

06 March 2018

Report of	Monitoring Officer	Author	Andrew Weavers
			 282213
Title	Committee on Standards in Public Life Consultation on Local Government Ethical Standards		
Wards affected	N/A		

1. Executive Summary

- 1.1 The purpose of this report is to inform the Committee of a stakeholder consultation being undertaken by the Committee on Standards in Public Life in relation to Local Government Ethical Standards.
- 1.2 The conduct of Members is within the terms of the reference of the Governance and Audit Committee and it is appropriate for the Committee to consider and respond to this consultation paper. The closing date for responses is 18 May 2018.

2. Recommended Decision

- 2.1 To consider the consultation questions contained in the paper and to delegate authority to the Chairman in consultation with the Group Spokespersons to agree the Council's response.

3. Reasons for Recommended Decision

- 3.1 To inform the Committee on Standards in Public Life of the Council's views on the questions posed in their consultation paper.

5. Background Information

- 5.1 The Localism Act 2011 introduced the current Member conduct regime which came into effect on 1 July 2012. This replaced the previous regime which had been introduced by the Local Government 2000. The current regime was intended to introduce a more streamlined, responsive and less restrictive process.
- 5.2 The Committee on Standards in Public Life is undertaking a review of local government ethical standards and its terms of reference are detailed in their stakeholder consultation paper which is attached to this report at Appendix 1. The Committee on Standards in Public Life is undertaking a stakeholder consultation and it has asked a series of questions (a) – (k) which are contained in the paper.
- 5.3 The Committee is invited to comment on the questions posed and for the Council's response to be delegated to the Chairman in consultation with the Group Spokespersons. The closing date for responses is 18 May 2018.
- 5.4 The main headings in the consultation are:

Codes of conduct

The current regime requires that local authorities have a code of conduct based on the 7 Nolan Principles but broadly local authorities have discretion as to its contents. We adopted the Public Law Partnership version which has been adopted by most authorities in Essex. The previous regime specified a standard code of conduct applicable to all authorities.

Investigations and decisions on allegations

The Council has adopted “Arrangements” for dealing with investigations and decision on allegations. The Monitoring Officer deals with these in consultation with one of the Council’s Independent Persons. Under the previous regime the Council was required to appoint Independent Members who were in the majority (and chaired) the Standards Committee and its sub-committees. All allegations were referred to a sub-committee of the Standards Committee which did make the process bureaucratic.

Sanctions

Under the previous regime the Standards Committee could impose a range of binding sanctions which included suspension of a Member up to a maximum period of 3 months. The current regime does not include any binding sanctions and any recommendations made are required to be agreed by Full Council (or a Parish Council). The current sanctions are perceived by complainants to be weak.

Declaring interests and conflicts of interest

The Localism Act introduced a new interest’s regime which seems to be working well from our experience and is understood.

Whistleblowing

We have an established whistleblowing policy and process which is annually reviewed by the Committee.

Improving standards

The Committee is asking what steps both local authorities and central government could take to improve ethical standards.

Intimidation of local councillors

The Committee is enquiring about the nature, scale and extent of intimidation towards local councillors and what measures could be put in place to prevent and address this?

- 5.3 It would be possible to undertake an electronic survey of all councillors regarding the consultation questions and then compile these for the Chairman in consultation with the Group Spokespersons to agree as the basis of the Council’s response to the consultation paper.

6. Standard References

- 6.1 There are no particular references to the Strategic Plan; publicity or consultation considerations; or financial; equality, diversity and human rights; community safety; health and safety or risk management implications.

Appendix 1

Review of Local Government Ethical Standards: Stakeholder Consultation

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

Robust standards arrangements are needed to safeguard local democracy, maintain high standards of conduct, and to protect ethical practice in local government.

As part of this review, the Committee is holding a public stakeholder consultation. The consultation is open from 12:00 on Monday 29 January 2018 and closes at 17:00 on Friday 18 May 2018.

Terms of reference

The terms of reference for the review are to:

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. The Committee's remit does not enable it to consider ethical standards issues in devolved nations in the UK except with the agreement of the relevant devolved administrations. However, we welcome any evidence relating to local government ethical standards in the devolved nations of the UK, particularly examples of best practice, for comparative purposes.

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

Consultation questions

The Committee invites responses to the following consultation questions.

Please note that not all questions will be relevant to all respondents and that submissions do not need to respond to every question. Respondents may wish to give evidence about only one local authority, several local authorities, or local government in England as a whole. Please do let us know whether your evidence is specific to one particular authority or is a more general comment on local government in England.

Whilst we understand submissions may be grounded in personal experience, please note that the review is not an opportunity to have specific grievances considered.

- 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.
- b. What, if any, are the most significant gaps in the current ethical standards regime for local government?

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?
- 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.

Investigations and decisions on allegations

- e. Are allegations of councillor misconduct investigated and decided fairly and with due process?
 - 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?
 - 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?
 - 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?

Sanctions

- f. Are existing sanctions for councillor misconduct sufficient?
 - 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?
 - ii. Should local authorities be given the ability to use additional sanctions? If so, what should these be?

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?
- 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.

Whistleblowing

- h. What arrangements are in place for whistleblowing, by the public, councillors, and officials? Are these satisfactory?

Improving standards

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

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?

Who can respond?

Anyone with an interest may make a submission. The Committee welcomes submissions from members of the public.

However, the consultation is aimed particularly at the following stakeholders, both individually and corporately:

- Local authorities and standards committees;
- Local authority members (for example, Parish Councillors, District Councillors);
- Local authority officials (for example, Monitoring Officers);
- Think tanks with an interest or expertise in local government;
- Academics with interest or expertise in local government; and
- Representative bodies or groups related to local government.

How to make a submission

Submissions can be sent either in electronic format or in hard copy.

Submissions must:

- State clearly who the submission is from, i.e. whether from yourself or sent on behalf of an organisation;
- Include a brief introduction about yourself/your organisation and your reason for submitting evidence;
- Be in doc, docx, rtf, txt, ooxml or odt format, not PDF;
- Be concise – we recommend no more than 2,000 words in length; and
- Contain a contact email address if you are submitting by email.

Submissions should:

- Have numbered paragraphs; and

- Comprise a single document. If there are any annexes or appendices, these should be included in the same document.

It would be helpful if your submission included any factual information you have to offer from which the Committee might be able to draw conclusions, and any recommendations for action which you would like the Committee to consider.

The Committee may choose not to accept a submission as evidence, or not to publish a submission even if it is accepted as evidence. This may occur where a submission is very long or contains material which is inappropriate.

Submissions sent to the Committee after the deadline of 17:00 on Friday 18 May 2018 may not be considered.

Submissions can be sent:

1. Via email to: public@public-standards.gov.uk
2. Via post to:
Review of Local Government Ethical Standards
Committee on Standards in Public Life
GC:07
1 Horse Guards Road
London
SW1A 2HQ

If you have any questions, please contact the Committee's Secretariat by email (public@public-standards.gov.uk) or phone (0207 271 2948).