

Committee on Standards in Public Life – Review of Local Government Ethical Standards

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Purpose of the report

To enable the committee to consider the report of the Committee on Standards in Public Life (“CSPL”), following its review into local government ethical standards.

Recommendations

To note the contents of the report.

Background

This report provides an opportunity for members to consider the review of local government ethical standards conducted by the CPSL, and to request the Monitoring Officer to action any points.

Report

The CSPL is undertaking a review of local government ethical standards. The terms of reference for the review are 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 code and imposing sanctions for misconduct;
 - d. Declaring interests and managing conflicts of interest; and
 - 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.

The review will consider all levels of local government in England, including town and parish councils, principal authorities, combined authorities (including Metro Mayors) and the Greater London Authority (including the Mayor of London).

On 29th January 2018, the CPSL launched a consultation in relation to the review, and SSDC’s response to the consultation (one of 317 submitted) is attached at the Appendix to this report.

The CPSL is due to publish its report on its review on 30th January 2019; a copy of the report will be circulated to members as soon as it is available in order for this committee to consider and discuss the findings.

Financial Implications

There are no financial implications at this stage.

Other Implications

There are no other implications at this stage.

Background Papers: The Council's Constitution

Review of Local Government Ethical Standards

SSDC Stakeholder Consultation response

- a. Are the existing structures, processes and practices in place working to ensure high standards of conduct by local councillors? If not, please say why.

The sanctions that can be applied are too limited; whilst for the majority of cases the available sanctions would be sufficient to address and correct the behaviour, there is no effective way of dealing with the most serious or persistent breaches.

The responsibility for town/parish council complaints resting with the district council monitoring officers represents a significant drain on district council resources, not least because much of what is referred is outside their jurisdiction in any event; an independent process for dealing with breaches at town/parish council level would ensure that such complaints were dealt with in a more timely way whilst ensuring that monitoring officers are able to focus on the other aspects of their role.

- b. What, if any, are the most significant gaps in the current ethical standards regime for local government?

As above, an appropriate level of sanction for the more serious and persistent cases, and an independent body to deal with complaints at town/parish level.

Codes of conduct

- c. Are local authority adopted codes of conduct for councillors clear and easily understood? Do the codes cover an appropriate range of behaviours? What examples of good practice, including induction processes, exist?

Generally yes, but because most principal councils have adopted very similar codes. Greater consistency could be achieved through a single code for principal authorities and a single code for town/parish councils and this would assist with clarity.

- d. A local authority has a statutory duty to ensure that its adopted code of conduct for councillors is consistent with the Seven Principles of Public Life and that it includes appropriate provision (as decided by the local authority) for registering and declaring councillors' interests. Are these requirements appropriate as they stand? If not, please say why.

There is a lack of clarity for some councillors around the distinctions between disclosable pecuniary, personal and personal & prejudicial interests, and this confusion is more evident at town/parish level. There is too much scope for local interpretation around disclosure, which is unhelpful given the criminal sanctions attached to disclosable pecuniary interests.

Investigations and decisions on allegations

- e. Are allegations of councillor misconduct investigated and decided fairly and with due process?

What processes do local authorities have in place for investigating and deciding upon allegations? Do these processes meet requirements for due process? Should any additional safeguards be put in place to ensure due process?

We have good processes in place for investigating and deciding allegations, however local authority meeting arrangements can make it difficult to run hearings in confidential session and this poses a risk to running a fair process. There is also the risk that member level panels will be subject to political influence. An independent panel would not be constrained by local authority meeting arrangements and would be outside of political influence.

However, the process is expensive and time consuming, especially given the limited sanctions available, and so is rarely used. Monitoring officers will try to resolve complaints informally rather than proceed to an investigation.

- i. Is the current requirement that the views of an Independent Person must be sought and taken into account before deciding on an allegation sufficient to ensure the objectivity and fairness of the decision process? Should this requirement be strengthened? If so, how?

Yes, the existence of the Independent Person provides a helpful check for the monitoring officer and is a source of support.

- ii. Monitoring Officers are often involved in the process of investigating and deciding upon code breaches. Could Monitoring Officers be subject to conflicts of interest or undue pressure when doing so? How could Monitoring Officers be protected from this risk?

We would always use someone else to undertake any formal investigation so as to avoid such a conflict.

Sanctions

- f. Are existing sanctions for councillor misconduct sufficient?
What sanctions do local authorities use when councillors are found to have breached the code of conduct? Are these sanctions sufficient to deter breaches and, where relevant, to enforce compliance?

Yes for the less serious breaches that we resolve informally, e.g. by apology or training.

Should local authorities be given the ability to use additional sanctions? If so, what should these be?

The sanctions are adequate for less serious matters, but not for the more serious breaches. A power to withhold allowances and to suspend for a limited period (i.e. up to 6 months) would be a powerful deterrent and appropriate for breaches that require a hearing.

Declaring interests and conflicts of interest

- g. Are existing arrangements to declare councillors' interests and manage conflicts of interest satisfactory? If not please say why.

A local councillor is under a legal duty to register any pecuniary interests (or those of their spouse or partner), and cannot participate in discussion or votes that engage a disclosable pecuniary interest, nor take any further steps in relation to that matter, although local authorities can grant dispensations under certain circumstances. Are these statutory duties appropriate as they stand?

Broadly yes in terms of registration, but the requirement to disclose is quite limited; it would provide greater clarity for the public if DPis had to be disclosed at a meeting in the same way as personal and prejudicial interests.

What arrangements do local authorities have in place to declare councillors' interests, and manage conflicts of interest that go beyond the statutory requirements? Are these satisfactory? If not, please say why.

We include an item for declarations on every agenda of all decision-making meetings. We provide training to councillors on the Code of Conduct, and the monitoring officer is available at any time to discuss with any individual member about a potential conflict of interest. However, the declaration of a personal or prejudicial interest is a matter for the individual member and requires judgment on their behalf, and so it is difficult to achieve consistency.

Whistleblowing

- h. What arrangements are in place for whistleblowing, by the public, councillors, and officials? Are these satisfactory?

We have a Whistleblowing Policy in place which appears to be satisfactory.

Improving standards

- i. What steps could *local authorities* take to improve local government ethical standards?

Provide more training to town and parish councils if resources allowed, and provide refresher training for district members on an annual or bi-annual basis.

- j. What steps could *central government* take to improve local government ethical standards?

1. Give councils greater sanctions to deal with breaches.

2. Empower town and parish councils to deal with their own complaints or establish an independent body to deal with the same.
3. Empower Standards Committees to be able to “call in” individual councillors where there are concerns about behaviour, rather than relying on a formal complaint being made.

Intimidation of local councillors

- k. What is the nature, scale, and extent of intimidation towards local councillors?
What measures could be put in place to prevent and address this intimidation?

Petty and/or persistent complaints, particularly at the town/parish level, aren't uncommon and the complainant will abuse the local standards process to try to sway matters in their favour.

Town/parish clerks have to deal with a lot of petty or spiteful behaviour and they may also, in frustration, refer matters to the monitoring officer because they feel they have no other avenue to deal with the complainant.

Greater clarity/power to identify a complaint as vexatious might help to limit (perceived or real) intimidation.