

Wiltshire Council

Standards Committee

1 May 2019

Update on the Committee on Standards in Public Life Report

Purpose of Report

1. To consider how the Standards Committee (“The Committee”) should respond to the findings and recommendations of the report of the Committee on Standards in Public Life

Background

2. The Localism Act 2011 introduced a new Standards Regime for local authorities. Full Council adopted new arrangements for resolving standards complaints against elected members in accordance with the Act on 26 June 2012, which came into effect on 1 July 2012. Among other changes, The Localism Act 2011 removed the sanction of suspending elected members for breaches of Codes of Conduct, and made involvement in a matter in which an elected member has a pecuniary interest a criminal offence.
3. On 29 January 2018 The Committee on Standards in Public Life, which was established in 1994 to be responsible for promoting to Seven Principles of Public Life (Selflessness, Integrity, Objectivity, Accountability, Openness, Honesty and Leadership), undertook a review of Local Government Ethical Standards. It’s terms of reference were to:
 - i. *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 codes and imposing sanctions for misconduct;*
 - d. *Declaring interests and managing conflicts of interest;*
 - e. *Whistleblowing;*
 - ii. *Assess whether the existing structures, processes and practices are conducive to high standards of conduct in local government;*
 - iii. *Make any recommendations for how they can be improved;*
 - iv. *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.*
4. The consultation for that review took place from 29 January 2018 to 18 May 2018. At its meeting on 18 April 2018 the Committee discussed the consultation questions and delegated the preparation of a response on behalf of the Council to the Monitoring Officer after consultation with the Chairman of the Committee. Points requested to be included by the committee included that a single national Code of

Conduct would simplify the Standards process, that the level of sanctions available under the present regime were insufficient for ensuring high standards of conduct and the burdens placed on town and parish councils.

5. The minute extract of the Committee's discussion is included at **Appendix 1**. The response that was submitted as part of the consultation is included at **Appendix 2**. This was previously circulated to members of the Committee for information on 25 May 2018.
6. On 30 January 2019 the Committee on Standards in Public Life released its report into Local Government Ethical Standards and presented its findings to the Prime Minister. Its report is attached at **Appendix 3**.
7. On 12 March 2019 the Chairman and Vice-Chairman of the Committee met with the Monitoring Officer and the Council's Independent Persons to discuss the outcomes of the report.
8. As requested at the Committee meeting on 23 January 2019, the Constitution Focus Group is already undertaking a review of the Code of Conduct Complaints Procedure to improve the existing procedures.

Main Considerations

9. The Committee on Standards in Public Life reached a number of conclusions. As taken from the executive summary of its report included:
 - i. The review concluded that the evidence gathered supported the view that the vast majority of elected members and officers maintain high standards of conduct. However, there was clear evidence of misconduct by some elected members, and that a majority of those cases related to bullying, harassment or other disruptive behaviour.
 - ii. There were concerns about a risk to standards as a result of existing rules on declaring interests, gifts and hospitality, and the increased complexity of local government decision-making. It was recommended the requirements for registration of interests should be updated to include categories of non-pecuniary interests. It was also recommended the rules on declaring and managing interests should be repealed and replaced with an objective test such as is used in Scotland, Wales and Northern Ireland. A gifts and hospitality register should be made mandatory.
 - iii. Whilst it concluded that the consistency and independence of the existing system could be enhanced, the review saw no reason to reintroduce a centralised body for standards, and that local authorities should retain ultimate responsibility for implementing and applying the Seven Principles of Public Life in local government.
 - iv. Variation in length, quality and clarity of Codes of Conduct creates confusion for elected members and the public, particularly where a member represents more than one elected body. It was recommended an updated model code of conduct be made available to local authorities to enhance the consistency and

quality of local authority codes, though it recommended this remain voluntary and adaptable to an extent.

- v. It was recommended the scope of Codes of Conduct be widened, including a rebuttable presumption that an elected member's public behaviour, including comments made on publicly accessible social media, is in their official capacity.
 - vi. It was recommended that all authorities be required to maintain a Standards Committee, and that independent members should be able to vote on such a committee.
 - vii. The role of the Independent Person should be strengthened, have fixed terms, and additional legal protections.
 - viii. It was considered that existing sanctions are insufficient, overly reliant on party discipline which lacks the necessary independence and transparency the system requires, and this was considered to damage public confidence in the standards system. Local authorities were felt to have no means of enforcing lower level sanctions, nor of addressing serious or repeated misconduct. It was therefore recommended local authorities be given the power to suspend elected members without allowances for up to six months. Those suspended would be able to appeal to the Local Government Ombudsman.
 - ix. The current criminal offences relating to disclosable pecuniary offences were felt to be disproportionate in principle and ineffective in practice, and were recommended to be abolished.
 - x. It was recognised that principal authorities being responsible for investigating breaches of town and parish councillor conduct could cause a disproportionate burden. It was recommended town and parish councils should be required to adopt the code of their principle authority (or the new model code) and that a decision from the principal authority should be binding.
 - xi. Increased commercial and partnership working by local authorities increased complexity and steps need to be taken to prevent and manage any potential conflicts of interests, for instance where an elected member sits on a separate governance body.
 - xii. Political groups should require their members to attend Code of Conduct training
10. The full list of recommendations is at pages 14-17 of the Committee on Standards in Public Life report. Some of the changes requested as a result of the review would require the introduction of primary legislation which would be subject to parliamentary timetabling. Others would require changes to secondary legislation and the Local Government Transparency Code, which the review stated could be implemented more quickly.
11. Many of these changes, if agreed by central government, would take significant time before they come into effect. Alongside legislative changes, however, the review identified what it considered to be best practice recommendations, which it stated,

'should be considered a benchmark of good ethical practice, which we expect that all local authorities can and should implement'.

12. The best practice recommendations are as listed below:

- i. 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.
- ii. 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.
- iii. 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.
- iv. 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.
- v. Local authorities should update their gifts and hospitality register at least once per quarter, and publish it in an accessible format, such as CSV.
- vi. Councils should publish a clear and straightforward public interest test against which allegations are filtered.
- vii. Local authorities should have access to at least two Independent Persons.
- viii. 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.
- ix. 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.
- x. 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.

- xi. 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.
 - xii. 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.
 - xiii. 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.
 - xiv. 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.
 - xv. Senior officers should meet regularly with political group leaders or group whips to discuss standards issues.
13. The Committee is therefore asked to consider the report of the Committee on Standards in Public Life, and in particular the best practice recommendations, to direct how the Council can improve its processes to uphold and maintain high standards of conduct.

Safeguarding Implications

14. There are no safeguarding issues arising from this report.

Equalities Impact of the Proposal

15. There are no equalities impacts arising from this report.

Risk Assessment

16. There are no significant risks arising from this report

Financial Implications

17. There are no financial implications arising from this report.

Legal Implications

18. There are no legal implications arising from this report

Public Health Impact of the Proposals

19. There are no public health impacts arising from this report.

Environmental Impact of the Proposals

20. There are no environmental impacts arising from this report.

Proposal

21. **For the Committee to make such recommendations as it feels appropriate to the report and recommendations of the Committee on Standards in Public Life, in particular regarding the best practice recommendations.**

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Unpublished reports relied upon in the preparation of this report: None

Appendices

- Appendix 1 – Minute extract of the Standards Committee held on 18 April 2018.
Appendix 2 – Response of Wiltshire Council to the consultation on Local Government Ethical Standards
Appendix 3 – Report of the Committee on Standards in Public Life

Background Papers

None