

REPORT ON LOCAL GOVERNMENT ETHICAL STANDARDS

Meeting **7 March 2019**

Report Author **Monitoring Officer**

Status **For Information**

Classification: **Unrestricted**

Ward: **All Wards**

Executive Summary:

On 30 January 2019, the Committee on Standards in Public Life published its long-awaited [report on local government ethical standards](#), reflecting evidence obtained via a consultation exercise carried out from January-May 2018.

This report sets out the main recommendations.

Recommendation(s):

Committee note the recommendations from the Committee on Standards in Public Life

CORPORATE IMPLICATIONS

Financial and Value for Money	There are no financial implications arising from this report
Legal	Local authorities are required to adopt a code of conduct, which sets out rules governing the behaviour of their Members and satisfies the requirements of the Localism Act 2011. All elected, co-opted and independent members of local authorities, including parish councils, are required to abide by their own, formally adopted, code. The code of conduct seeks to ensure that members observe the highest standards of conduct in their civic role.
Corporate	The council has an adopted Code of Conduct which is set out in the Constitution. The Council has also adopted a process for dealing with complaints.
Equality Act 2010 & Public Sector Equality Duty	<p>Members are reminded of the requirement, under the Public Sector Equality Duty (section 149 of the Equality Act 2010) to have due regard to the aims of the Duty at the time the decision is taken. The aims of the Duty are: (i) eliminate unlawful discrimination, harassment, victimisation and other conduct prohibited by the Act, (ii) advance equality of opportunity between people who share a protected characteristic and people who do not share it, and (iii) foster good relations between people who share a protected characteristic and people who do not share it.</p> <p>Protected characteristics: age, sex, disability, race, sexual orientation, gender reassignment, religion or belief and pregnancy & maternity. Only aim (i) of the Duty applies to Marriage & civil partnership.</p>

	Please indicate which aim is relevant to the report.	
	Eliminate unlawful discrimination, harassment, victimisation and other conduct prohibited by the Act,	x
	Advance equality of opportunity between people who share a protected characteristic and people who do not share it	x
	Foster good relations between people who share a protected characteristic and people who do not share it.	x
	There are no specific equality considerations.	

CORPORATE PRIORITIES (tick those relevant)✓	
A clean and welcoming Environment	
Promoting inward investment and job creation	
Supporting neighbourhoods	x

CORPORATE VALUES (tick those relevant)✓	
Delivering value for money	x
Supporting the Workforce	x
Promoting open communications	x

1.0 Introduction and Background

- 1.1 On 30 January 2019, the Committee on Standards in Public Life published its long-awaited report on local government ethical standards, reflecting evidence obtained via a consultation exercise carried out from January-May 2018.
- 1.2 The wide-ranging report, which runs to over 100 pages, finds that while the majority of councillors and officers maintain high standards of conduct, there is clear evidence of misconduct by some – mostly bullying, harassment or other disruptive behaviour. The report also raises concerns about risks to standards under the current rules governing declaring interests, gifts and hospitality.
- 1.3 The report provides an excellent review of the current framework governing the behaviour of local government councillors and executives in England and then makes a number of recommendations to promote and maintain the standards expected by the public. While it identifies numerous points of best practice, it makes 26 separate recommendations for improvement.
- 1.4 It is pleasing to note that many comments made by this Council have been endorsed by the committee on Standards in Public Life.

2.0 Top five recommendations

The top five recommendations, likely to be of most interest to those in local government, are:

1. *Updating the model code and extending it to parish councils:* the report finds considerable variation in the length, quality and clarity of local authority codes of conduct. It therefore recommends enhancing quality and consistency by requiring the Local Government Association to create an updated model code. In a bid to help ease the burden on principal authorities (who must investigate code breaches by

parish councillors), the report also recommends requiring parish councils to adopt the code of conduct of their principal authorities or the new model code.

The Monitoring Officer's recommendation was:

It would be sensible to have a proscribed standard process (for England) which is common across all authorities, rather than being locally determined. Allowing each authority to determine their own code of conduct inherently allows for variations across the country. This subsequently allows Monitoring Officers to interpret conduct by councillors differently across the country, leading to different outcomes for potentially similar "poor behaviour".

2. *Presumption of official capacity:* perhaps the most arresting suggestion, the report recommends combatting poor behaviour by presuming councillors to act in an official capacity in their public conduct, including statements made on publicly-accessible social media. This arises from the perennial concern that the current understanding of public and private capacity is too narrow, undermining public confidence.

The Monitoring officer's recommendation was:

Many of our complaints relate to the misuse of social media (e.g. making adverse comments about officers on Facebook). The Code needs to be updated to reflect modern life including the potential misuse of social media (trolling etc).

In relation to social media we are hamstrung by the need to decide whether the individual was acting as a councillor in making those comments and clarity on where the Code applies would be helpful.

3. *Extending the list of registrable interests:* the report considers that current arrangements for declaring councillors' interests are too narrow and do not meet public expectations, so it suggests refining the arrangements for declaring and managing interests, including extending the list of registrable interests to include two categories of non-pecuniary interest: (1) relevant unpaid commercial interests such as unpaid directorships; and (2) trusteeship or membership of organisations that seek to influence opinion or public policy. As this does not require primary legislation to be implemented, this is one recommendation which may soon be acted upon.
4. *A new "objective" test for when councillors must withdraw or not vote:* monitoring officers will be particularly interested in the discussion in the report about the need to update the test for when councillors are forbidden from voting or participating in discussion on matters in which they have an interest. The report recommends the test be overhauled and that councillors be required to refrain from voting or withdraw whenever they have any interest at all – whether registered or not – that a member of the public would reasonably regard as so significant as to likely prejudice the councillor's decision-making.

The Monitoring Officer's recommendation was:

The disclosable pecuniary interests legislation and form are drafted in a very legalistic language. For example, the requirement to disclose 'land' is rarely interpreted by

Members as the home they occupy. This means that DPI forms regularly have to be sent back to Councillors for them to include their home address.

5. *Strengthening the sanctions system:* the report considers the current sanctions insufficient and so recommends allowing local authorities to suspend councillors without allowances for up to six months, with suspended councillors enjoying a right of appeal to the Local Government and Social Care Ombudsman for investigation and a binding decision on the matter.

The Monitoring Officer's recommendation was:

The sanctions are wholly insufficient to ensure or encourage compliance. A power of suspension and/or a power to remove allowances for up to 6 months would be more effective. In the absence of improved sanctions the standards regime remains as 'toothless tiger'.

3.0 Other conclusions and recommendations

- 3.1 The report further concludes that there is no need for a centralised body to govern and adjudicate on standards and that various benefits exist to local authorities maintaining their responsibility for implanting and applying the Seven Principles of Public Life.
- 3.2 A number of other recommendations are likely to be of interest, including:
 - Assisting local authority monitoring officers, the "lynchpin of the arrangements for upholding ethical standards" (p 81), by extending disciplinary protections and offering additional training for the statutory officers who support them.
 - Giving local authorities a discretionary power to establish a standards committee to advise on standards issues and decide on alleged breaches and/or sanctions for breaching the code of conduct.
 - Abolishing the current criminal offences in the Localism Act 2011 relating to disclosable pecuniary interests, which are said to be disproportionate in principle and ineffective in practice.
 - Requiring local authorities to take a range of steps to prevent and manage conflicts of interest that can arise when decisions are made in more complex and potentially less transparent contexts such as Local Enterprise Partnerships and joint ventures.
 - Fostering an ethical culture and practice by requiring councillors to attend formal induction training by their political groups, with national parties adding the same requirement to their model group rules.

4.0 Next Steps

- 4.1 The report recognises that many of its recommendations would require primary legislation and therefore be subject to parliamentary timetabling. The remaining

recommendations – in particular those relating to registrable interests (as mentioned above), statutory officers and formal training for councillors – could however be implemented relatively quickly. The Committee intends to monitor the uptake of its suggestions in 2020.

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Reporting to:	Madeline Homer, Chief Executive

Annex List

Annex 1	Local Government Ethical Standards A Review by the Committee on Standards in Public Life
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Background Papers

Title	Details of where to access copy
	https://www.gov.uk/government/publications/local-government-ethical-standards-report

Corporate Consultation

Finance	Matthew Sanham Acting Head of Financial and Procurement Services
Legal	Timothy Howes, Monitoring Officer