

Standards Committee

4 March 2019

Part I

Local Government Ethical Standards

Report by Director of Law and Assurance

Executive Summary

In 2018 the Committee issued a response to a consultation from the Committee for Standards in Public Life on its review of Local Government Ethical Standards. The Committee for Standards in Public Life has now issued its report to the Government for consideration. This report summarises the recommendations.

Recommendation

To note the report and to consider whether any best practice recommended by the Committee on Standards in Public Life should be adopted by the County Council.

1. Background

- 1.1 Local authority members act as community champions and leaders, who, by the use of locally raised taxes and other public funds, take decisions that affect the lives of local people. The electorate expect high standards from local authority members because of these crucial roles.
- 1.2 The Committee for Standards in Public Life announced in January 2018 that it was to undertake a review of Local Government Ethical Standards. The County Council submitted a response to the call for evidence, which was approved by the Standards Committee on 12 March 2018.
- 1.2 The Localism Act 2011 made significant changes to the Standards regime in Local Government. It abolished the national Standards Board, abolished the national code of conduct and instead gave local authorities a duty to adopt a code of its own choosing. A compulsory element was introduced through legislation that defined a certain range of pecuniary interests and making a failure to disclose these within 28 days a criminal offence.
- 1.3 Following the flexibilities introduced by the Localism Act 2011, the County Council has maintained a comprehensive Code of Conduct with the aim to uphold the highest standards of conduct.

2. Proposal

- 2.1 The full report from the Committee for Standards in Public Life sets out the scope of the consultation and notes wide variations in standards regimes in

different local authorities. The Executive Summary, recommendations and recommended best practice are included in Appendix 1.

- 2.2 The 26 recommendations are made to the Government to make changes in law to the local government standards regime and will be for the Government to consider. The main recommendations are:
- The LGA should create an updated model Code of Conduct while local authorities retain ownership of their own Codes of Conduct.
 - a new power for local authorities to suspend councillors for up to six months but with a right of appeal to the Ombudsman; the power could only be used with the agreement of the Independent Person.
 - revised rules on declaring interests, gifts and hospitality;
 - a presumption that councillors are acting in an official capacity in their public conduct, including on social media.
 - greater transparency about the number and nature of Code complaints.
 - Independent persons having an enhanced role, specifically their agreement being required if a sanction of suspension is proposed
 - Councillors being required to attend formal induction training.
 - Councillors not being required to publish their home addresses in the register of interests.
- 2.3 The recommended best practice is a set of guidance that local authorities can adopt now within existing powers. The County Council is fully compliant with Best practice 4, 5, 6, 7, 8, 10, 13 and 15. It is partially compliant with Best Practice 1, 2, 3, 9 and 14. Best practice 11 and 12 are not applicable. The areas where the County Council is not fully compliant are set out below:

| Best Practice Number | Suggestion | Council's current position |
|-----------------------------|---|--|
| 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. | The County Council does include prohibitions on bullying and harassment in its code of conduct, but does not include a definition or examples. A definition could give clarity and consistency but may also limit flexibility. |
| 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 County Council does not include any formal provision to require councillors to comply with any formal standards investigation, although this is certainly expected. The Monitoring Officer and Assessment Sub-Committee do consider whether any complaint should be deemed trivial or malicious. |
| 3 | Principal authorities should review their code of conduct each year and regularly seek, where | The County Council has modelled its code as far as possible on the old national |

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| | possible, the views of the public, community organisations and neighbouring authorities. | code. It was reviewed before the election in 2017 and was then reviewed as part of the review of the Constitution in 2018, when minor revisions were made. The expectation is that a review is made ahead of elections every four years, but this has not included seeking the views of the public, community organisations and neighbouring authorities to date. |
| 9 | 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. | A public notice is only issued when this is agreed by the Hearing Sub-Committee, depending upon the facts of the individual case. A summary of all cases is, however, included in the annual report. |
| 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. | The County Council does not automatically report on separate bodies as part of the Annual Governance Statement. It does expect the Nolan principle of openness to be adhered to and papers to be published. In the case of WSCC these will be joint committees with other authorities. |

- 2.4 The County's response to the consultation in 2018 highlighted the strong approach to high standards followed by the County Council. It highlighted that more uniformity in codes of conduct could be welcomed because of the different tiers of local government. It highlighted the need for members to be trained in good standards, particularly when using social media. The limited nature of sanctions in the current regime was also noted with a recommendation that the suspension of members should be restored as a sanction option.
- 2.5 The recommendations in the report are broadly in line with what the Standards Committee set out in its response to the consultation. The Committee's view is sought on whether the Monitoring Officer should seek to implement any further best practice, through any further aspect of Best Practice 1, 2, 3, 9 and 14 as detailed above.

3. **Resource Implications and Value for Money**

3.1 None arise in relation to this report.

4. **Risk Management Implications**

4.1 None arise.

5. **Other Considerations – Equality – Crime Reduction – Human Rights**

5.1 A strong Code of Conduct and a commitment to high standards helps to ensure that equality duties are respected by both members and officers.

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Appendices

1. Executive Summary, Recommendations and Best Practice from the Committee for Standards in Public Life's report.

Background Papers

None