

Report To:	STANDARDS AND PERSONNEL APPEALS COMMITTEE	Date:	8 JULY 2019
Heading:	REPORT OF THE COMMITTEE ON STANDARDS IN PUBLIC LIFE – LOCAL GOVERNMENT ETHICAL STANDARDS		
Portfolio Holder:	N/A		
Ward/s:	N/A		
Key Decision:	NO		
Subject to Call-In:	NO		

Purpose of Report

The purpose of this report is to make Members of the Committee aware of the report, published in January 2019, of the Committee on Standards in Public Life (CSPL) relating to Local Government Ethical Standards and to consider what action it feels appropriate to take in response to the report. The CSPL's report contains a series of recommendations and best practice points which are set out in this report.

Recommendation(s)

To note the report of the Committee on Standards in Public Life relating to Local Government Ethical Standards and consider what actions it feels appropriate to take in response to the report.

Reasons for Recommendation(s)

To ensure the Committee charged with ensuring high standards of conduct is aware of the CSPL report and to ensure it considers if any of the best practice recommendations contained in that report should be implemented by this Council. The CSPL will review implementation of its best practice recommendations to local authorities during 2020.

Alternative Options Considered

There are no other options considered appropriate.

Detailed Information

COMMITTEE ON STANDARDS IN PUBLIC LIFE – REPORT ON LOCAL GOVERNMENT ETHICAL STANDARDS

The Committee on Standards in Public Life (CSPL) advises the Prime Minister on ethical standards across the whole of public life in England. It is an independent advisory non-departmental public body.

During 2018, the CSPL undertook a review of local government ethical standards. *“The review was not prompted by any specific allegations of misconduct, but rather to assure ourselves that the current framework, particularly since the Localism Act 2011, is conducive to promoting and maintaining the standards expected by the public.”*

CSPL’s Terms of reference

1. To examine structures, processes and practices of local government in England for:
 - a) maintaining codes of conduct for 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 interests
 - e) whistleblowing
2. Assess whether the existing structures, processes and practices are conducive to high standards of conduct
3. Make recommendations for improvement
4. Note any evidence of intimidation of councillors and make recommendations to prevent and address such intimidation

Overview of the Report

The report of the CSPL was launched on 30 January 2019. A copy of the full report is appended to this report. The CSPL says that high standards of conduct are needed to demonstrate that the decisions taken by local authorities are made in the public interest and to maintain public confidence.

It found that the vast majority of councillors and officers want to maintain the highest standards of conduct but identified some specific areas of concern. It concluded that a minority of councillors engage in bullying or harassment, or other highly disruptive behaviour, and a small number of parish councils give rise to a disproportionate number of complaints about poor behaviour. The CSPL concluded that the current rules around conflicts of interest, gifts and hospitality are inadequate and the increased complexity of local government decision-making is putting governance under strain.

It concluded that the devolved arrangements should remain, but that more robust safeguards are needed to strengthen a locally determined system. The CSPL made a series of recommendations to government for legislative changes to be made and a series of best practice recommendations for local authorities to be considered as a benchmark of good ethical practice. The CSPL will review the implementation of its best practice recommendations in 2020.

A summary of the CSPL's findings, recommendations for legislative change and best practice recommendations are set out below:

Codes of Conduct

a) Findings

- Inconsistent
- Don't cover bullying effectively
- Problems regarding scope – social media, claiming to or appearing to act as a councillor
- Nolan only codes inadequate
- Need to be reviewed
- Hard to find on Local Authority websites

b) Recommendations

Number	Recommendation
1	Local Government Association should create an updated model code, in consultation with representative bodies of councillors and officers of all tiers of local government
3	Councillors should be presumed to be acting in an official capacity in their public conduct, including statements on publically accessible social media
4	Councillors presumed to be acting in an official capacity in their public conduct

c) Best Practice

Number	Best Practice
1	Local Authorities should include prohibitions on bullying and harassment in codes of conduct including a definition and a list of examples
2	Local Authorities should include in their code a requirement for councillors to co-operate with formal standards investigations and to prohibit trivial of malicious allegations by councillors
3	Local Authorities should review their code annually and regularly seek the views of the public, community organisations and neighbouring authorities
4	Code should be readily accessible to Councillors and the public in a prominent position on the council's website and available at council premises

Interests

a) Findings

- Disclosable Pecuniary Interests (DPIs) too narrow, unclear and criminalisation is disproportionate
- Registers disclose home addresses exposing councillors to intimidation
- List of people whose interests need to be registered is too narrow
- But current list of pecuniary interests is acceptable
- Need to include non-pecuniary interests in codes
- Unsatisfactory arrangements on registers of gifts and hospitality
- Requirements to declare DPIs and withdraw are too narrow

b) Recommendations

Number	Recommendation
2	Amend Disclosable Pecuniary Interest (DPI) regulations so that a councillor's home address is not registrable
5	Amend DPI regulations to include unpaid directorships, trusteeships, charity / public body roles and lobbying organisations
6	Local Authorities should have a register of gifts and hospitality with a requirement in the code to register gifts / hospitality over £50 or totalling over £100 p.a. from a single source
7	Abolish s31 Localism Act, and require a section in the code to require councillors to leave room if a member of the public would reasonably regard their interest as so significant that it is likely to prejudice their consideration or decision making in relation to that matter
18	Abolish DPI criminal offences

c) Best Practice

Number	Best Practice
5	Local Authorities to update registers of gifts & hospitality quarterly and publish it in an accessible form

Investigations and Safeguards

a) Findings

- Use a public interest test for filtering complaints
- No role specification, term, formal powers or legal protection for Independent Persons (IP)
- IP views not public
- Many Local Authorities are not transparent on numbers of complaints and details of decisions
- Standards Committees should have voting independent and parish members
- No current right of appeal after hearings

b) Recommendations

Number	Recommendation
8	2 year fixed term of office for IPs, renewable once
9	IPs views to be recorded in decision notice and minutes
10	IP must agree with the finding of a breach and that a suspension is proportionate
11	Local Authorities to provide legal indemnity to IPs
12	Local Authorities may have voting independent and parish members on standards committees
13	Right of appeal to Local Government Ombudsman (LGO) if a councillor is suspended
14	If a councillor is suspended and appeals to the LGO, LGO should have the power to investigate the breach and sanction, their decisions will be binding
15	Local Authorities required to publish complaints data and outcomes annually

c) Best Practice

Number	Best Practice
6	Local Authorities to adopt (and publish) a public interest test for filtering complaints
7	Local Authorities should have at least 2 IPs
9	Local Authorities should publish full hearing decisions including a statement of facts, breaches, views of the IP, the reasons for the decision and the sanction applied
10	Local Authority websites should have clear complaints guidance and information

Sanctions

a) Findings

- Lack of serious sanctions:
 - Prevents enforcement of lower level sanctions
 - Damages public credibility
 - Makes cost of investigations disproportionate to outcome
 - Removes means of Local Authorities containing reputational damage
- Credibility of current regime undermined by lack of serious sanctions
- Party group discipline can fill the gap but lacks transparency, consistency and checks on impartiality of a standards system
- Suspension preserves the ballot box which is insufficient in itself
- Legal uncertainty of premises bans

b) Recommendations

Number	Recommendation
16	Local Authority power to suspend without allowances for up to 6 months
17	Government / legislation to put beyond doubt lawfulness of premises bans
18	Decriminalise DPIs (see interests)

Town and Parish Councils

a) Findings

- Parish councils (PCs) are highly dependent on the skills, experience and support of clerks – evidence of substantial difficulties where clerks are inexperienced, untrained, feel isolated and poor member behaviour
- 15% of PCs experience serious behaviour issues, 5% dysfunctional
- PCs should report complaints, not the clerk
- Some Monitoring Officers decline or lack resources to provide advice or accept parish complaints
- Variation in parish codes is a burden on the principal authority and confusing for dual hatted members
- PCs can ignore sanctions recommended by principal authority hearing
- PCs can take lawful protective steps short of sanctions

b) Recommendations

Number	Recommendation
19	Parish clerks should hold an appropriate qualification
20	PCs must adopt the principal authority's code of conduct
21	Parish councillor sanctions to be determined by principal authority only

c) Best Practice

Number	Best Practice
11	Standards complaints about the behaviour of a parish councillor towards a clerk should be made by the chair or PC as a whole
12	Monitoring Officer role and resourcing to include advice, support and management of PC cases

Role of the Monitoring Officer (MO)

a) Findings

- MO is the lynchpin for upholding standards
- Can be conflicts of interest in MO being involved in investigation of senior Members
- Confidence and support of chief executive is crucial to ensure MO has ability to uphold standards
- Some MOs have been forced to resign because of unwelcome advice or decisions
- Whistle-blowers could be deterred from reporting concerns to a private audit firm
- Whistle-blowers should be able to report concerns to councillors

b) Recommendations

Number	Recommendation
22	Statutory protection for statutory officers to extend to all disciplinary action, not just dismissal
23	Local Authorities should be required to ensure whistleblowing policy and website specifies named contact for external auditor
24	Councillors to be "prescribed persons" in Public Interest Disclosure Act 1998

c) Best Practice

Number	Best Practice
13	Local Authority should have investigation conflict procedures, including use of MOs from other LAs

Council Governance, Leadership and Culture

a) Findings

- Local Authorities now have complex governance – joint ventures, owned companies, LEPs
- Increased risk of conflicts of interest, lack of transparency

- 3 common threads in corporate failure:-
 - Unbalanced relation between members and officers
 - Lack of understanding of governance processes and scrutiny
 - Culture of fear or bullying
- Visible leadership essential in embedding ethical culture
- Early induction for councillors vital to set ethical tone

b) Recommendations

Number	Recommendation
26	LGA peer reviews to include standards processes

c) Best Practice

Number	Best Practice
14	Local Authority annual governance statement should include reporting on related bodies; those bodies to publish agendas, minutes and annual reports and abide by Nolan Principles
15	Senior officers should meet regularly with political group leaders or group whips regarding standards issues

What next?

- Detailed and challenging report
- Some recommendations require primary legislation, some need changes to regulations
- Has Government the capacity?
- Best practice points can be implemented now

The Committee is therefore asked to consider and provide comments in relation to the Report on Local Government Ethical Standards published by the Committee on Standards in Public Life.

Implications

Corporate Plan:

The Council will strive to ensure effective community leadership, through good governance, transparency, accountability and appropriate behaviours.

Legal:

The report sets out which CSPL recommendations will require statutory implementation and those which may be implemented by the Council as best practice.

Finance:

Budget Area	Implication
General Fund – Revenue Budget	No direct financial implications arising from this report.

General Fund – Capital Programme	N/A
Housing Revenue Account – Revenue Budget	N/A
Housing Revenue Account – Capital Programme	N/A

Risk:

Risk	Mitigation
<p>There are no risks associated with the approval of the work plan itself.</p> <p>Failing to adopt a work plan would not be considered best practice as the Council would then not be able to ensure the Council exercises its duties to promote and maintain high standards of ethical conduct.</p> <p>The Council has recognised the following Corporate Risk: <i>Members’ Ethical Framework – Failure to demonstrate high standards of behaviour (CR003)</i></p>	<p>Consideration of this report and the consequential work of the Committee demonstrates the Council’s commitment to maintaining high levels of ethical behaviour and its commitment to reviewing and implementing best practice.</p>

Human Resources:

There are no HR implications contained in the body of the report, however there will be a requirement to review in light of any changes made in respect of legislation and good practice should always be maintained.

Equalities:

There are no equalities issues as a result of the recommendations in this report.

Other Implications:

None

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