

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

1. Purpose

To inform the Committee of the findings in the report of the Committee on Standards in Public Life (“CSPL”) following its review of local government ethical standards.

2. Background

2.1 At the last Standards Committee on 14 January 2019, members were provided with an update on the progress of the CSPL review and informed the outcome and recommendations would be reported to Standards Committee in due course.

2.2 The CSPL issued its report on 30 January 2019, which was shared with all members by an email from the Monitoring Officer on the same date. The report was also shared with Parish Council clerks for information. A copy of the CSPL report is attached at Appendix 1.

2.3 The 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.

3. Current Standards regime

3.1 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.

3.2 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.

3.3 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

4. The CSPL Review

4.1 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.

4.2 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.

4.3 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).

5. CSPL Recommendations

5.1 Their report runs to over 100 pages and the list of recommendations is as follows:

No.	Recommendation	Responsible Body
1	The Local Government Association should create an updated model code of conduct, in consultation with representative bodies of councillors and officers of all tiers of local government.	Local Government Association
2	The government should ensure that candidates standing for or accepting public offices are not required publicly to disclose their home address. The Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012 should be amended to clarify that a councillor does not need to register their home address	Government

	on an authority's register of interests.	
3	Councillors should be presumed to be acting in an official capacity in their public conduct, including statements on publicly-accessible social media. Section 27(2) of the Localism Act 2011 should be amended to permit local authorities to presume so when deciding upon code of conduct breaches.	Government
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.	Government
5	The Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012 should be amended to include: unpaid directorships; trusteeships; management roles in a charity or a body of a public nature; and membership of any organisations that seek to influence opinion or public policy.	Government
6	Local authorities should be required to establish a register of gifts and hospitality, with councillors required to record any gifts and hospitality received over a value of £50, or totalling £100 over a year from a single source. This requirement should be included in an updated model code of conduct.	Government
7	Section 31 of the Localism Act 2011 should be repealed, and replaced with a requirement that councils include in their code of conduct that a councillor must not participate in a discussion or vote in a matter to be considered at a meeting if they have any interest, whether registered or not, "if a member of the public, with knowledge of the relevant facts, would reasonably regard the interest as so significant that it is likely to prejudice your consideration or decision-making in relation to that matter".	Government
8	The Localism Act 2011 should be amended to require that Independent Persons are appointed for a fixed term of two years, renewable once.	Government
9	The Local Government Transparency Code should be updated to provide that the view of the Independent Person in relation to a decision on which they are consulted should be formally recorded in any decision notice or minutes.	Government
10	A local authority should only be able to suspend a councillor where the authority's Independent Person agrees both with the finding of a breach and that suspending the councillor would be a proportionate	Government

	sanction.	
11	Local authorities should provide legal indemnity to Independent Persons if their views or advice are disclosed. The government should require this through secondary legislation if needed.	Government/All local authorities
12	Local authorities should be given the discretionary power to establish a decision-making standards committee with voting independent members and voting members from dependent parishes, to decide on allegations and impose sanctions.	Government
13	Councillors should be given the right to appeal to the Local Government Ombudsman if their local authority imposes a period of suspension for breaching the code of conduct.	Government
14	The Local Government Ombudsman should be given the power to investigate and decide upon an allegation of a code of conduct breach by a councillor, and the appropriate sanction, on appeal by a councillor who has had a suspension imposed. The Ombudsman's decision should be binding on the local authority.	Government
15	The Local Government Transparency Code should be updated to require councils to publish annually: the number of code of conduct complaints they receive; what the complaints broadly relate to (e.g. bullying; conflict of interest); the outcome of those complaints, including if they are rejected as trivial or vexatious; and any sanctions applied.	Government
16	Local authorities should be given the power to suspend councillors, without allowances, for up to six months.	Government
17	The government should clarify if councils may lawfully bar councillors from council premises or withdraw facilities as sanctions. These powers should be put beyond doubt in legislation if necessary.	Government
18	The criminal offences in the Localism Act 2011 relating to Disclosable Pecuniary Interests should be abolished.	Government
19	Parish council clerks should hold an appropriate qualification, such as those provided by the Society of Local Council Clerks.	Parish Councils
20	Section 27(3) of the Localism Act 2011 should be amended to state that parish councils must adopt the code of conduct of their principal authority, with the necessary amendments, or the new model code.	Government
21	Section 28(11) of the Localism Act 2011 should be	Government

	amended to state that any sanction imposed on a parish councillor following the finding of a breach is to be determined by the relevant principal authority.	
22	The Local Authorities (Standing Orders) (England) (Amendment) Regulations 2015 should be amended to provide that disciplinary protections for statutory officers extend to all disciplinary action, not just dismissal.	Government
23	The Local Government Transparency Code should be updated to provide that local authorities must ensure that their whistleblowing policy specifies a named contact for the external auditor alongside their contact details, which should be available on the authority's website.	Government
24	Councillors should be listed as 'prescribed persons' for the purposes of the Public Interest Disclosure Act 1998.	Government
25	Councillors should be required to attend formal induction training by their political groups. National parties should add such a requirement to their model group rules.	Political Groups National political parties
26	Local Government Association corporate peer reviews should also include consideration of a local authority's processes for maintaining ethical standards.	Local Government Association

5.2 Members will note that the vast majority of the recommendations identify the government as the responsible body for implementing the recommendations. A further report will be submitted to the Committee when the government's response is received in due course.

5.3 Members will also see it is recommended that the Local Government Association should create an updated model code of conduct. Should such a model code be produced, it will be presented to members for consideration in due course. 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.

6. Best Practice Recommendations

6.1 In addition to the above recommendations, the Review identified a list of best practice recommendations for local authorities to consider to improve ethical standards. The CSPL indicate they will review the implementation of their best practice in 2020.

6.2 A number of the best practice areas have been useful to inform a review of the Council's existing Code of Conduct for Elected & Co-Opted Members, which is covered in a separate report to this Committee.

6.3 **Best Practice 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 concerned by such a definition.

The Council's existing Code of Conduct, which was adopted in 2012, does not include such provisions. Any complaints about allegations of this nature would be considered under the general obligations in the existing Code requiring members to treat others with respect and not to conduct themselves in a manner which is contrary to the Council's duty to promote and maintain high standards of conduct of members. In order to address this best practice recommendation, proposed amendments to the Council's Code of Conduct are recommended in a separate report to this Committee.

- 6.4 **Best practice 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.

The Council's existing Code of Conduct does not include express provisions relating to compliance with investigations. Whilst this is regarded to be reasonably implied from other obligations in the Code, for clarity, an express obligation has been included as a proposed amendment to the Code.

- 6.5 **Best practice 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.

The register is regularly updated and is available for public inspection. However, it is not currently published on the Council's website. In order to comply with this best practice, it is recommended to publish the Register of Gifts & Hospitality on the Council's website under the Members' Register of Interests.

- 6.6 **Best practice 6:** Councils should publish a clear and straightforward public interest test against which allegations are filtered.

The Council approved local assessment criteria relating to a breach of the Code set out in the Procedure for Handling Complaints, which the Monitoring Officer utilises when assessing initial complaints. The Procedure was last updated and approved by Standards Committee in July 2016. It is not currently published. It is therefore recommended to publish the Procedure for Handling Complaints on the Council's website under the Standards section.

- 6.7 **Best practice 11:** 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.

This does not form part of the Council's existing Code of conduct, which has been adopted by the majority of the parish councils in the borough. The intention is to inform the parish councils of this recommendation and leave it to their discretion whether they wish to introduce this best practice recommendation.

- 6.8 **Best practice 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.

Whilst the Council does not have any wholly owned companies, it is a member of a joint venture company, Parkside LLP. It is considered that the minutes of the company board meetings contain commercially sensitive information which should not be subject to routine publication. Further consideration of this issue will take place in preparation of the Council's annual governance statement.

- 6.9 Some of the best practice areas are already in operation within the Council. For example, the Code of Conduct is published on the Council's website. Council has access to 3 appointed Independent Persons who are consulted in accordance with the requirements of the Council's Procedure for Handling Complaints. Part of the support given to parish councils by the Monitoring Officer includes advice, support and management of investigations on alleged breaches of their Code.

7. Recommendation

7.1 The Committee is asked to:-

- (a) note the report and the contents of the CSPL Review; and
- (b) endorse the actions contained within section 6 in relation to best practice recommendations in order to strengthen and clarify the Council's existing Code of Conduct for Members & Co-opted Members.

Appendix 1 – Committee on Standards in Public Life Report – Review of Local Government Ethical Standards

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