



REPORT OF:	The Monitoring Officer
TO:	Standards Committee
DATE:	27th June 2018

SUBJECT: Local Government Ethical Standards Consultation

1. PURPOSE OF THE REPORT

To update Members on the response provided to 'The Committee on Standards in Public Life' national consultation and review of local government ethical standards.

2. RECOMMENDATIONS

The Committee is asked to note the report.

3. BACKGROUND

The Committee on Standards in Public Life is undertaking a review of local government ethical standards.

As part of this review they have conducted consultation between 29th January 2018 and 18th May 2018

The terms of reference for the review were:

1. *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; and*
 - e. *Whistleblowing.*
2. *Assess whether the existing structures, processes and practices are conducive to high standards of conduct in local government;*
3. *Make any recommendations for how they can be improved; and*
4. *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.*

The review will consider all levels of local government in England, including town and parish councils, principal authorities, combined authorities (including Metro Mayors) and the Greater London Authority (including the Mayor of London).

Local government ethical standards are a devolved issue.

Submissions will be published online alongside the Committee's final report, with any contact information (for example, email addresses) removed.

Consultation questions

The Committee invited responses to the following consultation questions. The response sent on behalf of the Chair and Monitoring Officer is then set out in italics:

- a. Are the existing structures, processes and practices in place working to ensure high standards of conduct by local councillors? If not, please say why. – *Generally, the current Standards arrangements are working in maintaining high standards. The level and of complaints is low in comparison to other Councils.*
- b. What, if any, are the most significant gaps in the current ethical standards regime for local government? - *Fortunately, the Council has not received a complaint of a serious nature but if such a complaint was found to be substantiated there are no effective sanctions that the Council could impose which reflects the severity of serious misconduct.*

Codes of conduct

- c. Are local authority adopted codes of conduct for councillors clear and easily understood? Do the codes cover an appropriate range of behaviours? What examples of good practice, including induction processes, exist? – *The Council adopted the Code prepared in conjunction with AGMA authorities and has made minor amendments over years. The Code covers the General Principles of Conduct for Members reflecting the 'Nolan' principles and sets out a range of obligations that members must comply with. The Code also describes Disclosable Pecuniary Interests and Other Interests (Non - pecuniary) and the actions that must be taken by members in situations where those interests apply.*
- d. A local authority has a statutory duty to ensure that its adopted code of conduct for councillors is consistent with the Seven Principles of Public Life and that it includes appropriate provision (as decided by the local authority) for registering and declaring councillors' interests. Are these requirements appropriate as they stand? If not, please say why. - *Yes, please refer to (c) above.*

Investigations and decisions on allegations

- e. Are allegations of councillor misconduct investigated and decided fairly and with due process? - *Yes*
- i. What processes do local authorities have in place for investigating and deciding upon allegations? Do these processes meet requirements for due process? Should any additional safeguards be put in place to ensure due process? – *The Council's Standards arrangements include a process for investigation complaints which is published and reflected in the Council's constitution. The process includes guidance on how complaints can be made, the initial assessment of a complaint with the Independent Person, the investigation process, the Hearings Panel and a process for the panel considering the complaint following investigation.*

- ii. Is the current requirement that the views of an Independent Person must be sought and taken into account before deciding on an allegation sufficient to ensure the objectivity and fairness of the decision process? Should this requirement be strengthened? If so, how? – *The Monitoring Officer determines the allegation but consults the Independent Person at the initial assessment stage. This arrangement has worked in ensuring objectivity and fairness in assessing the allegations.*
- iii. Monitoring Officers are often involved in the process of investigating and deciding upon code breaches. Could Monitoring Officers be subject to conflicts of interest or undue pressure when doing so? How could Monitoring Officers be protected from this risk? *This has not been an issue for the Council as the role of Monitoring Officer is respected. Equally the role of the Monitoring officer is to apply the previously agreed procedures set against the Code of Conduct. It follows that in determining the approach the Monitoring Officer is seen to operate the previously agreed processes and procedures. Not only that they are doing so with a view from an Independent Person. In the case of a matter ultimately presented to a Hearings Panel, the Panel will of course also take a view of the initial assessment by the Monitoring Officer in consultation with the Independent Person.*

Sanctions

- f. Are existing sanctions for councillor misconduct sufficient? *Not for serious misconduct*
- i. What sanctions do local authorities use when councillors are found to have breached the code of conduct? Are these sanctions sufficient to deter breaches and, where relevant, to enforce compliance? - *The available sanctions are listed in the arrangements, and include publishing the findings, reporting to Council, placing restrictions on access to staff, withdrawing facilities, and making a range of recommendations to Council, Group Leaders, Monitoring Officer such as removing the subject member from committees, outside bodies and arranging relevant training.*
- ii. Should local authorities be given the ability to use additional sanctions? If so, what should these be? – *Yes, the Hearings Panel in consultation with the Independent Person should be provided with powers to impose the sanctions directly rather than making recommendations. Also, in cases of serious misconduct the range of sanctions available may be not be sufficient and additional sanctions may be needed, such as suspension with loss of allowances for pre-determined periods.*

Declaring interests and conflicts of interest

- g. Are existing arrangements to declare councillors' interests and manage conflicts of interest satisfactory? If not please say why.
- i. A local councillor is under a legal duty to register any pecuniary interests (or those of their spouse or partner), and cannot participate in discussion or votes that engage a disclosable pecuniary interest, nor take any further steps in relation to that matter, although local authorities can grant dispensations under certain circumstances. Are these statutory duties appropriate as they stand? - *Yes, but range could be extended to cover other family members and close associates.*
- ii. What arrangements do local authorities have in place to declare councillors' interests, and manage conflicts of interest that go beyond the statutory requirements?

Are these satisfactory? If not, please say why. - *The Council's Code provided for declaring 'other interests' in order manage any potential conflict of interest. Members are encouraged to seek legal advice in situation where they may have a conflict of interest (e.g. twin-hatted councillors, and councillors appointed to outside bodies).*

Whistleblowing

h. What arrangements are in place for whistleblowing, by the public, councillors, and officials? Are these satisfactory? *The Council has a well-publicised and available whistleblowing policy.*

Improving standards

i. What steps could *local authorities* take to improve local government ethical standards? – *have mandatory training on the code and ethical standards for all elected councillors on an annual basis.*

j. What steps could *central government* take to improve local government ethical standards?

- *Through legislation provide additional sanctions to LAs for cases of serious misconduct.*

- *Through legislation provide for mandatory Standard Committees with an independent chair and composition which requires independent members with voting rights.*

Intimidation of local councillors

k. What is the nature, scale, and extent of intimidation towards local councillors?

i. What measures could be put in place to prevent and address this intimidation?
We have not experienced any significant intimidation.

4. RATIONALE

As there was no meeting of the Standards Committee prior to the closure of the consultation the Chair and Monitoring Officer provided some views for consideration of the Committee on Standards in Public Life and these are set out in this report.

5. LEGAL IMPLICATIONS

The statutory provisions for the Standards Framework are set out in the Localism Act 2011. The Committee for Standards in Public Life may make recommendations for changes to the current arrangements which are intended to assure robust standards to safeguard local democracy, maintain high standards of conduct, and to protect ethical practice in local government.

6. POLICY IMPLICATIONS

A governance framework in local authorities is necessary to promote and maintain high ethical standards, and to ensure public confidence.

7. FINANCIAL IMPLICATIONS

None contained in this report.

8. CONSULTATIONS

This report outlines the Chair and Monitoring Officer response to a national consultation conducted by the Committee for Standards in Public Life. This consultation was open for any person to respond to.

Chief Officer/Member

Contact Officer: David Fairclough

Date: 1st June 2018

Background Papers:

The Localism Act 2011

Consultation Review of Local Government Ethical Standards 2018