Act in respect of participating in discussion or voting at a meeting where an interest, whether registered or not, exists and the interest is reasonably regarded as significant.
8. The government does not accept that Independent Persons should be appointed for a fixed term of two years, renewable once, on the basis it would be unworkable.
9. The government does not agree that the Local Government Transparency Code should include decisions of the Independent Person. It does accept there is merit to the substantive policy suggestion but cautions it depends on the circumstances.
These recommendations were taken all together and covered sanctions, power to establish decision making standards committees, right of appeal to the Local Government Ombudsman and its power to investigate, together with 6-month suspension powers.
10. The government affirmed that the lack of suspension sanction was a deliberate policy decision by the coalition government at the time of the Localism Act, stating that the Standards Board had a 'chilling effect on free speech' and that it would be 'undesirable to have a government quango to police the free speech of councillors'.
11. The governments position is that councillors are 'ultimately held to account via the ballot box' and that the government has already recommended that every political party 'establish their own code of conduct for party members including elected representatives'.

However, the government will engage with sector representatives 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'.

12. The government agrees in principle to the provision of legal indemnity to an Independent Person if their views or advice are disclosed but does not see the need to legislate for this, rather endorsing local authorities who already provide it.
13. The government does not believe that there is a requirement to prescribe to local authorities the form and content of Standard Committee annual reports which are better addressed through the sector adopting as best practice a regular pattern of annual reporting by Standards Committees.
14. The government will consider further, barring councillors from council premises but notes these are thought to be extremely rare occasions.
15. The government does not agree that criminal offences in the Localism Act 2011 relating to Disclosable Pecuniary Interests should be abolished.
16. The government does not agree it is necessary to amend s27(3) of the Localism Act 2011 to state that parish councils must adopt the code of conduct of their principle authority, but acknowledges there is merit in achieving consistency whilst noting instances to reflect local circumstances might be different.
17. The government has no plans to repeal s28(11) of the Localism Act 2011 to enable sanctions of parish councillors to be determined by their relevant principal authority but will give it further consideration.
18. The government agrees in principle to amend The Local Authorities (Standing Orders) (England) (Amendment) Regulations 2015 to extend disciplinary protections for statutory officers to all disciplinary actions (not just dismissal) and will engage sector representatives of all tiers to seek views on the amendments.
19. The government recommends that local authorities publish their whistleblowing policies and named contact as best practice and the DLUHC will work with local government to advance transparency in the sector and support local government to solidify transparent policies whilst encourage proactive publication of open data.
20. The government is open to further representations on how local accountability can be strengthened and recognises that councillors being listed as prescribed persons for the purposes of the Public Interest Disclosure Act 1998 provides a further check and balance against corruption.

Recommendation 19, "Parish council clerks should hold an appropriate qualification, such as those provided by the Society of Local Council Clerks" was not responded to.

- 1.3. Lord Evans response to the government was 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.”

- 1.4 This view has been reflected by a number of organisations involved in local government.

2.0 Financial information

There are no financial implications in relation to this report.

3.0 Reducing Inequalities

The council's aim that inequalities are reduced and all potential is maximised. It is important that all procedures adopted by the council achieve this.

4.0 Decide

As set out in the recommendations

5.0 Respond

All councillors should be notified of the Governments response to the Committee on Standards in Public Life report.

6.0 Review

The council continue to monitor developments in relation to the Standards regime and report back to Committee in relation to any significant changes.

Author:

Tony Cox Director of Governance

☐ 01922 654822 ☐ Anthony.cox@walsall.gov.uk