

Report To:	STANDARDS AND PERSONNEL APPEALS COMMITTEE
Date:	29 JUNE 2022
Heading:	COMMITTEE ON STANDARDS IN PUBLIC LIFE - UPDATE
Executive Lead Member:	NOT APPLICABLE
Ward/s:	NOT APPLICABLE
Key Decision:	NO
Subject to Call-In:	NO

Purpose of Report

The purpose of this report is to:

- a) update the Committee in respect of the Government's response to the recommendations of the Committee on Standards in Public Life (CSPL) in its report relating to Local Government Ethical Standards; and
- b) consider whether the Committee wishes to consider undertaking further work in respect of the implementation of the Best Practice Recommendations of the CSPL.

Recommendation(s)

To note the:

- a) **Government's response to the recommendations of the Committee on Standards in Public Life (CSPL) in its report relating to Local Government Ethical Standards;**
- b) **Work undertaken by the Committee regarding implementing the Best Practice Recommendations of the CSPL and consider if it wishes to consider undertaking further work in relation to implementation.**

Reasons for Recommendation(s)

To ensure the Committee charged with ensuring high standards of conduct is aware of the most up to date position regarding the Committee on Standards in Public Life best practice recommendations and the Government's response to the recommendation made to it.

Alternative Options Considered

None, the Committee is asked to note the updates and to consider further work by the Committee in relation to the Best Practice Recommendations.

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.”*

The CSPL’s Terms of Reference were as follows:

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 was presented to this Committee in July 2019 is appended to this report. Members will recall receiving numerous reports in relation to the CSPL’s report in the intervening period of time. This report is to bring the Committee up to date.

As a brief reminder to the Committee, the CSPL said 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.

Recommendations Made to Government

The CSPL made 23 recommendations to Government regarding legislative changes it suggested were required in order to strengthen the existing ethical standards regime.

Government published its response on 18 March 2022. The full response can be viewed at the following link <https://www.gov.uk/government/publications/local-government-ethical-standards-government-response-to-the-committee-on-standards-in-public-life-report> and a copy is attached as Appendix 1 for ease of reference for Members of the Committee.

A summary of the recommendations made to Government by the CSPL are set out below with a summary extract of its response.

Number	Recommendation	Response
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	The Local Government Association published its model code of conduct in January 2021. However, it remains a local decision on whether this model code is adopted.
2	Amend Disclosable Pecuniary Interest (DPI) regulations so that a councillor's home address is not registrable.	The Government agrees with the principle behind this recommendation – which safeguards elected representatives - and considers amending the Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012 would be an option to achieve it. The Government will engage with interested parties on the best means to ensure that candidates and councillors are not required publicly to disclose their home address. Notwithstanding, it is important that home addresses are internally registered with monitoring officers, to help avoid conflicts of interest.
3	Councillors should be presumed to be acting in an official capacity in their public conduct, including statements on publicly accessible social media	The Government's view is that it is for individual local authorities to consider if their code of conduct is adequate in addressing the issue of inappropriate use of social media. It is important to recognise that there is a boundary between an elected representative's public life and their private

		or personal life. Automatically presuming (irrespective of the context and circumstances) that any comment which is in an official capacity risks conflating the two.
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.	<p>The Government agrees that local authority elected representatives should act in good faith in the public interest and not seek to influence decisions for personal gain, for malicious intent or to further the interests of any business or any other organisations which they may be affiliated with.</p> <p>It is for individual local authorities to ensure that their codes of conducts are regularly updated, comprehensive and fit for purpose.</p> <p>The Government will keep this matter under review but has no immediate plans to amend the regulations.</p>
5	Amend DPI regulations to include unpaid directorships, trusteeships, charity / public body roles and lobbying organisations	<p>The Government is mindful that councillors have a right to a private life, and rights of freedom of association outside their role as a councillor. It is frequently the case that people in public life have a complex pattern of interests and play a variety of roles with different types of organisations, including community interest groups and charities.</p> <p>The Government will keep this matter under review but has no immediate plans to amend the regulations.</p>
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	<p>Local authorities have the autonomy to set gifts and hospitality requirements in their own codes of conduct.</p> <p>The Government accepts that there is merit in best practice guidance on the thresholds for gifts and hospitality and agrees that a register of gifts and hospitality should be publicly available.</p>
7	Abolish s31 Localism Act, and require a section in the code to require councillors to leave the 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	<p>The Committee's report reflects concerns that the disclosable pecuniary interest arrangements infringe on the privacy of a councillor's spouse or partner. Where there would be a potential conflict of interest, the principle of integrity requires that any such interests should nevertheless be declared and resolved.</p> <p>The Government will keep this matter</p>

		under review but has no immediate plans to repeal Section 31 of the Localism Act 2011.
8	2 year fixed term of office for Independent Persons (IPs), renewable once	<p>The Government does not accept this recommendation as appropriate for legislation on the basis that it would be likely to be unworkable. The Government's view is that it would be more appropriately implemented as a best practice recommendation for local authorities. However, discussions with Monitoring Officers indicate that in practice most local authorities would likely find servicing this rate of turnover unachievable.</p> <p>When local authorities have found effective Independent Persons who demonstrate the capability, judgement and integrity required for this quite demanding yet unpaid role, it is understandable that they may be reluctant to place limitations on the appointment.</p>
9	IPs views to be recorded in decision notice and minutes	The Government does not agree with this. The Local Government Transparency Code is a statutory requirement to publish information; it does not regulate the content of Councils' minutes or decision notices.
10	IP must agree with the finding of a breach and that a suspension is proportionate	<p>There is no provision in current legislation for a sanction to suspend a councillor found to have breached the code of conduct, and this was a deliberate policy decision by the Coalition Government at the time of the Localism Act 2011. These proposals would effectively reinstate that flawed regime.</p> <p>On the rare occasions where notable breaches of the code of conduct have occurred, local authorities are not without sanctions under the current regime. All councillors are ultimately held to account via the ballot box.</p> <p>The Government will engage with sector representative bodies of councillors and officers of all tiers of local government 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.</p>

11	Local Authorities to provide legal indemnity to IPs	The Government agrees in principle. The Government endorses providing legal indemnity for Independent Person as local authority best practice but does not currently see the need to require this through secondary legislation.
12	Local Authorities may have voting independent and parish members on standards committees	See response to recommendation 10.
13	Right of appeal to Local Government Ombudsman (LGO) if a councillor is suspended	See response to recommendation 10.
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	See response to recommendation 10.
15	Local Authorities required to publish complaints data and outcomes annually	The Government believes that this is better addressed through the sector adopting as best practice a regular pattern of annual reporting by Standard Committees of the cases and complaints handled and would encourage this as best practice by the sector. The Government does not believe that there is a requirement to prescribe to local authorities the form and content of such Standard Committee annual reports.
16	Local Authority power to suspend without allowances for up to 6 months	See response to recommendation 10.
17	Government / legislation to put beyond doubt lawfulness of premises bans	The criminal law, overseen by the police and courts, provides for more appropriate and effective action against breaches of public order, for anti-social behaviour, and against harassment. The occasion where Councils would seek to bar councillors from council premises are thought to be extremely rare. We will consider this further.
18	Decriminalise DPIs	It is a criminal offence to fail to declare pecuniary interests, which acts as a strong deterrent against corruption. The Government does not agree with this recommendation, but rather believes the criminal offence of a non-disclosure of pecuniary interest to be a necessary and proportionate safeguard and deterrent against corruption. The high bar of police involvement has served to discourage politically motivated and unfounded complaints.

20	PCs must adopt the principal authority's code of conduct	The Government does not agree that this is necessary and has no plans to repeal Section 27(3) of the Localism Act 2011. The Government considers that the adoption of the principal authority's code or the new model code is a matter for local determination.
21	Parish councillor sanctions to be determined by principal authority only	The Government has no current plans to repeal Section 28 (11) of the Localism Act 2011 but will give this matter further consideration.
22	Statutory protection for statutory officers to extend to all disciplinary action, not just dismissal	The Government agrees in principle with this recommendation. The Government will engage with sector representative bodies of all tiers of local government to seek views on amending the Local Authorities (Standing Orders) (England)(Amendment) Regulations to provide disciplinary protections for statutory officers.
23	Local Authorities should be required to ensure whistleblowing policy and website specifies named contact for external auditor	The Government agrees with the principle that openness is essential. Government is recommending that this is adopted as a best practice recommendation.
24	Councillors to be "prescribed persons" in Public Interest Disclosure Act 1998	Local councillors would not meet the criteria of being external to an individual's workplace in relation to matters affecting the Council and could therefore not be considered as a 'prescribed person' for the purposes of the Public Interest Disclosure Act 1998. Disclosures relating to local authorities can be made to the external auditor of the relevant authority, the Comptroller and Auditor General (National Audit Office), or a Member of Parliament. However, the Government recognises that this may provide a further check and balance against council corruption or wrongdoing and is open to further representations on the matter on how local accountability can be strengthened in this regard.

Summary of Best Practice Recommendations for Local Authorities and Progress Made

The table below sets out a summary of each Best Practice Recommendations of the CSPL, the actions by the Committee and progress made to date:

Number	Best Practice	Current position	Action/Comments
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.	COMPLETE	Included in the revised Code of Conduct approved in May 2021.
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.	COMPLETE	Requirement to comply with investigation included in the revised Code of Conduct approved in May 2021. Complaints process allows " <i>malicious, politically motivated or tit-for-tat</i> " complaints to be refused by Monitoring Officer.
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.	Code reviewed frequently (generally every 2 years). No consultation carried out previously outside the organisation. Code substantially reviewed during 2020/21 by the Standards and Personnel Appeals Committee. A revised Code of Conduct was approved at Council in May	<ul style="list-style-type: none"> Members previously raised concern at how resource intensive an annual review might be when there will often be little change to be made. Members to consider if they wish to continue with a bi-annual review or introduce an annual review. Members previously agreed to consider consultation options, but again questioned the value this will produce compared to the resource effort. Members to confirm their current views.

		2021 which was a hybrid of the Council's previous Code and the LGA's Model Code.	
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.	Code is available on the internet.	<ul style="list-style-type: none"> Do Members consider the Code should be more prominent on website? Do Members consider it necessary to make the Code available on Council premises?
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.	COMPLETE	<ul style="list-style-type: none"> Declarations are now published on the Website. Reports are presented to each meeting of the Committee. A revised Form and Guidance Note for Members was produced and agreed by this Committee.
6	Councils should publish a clear and straightforward public interest test against which allegations are filtered.	The Complaint process, which is published, does include assessment criteria with some mention of proportionality.	<ul style="list-style-type: none"> The Complaints process may be reviewed to incorporate a clearer/more detailed test if Members wish.
7	Local authorities should have access to at least two Independent Persons.	NO ACTION NEEDED	<ul style="list-style-type: none"> Already have 2 IPs
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.	Already happens for each complaint received.	<ul style="list-style-type: none"> The Complaints Process may be reviewed to consider the current wording and the suggested wording.

9	<p>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.</p>	<p>A decision notice is always produced including all suggested elements except that the views of the IP have not normally been included.</p> <p>It is some considerable time since an investigation led to a finding of misconduct.</p> <p>Information has been published in the past, but not necessarily the full decision notice.</p>	<ul style="list-style-type: none"> • Agreed with the need to publish in a suitable place on the website. • Include as part of the Complaints Process. • Agreed a template decision notice could be produced to ensure consistency.
10	<p>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.</p>	<p>The complaints process setting out this detail is available on the website but it is not always easy for the public to find it.</p> <p>An electronic complaint form has been developed to make the process easier but could be improved.</p>	<ul style="list-style-type: none"> • It is suggested that the Complaints Process and the form should be further reviewed.
11	<p>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.</p>	<p>NO ACTION NEEDED.</p>	<ul style="list-style-type: none"> • Currently accept complaints however made, including if made directly by the clerk

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.	NO ACTION NEEDED.	<ul style="list-style-type: none"> • Advice, support and investigations relating to alleged breaches already provided as far as existing resources allows. • Can be a disproportionate number of complaints. • MO has DMO support. • Training provided annually to MO and DMO. • Small budget available for investigations. Due to budgetary pressures not possible to increase resources.
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.	NO ACTION NEEDED.	<ul style="list-style-type: none"> • MO from another authority has investigated an ADC complaint in the past and the MO as investigated for others if time allowed. This is as part of an informal arrangement. • A discussion at a County level agreed to retain an informal approach as all authorities have resourcing issues. • Committee took the view that a pre-requisite would be to recharge for the MO/DMO time
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.	NO ACTION NEEDED.	<ul style="list-style-type: none"> • This used to take place for Ashfield Homes Ltd. • No relevant separate bodies currently. No action needed at this time.
15	Senior officers should meet regularly with political group	NO ACTION NEEDED.	<ul style="list-style-type: none"> • Committee were concerned that introducing regimented

	leaders or group whips to discuss standards issues.		quarterly meetings, for example, would be too frequent and not necessarily needed; they were happy with the CEO and MO using their discretion to have ad hoc meetings when considered necessary/helpful.
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Implications

Corporate Plan:

To ensure we deliver high-quality public services we have adopted a set of corporate values which underpin the successful delivery of our priorities. How we work is as important as what we do. The Council's values are:

- People Focussed;
- Honest;
- Proud;
- Ambitious.

Legal:

The best practice recommendations discussed in this report do not require legislation for the Council to implement them if they choose to do so.

A number of the recommendations made to Government would necessitate new/amended legislation. The areas the Government may consider changing are outlined in the summary above and in Appendix 1. [RLD 14/06/2022]

Finance:

[PH 14/06/22].

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

Risk:

Risk	Mitigation
The Council has recognised the following Corporate Risk: Ethical Governance – ability to implement changes to the Members' Code of Conduct and recommendations of the Committee on Standards in Public Life (CSPL) and Peer Challenge (CR003)	This report demonstrates the Council's commitment to maintaining high levels of ethical behaviour. A revised code has already been approved. The Committee work plan includes items to address the identified risk. 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.

Human Resources: [KB 16/06/2022]

There are no HR implications contained in the body of the report.

Environmental/Sustainability

There are no Environmental/Sustainability issues as a direct result of the recommendations in this report

Equalities:

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

Other Implications:

None

Reason(s) for Urgency

Not applicable

Reason(s) for Exemption

Not applicable

Background Papers

Not applicable

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