



## Standards Committee

4 July 2022

<b>Report Title:</b>	<b>Government Response to Committee on Standards in Public Life Review of Local Government Ethical Standards</b>
<b>Cabinet Portfolio</b>	Finance and Governance
<b>Cabinet Member</b>	Councillor Martin Bond
<b>Exempt Report</b>	No
<b>Reason for Exemption</b>	N/A
<b>Key Decision</b>	No
<b>Public Notice issued</b>	N/A
<b>Wards Affected</b>	All
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<b>Borough priorities</b>	Ensure children and young people have a positive start in life	
	Promote good health, independence, and care across our communities	
	Create safe and strong communities and neighbourhoods for all	
	Support a strong, thriving, inclusive and well-connected local economy	
	Create green and vibrant places that reflect our heritage and culture	
	Be a responsible Council	X

## 1. Summary

- 1.1 To report the Government's response to the Committee on Standards in Public Life Review of Local Government Ethical Standards.

## 2. Recommendations for Decision

**The Committee is recommended to note the report.**

## 3. Purpose of this Report

- 3.1 To inform the Committee of the Government's response to the Committee on Standards in Public Life Review Report.

## 4. Background /Reasons for the recommendations

- 4.1 The Committee on Standards in Public Life ("CSPL") advises the Prime Minister on ethical standards across the whole of public life in England. It monitors and reports on issues relating to the standards of conduct of all public office holders. CSPL is an independent advisory non-departmental public body. It is responsible for promoting the Seven Principles of Public Life.
- 4.2 In January 2019, the CSPL published a report following its review of Local Government Ethical Standards. The report made recommendations to central government for consideration to strengthen the current standards and conduct framework, some of which would require changes to legislation. The report also made best practice recommendations for local authorities to consider in relation to their local standards arrangements for elected members.
- 4.3 Standards Committee considered the CSPL review report at its meeting on 2 April 2019. The Committee was advised that a further report would be submitted when the government's response is received in due course.
- 4.4 On 18 March 2022, the Government published its response to the CSPL report, which is attached at Appendix 2. The Government response is to the CSPL's individual recommendations that were directed at the Government. This is the first opportunity for the Committee to consider the response since the publication of the Government's response.

## 5. **Current Standards regime**

- 5.1 Upon taking office in 2010, the Government signalled its intention to dismantle the Standards regime which had operated since 2001 and replace it with a lighter touch process coupled with new criminal offences in relation to pecuniary interests.
- 5.2 Members will recall the Localism Act 2011 implemented a new process and abolished the previous national body, Standards Board for England. The remaining elements of the previous Standards regime were revoked in July 2012.
- 5.3 Local authorities are under the following duties:
- (i) Duty to promote and maintain high standards of conduct by elected and co-opted members
  - (ii) Duty to adopt a Code of Conduct based on Lord Nolan's Principles of Public Life
  - (iii) Duty for the local authority to require registration and for members to register and disclose pecuniary interests and such other interests as the local authority may determine
  - (iv) Duty to have arrangements in place to investigate allegations and to reach decisions in relation to allegations
  - (v) Duty to appoint at least two Independent Persons whose views must be sought before a decision is reached regarding an allegation of breach of the code.

## 6. **The CSPL Review**

- 6.1 However, concerns were raised by the CSPL in various reports, following the implementation of the Localism Act 2011, as to whether the sanctions for breach of standards were adequate and that it would therefore be monitoring the implementation of the new local government standards regime.
- 6.2 In 2018, the CSPL undertook a review with the following terms of reference:
- i. Examine the structures, processes and practices in local government in England for:
    - Maintaining codes of conduct for local councillors
    - Investigating alleged breaches fairly and with due process
    - Enforcing codes and imposing sanctions for misconduct
    - Declaring interests and managing conflicts of interest
    - 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.
- 6.3 The Review considered all levels of local government in England, including town and parish councils and principal authorities. They did not take evidence in relation to combined authorities (including Metro Mayors) and the Greater London Authority (including the Mayor of London).

## 7. CSPL Recommendations

- 7.1 Their report runs to over 100 pages and the list of recommendations is set out in the table at Appendix 1. They indicate the relevant responsible body to consider their recommendations, namely either the Local Government Association (“LGA,”) the Government, all local authorities, Parish Councils or Political Groups/National political parties.
- 7.2 Members may recall that the vast majority of the recommendations identify the government as the responsible body for implementing the recommendations. Some of the recommendations such as changes to sanctions for breaches of the Code, require amendments to primary legislation, which would be subject to Parliamentary timetabling.
- 7.3 In addition to the above recommendations, the Review identified a list of best practice recommendations for local authorities to consider to improve ethical standards. Some of the best practice areas are already in operation within the Council. A number of the best practice areas were useful to inform a review of the Council’s Code of Conduct for Elected & Co-Opted Members. The Council subsequently adopted the best practice recommendations as part of the Code of Conduct for Members in force at that time.
- 7.4 The CSPL undertook in their report to follow up and review the implementation of the best practice with local authorities in 2020. They contacted all local authority Chief Executives requesting a response by 30 November 2020 on the Council’s progress with a view to responses being published on the CSPL website. The Committee undertook a review of progress made in relation to the best practice recommendations at its meeting on 19 October 2020 prior to reporting back to CSPL with a position statement.
- 7.4 Members will also recall it was recommended that the LGA should create an updated model code of conduct, which was published in 2021. The Council adopted the LGA’s model Code of Conduct in July 2021.

## 8. The Government’s Response

- 8.1 In summary, the Government’s response states:

*(Numbering refers to the CSPL’s recommendation numbers)*

<b>Recommendation Number</b>	<b>Summary of Government Response</b>
1	The recommendation for a model Code of Conduct has been actioned and published by the LGA.
2	The government agrees with the principle not to require public disclosure of home addresses for candidates and councillors and will engage with interested parties to ensure such disclosure is not required (whilst noting that it is important to register internally with Monitoring Officers in accordance with the Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012.
3	Creating a presumption that a councillor is acting in an official capacity including on publicly accessible social media should be dealt with by use

	of the code of conduct recognising the boundary between public and private life. There should not be an amendment to section 27(2) of the Localism Act 2011.
4	Whilst keeping under review, the government has no immediate plans to legislate for the code of conduct to apply when a councillor claims to act or gives the impression as acting in their capacity (note this is in the LGA's model code).
5	Whilst keeping under review, the government has no immediate plans to amend the Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012 to include other interests not currently specified.
6	It is for local authorities to set gifts and hospitality registration requirements. The government sees merit in best practice guidance and agrees that the register should be publicly available.
7	Whilst keeping under review, the government has no immediate plans to repeal section 31 of the Localism Act in respect of participating in discussion or voting at a meeting where an interest, whether registered or not, exists and the interest is reasonably regarded as significant.
8	The government does not accept that Independent Persons appointed to deal with standards/code of conduct complaints should be appointed for a fixed term of two years, renewable once, on the basis it would be unworkable.
9	The government does not agree that the Local Government Transparency Code should include decisions of the Independent Person. It does accept there is merit to the substantive policy suggestion but cautions it depends on the circumstances.
10	<p>13. 14. 16. These recommendations were taken all together and covered sanctions, power to establish decision making standards committees, right of appeal to the Local Government Ombudsman and its power to investigate, together with 6-month suspension powers.</p> <p>The government affirmed that the lack of suspension sanction was a deliberate policy decision by the coalition government at the time of the Localism Act, stating that the former Standards Board had a 'chilling effect on free speech' and that it would be 'undesirable to have a government quango to police the free speech of councillors'.</p> <p>The government's position is that councillors are 'ultimately held to account via the ballot box' and that the government has already recommended that every political party 'establish their own code of conduct for party members including elected representatives'.</p> <p>However, the government will engage with sector representatives 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	The government agrees in principle to the provision of legal indemnity to an Independent Person if their views or advice are disclosed but does not see the need to legislate for this, rather endorsing local authorities who already provide it.
12	The government does not believe that there is a requirement to prescribe to local authorities the form and content of Standard Committee annual reports which are better addressed through the sector adopting as best practice a regular pattern of annual reporting by Standards Committees.
13	The government will consider further, barring councillors from council premises but notes these are thought to be extremely rare occasions.
14	The government does not agree that criminal offences in the Localism Act 2011 relating to Disclosable Pecuniary Interests should be abolished.
15	The government does not agree it is necessary to amend s27(3) of the Localism Act 2011 to state that parish councils must adopt the code of conduct of their principal authority, but acknowledges there is merit in achieving consistency whilst noting instances to reflect local circumstances might be different.
16	The government agrees in principle to amend The Local Authorities (Standing Orders) (England) (Amendment) Regulations 2015 to extend disciplinary protections for statutory officers to all disciplinary actions (not just dismissal) and will engage sector representatives of all tiers to seek views on the amendments.
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18	The government recommends that local authorities publish their whistleblowing policies and named contact as best practice and the DLUHC will work with local government to advance transparency in the sector and support local government to solidify transparent policies whilst encourage proactive publication of open data.
19	<p>The government is open to further representations on how local accountability can be strengthened and recognises that councillors being listed as prescribed persons for the purposes of the Public Interest Disclosure Act 1998 provides a further check and balance against corruption.</p> <p>The recommendation in relation to "Parish council clerks should hold an appropriate qualification, such as those provided by the Society of Local Council Clerks" was not responded to.</p>

8.2 Members will note that the Government has rejected most of the recommendations. However, the Government has committed to engage with sector representatives 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.

8.3 In their response, the Government recognises that reform is needed and pledges toward full statutory protection to protect statutory officers from undue influence as they go about their work. It refers to stronger protection for Monitoring Officers is needed as the conduct of major investigations may expose Monitoring Officers to the risks of disciplinary steps to bring pressures upon them. This will require amendments to the relevant statutory provisions for the current Designated Statutory Officers Disciplinary Procedure.

## **9. Consideration of Alternatives**

9.1 None.

## **10. Conclusions**

10.1 To note the Government's response.

## **11. Legal Implications**

11.1 None

## **12. Community Impact Assessment (CIA) Implications**

12.1 None.

## **13. Social Value**

13.1 None.

## **14. Sustainability and Environment**

14.1 None.

## **15. Health and Wellbeing**

15.1 None.

## **16. Equality and Human Rights**

16.1 None.

## **17. Customer and Resident**

17.1 None.

## **18. Asset and Property**

18.1 None.

**19. Staffing and Human Resources**

19.1 None.

**20. Risks**

20.1 None.

**21. Finance**

21.1 None.

**22. Policy Framework Implications**

22.1 None.

**23. Impact and Opportunities on Localities**

23.1 None.

**24. Background Documents**

24.1 Committee on Standards in Public Life Review of Local Government Ethical Standards: 30 January 2019

24.2 Standards Committee Reports: 2 April 2019 & 19 October 2020

**25. Appendices**

Appendix 1: Table of CSPL Recommendations: 30 January 2019

Appendix 2: Government Response to CSPL Review of Local Government Ethical Standards