

STANDARDS AND ETHICS COMMITTEE - 16/06/22

STANDARDS AND ETHICS COMMITTEE

Thursday 16 June 2022

Present:- Councillor McNeely (in the Chair); Councillors Bacon, Griffin, Hughes, Tarmey, Yasseen and Parish Councillor Buckley and also Mrs. A. Bingham, Mr. P. Edler, Mrs. M. Evers and Mrs. K. Penney (Independent Co-optees).

Mr. P. Beavers, Independent Person, was also present at the invitation of the Chair.

Apologies for absence were received from Councillor Z. Collingham, Mrs. M. Carroll and Mr. R. Swann (Parish Representative) and Mr. D. Roper-Newman (Independent Person).

1. DECLARATIONS OF INTEREST

Parish Councillor Buckley declared a personal interest in Minute No. 6 (Consideration of Complaints) on the grounds of knowing about one of the complaints submitted.

Councillor Yasseen declared a personal interest in Minute No. 6 (Consideration of Complaints) on the grounds of knowing about one of the complaints submitted.

2. EXCLUSION OF PRESS AND PUBLIC

Resolved:- That, under Section 100A(4) of the Local Government Act 1972, the press and public be excluded from the meeting for (Minute Nos. 5 and 6 (Whistleblowing and Complaints)) on the grounds that it involves the likely disclosure of exempt information as defined in Paragraph 1 of Part 1 of Schedule 12A to the Local Government Act 1972.

3. MINUTES OF THE PREVIOUS MEETING HELD ON 10TH MARCH, 2022

Consideration was given to the minutes of the previous meeting held on 10th March, 2022.

The Chair sought an assurance that the definition list for any acronyms be included in future reports.

Resolved:- That the minutes of the previous meeting held on 10th March, 2022 be approved as a true and correct record of the proceedings.

4. COMMITTEE ON STANDARDS IN PUBLIC LIFE - REVIEW OF LOCAL GOVERNMENT ETHICAL STANDARDS - GOVERNMENT RESPONSE

Consideration was given to the report presented by the Service Manager which detailed how during 2018, the Committee on Standards in Public Life undertook a review of Local Government ethical standards.

STANDARDS AND ETHICS COMMITTEE - 16/06/22

This Committee contributed to the consultation which was undertaken in respect of the review. The Committee on Standards in Public Life report was published in January 2019 and reported to this Committee in March 2019 subsequently in terms of implementation of recommendations.

Many of the recommendations within the Committee on Standards in Public Life review in relation to the sanctions available to local authorities for breaches of the Code of Conduct required amendments to legislation and as such were directed to the Government. The Government's response to the report had now been published.

The Committee went on to consider the Government response and each recommendation in turn and whether any amendments to the adopted model Code of Conduct should be recommended to Council; or if there were any further comments on the Government's position. The full response was included as an appendix to the report.

The Committee made the following comments in turn:-

Recommendation 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.

- Complete and adopted.

No further action required.

Recommendation 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 on an authority's register of interests.

- Sensitivity given to any disclosures if concerns were provided in advance of any elections.
- Candidates could opt to be excluded from the edited version of the Register of Electors.

No further action required.

Recommendation 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.

- The difficulty in separating personal and official capacities for those democratically elected.

STANDARDS AND ETHICS COMMITTEE - 16/06/22

- The risks on social media of bringing the office of Councillor into disrepute.
- The wording in the model Code of Conduct was very clear.
- The risk to Elected Members and the potential for being placed in unreasonable situations.
- To strengthen the protection of Councillors.
- Appropriate and inappropriate use of social media.
- Infringement of an Elected Member's right to free speech.

To continue to monitor.

Recommendation 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.

- Welcome the opportunity to keep under review.
- Benefits of social media.
- Ensure appropriate training provided.

No further action required.

Recommendation 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.

- Welcome the decision to keep under review.
- Timely reminders to Elected Members.
- Look to how the register of interests can be better enabled.

To continue to monitor.

Recommendation 6 - Local authorities should be required to establish a register of gifts and hospitality, with councillors required to record 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.

- Uplifting of the amount from £25.00 to £50.00 for the registration of gifts and hospitality.
- Welcome the potential to include a cumulative annual amount.

To be kept under review and for further information to be sought from other Local Authorities.

Recommendation 7 - Section 31 of the Localism Act 2011 should be repealed, and replaced with a requirement that councils include in their

STANDARDS AND ETHICS COMMITTEE - 16/06/22

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 the matter”.

- Welcome this matter being under review given there are no immediate plans to repeal Section 31 of the Localism Act 2011.
- Potential to extend to close family members and not just a spouse.

No further action required.

Recommendation 8 - The Localism Act 2011 should be amended to require that Independent Persons are appointed for a fixed term of two years, renewable once.

- Independent Persons who demonstrate the capability, judgement and integrity required should continue to undertake the role.
- No limitations on the appointment.

No further action required.

Recommendation 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.

- This depends on circumstances of the complaint or breach.

No further action required.

Recommendation 10 - A local authority should only be able to suspend a councillor where the authority’s Independent Person agrees both with the finding or a breach and that suspending the councillor would be a proportionate sanction.

Recommendation 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.

Recommendation 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.

Recommendation 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, an appeal by a councillor who has had a suspension imposed. The Ombudsman’s decision should be binding on the local authority.

Recommendation 16 - Local authorities should be given the power to suspend councillors, without allowances, for up to six months.

STANDARDS AND ETHICS COMMITTEE - 16/06/22

- There is no provision in current legislation for a sanction to suspend a councillor found to have breached the code of conduct.
- Local Authorities were not without sanctions under the current regime.
- All councillors are ultimately held to account via the ballot box.
- The Government conducted a period of consultation with sector representative bodies and all tiers of local government 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.

To be kept under review.

Recommendation 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.

- Provide legal indemnity for Independent Person as local authority best practice and not required through secondary legislation.

No further action required.

Recommendation 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.

- No requirement to prescribe to local authorities.
- Reported by way of Complaints Annual Report.

No further action required.

Recommendation 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.

- This is lawful as long as a Councillor is not prevented from discharging their duty.
- To be considered further.

No further action required.

Recommendation 18 - The criminal offences in the Localism Act 2011 relating to Disclosable Pecuniary Interests should be abolished.

STANDARDS AND ETHICS COMMITTEE - 16/06/22

- The criminal offence of a non-disclosure of pecuniary interest was a necessary and proportionate safeguard and deterrent against corruption.

No further action required.

Recommendation 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.

- Consistency within principal authority areas.
- A parish council may want to add to the code of their principal authority to reflect local circumstances.

No further action required.

Recommendation 21 - Section 28 (11) of the Localism Act 2011 should be 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.

- Investigations and recommendations passed back to a Parish Council should be adopted. There is no legal requirement to do so.

Further comment to be made that Parish Councils should abide by recommendations made by the principal authority.

Recommendation 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.

- Note the Government will engage with sector representative bodies of all tiers of local government to seek views on amending the Local Authorities (Standing Orders) (England)(Amendment) Regulations to provide disciplinary protections for statutory officers.

No further action required.

Recommendation 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.

- Best practice adopted.

No further action required.

STANDARDS AND ETHICS COMMITTEE - 16/06/22

Recommendation 24 - Councillors should be listed as 'prescribed persons' for the purposes of the Public Interest Disclosure Act 1998.

- Welcomes Government recognition that this may provide a further check and balance against council corruption or wrongdoing and is open to further representations on the matter on how local accountability can be strengthened in this regard.

No further action required.

Resolved:- (1) That the report be received and the contents noted.

(2) That the comments above be fed back into the Review of Local Government Ethical Standards

(3) That no recommended amendments to the Council's Code of Conduct be noted.

5. **A REVIEW OF CONCERNS RAISED PURSUANT TO THE WHISTLEBLOWING POLICY**

Consideration was given to the report and appendix presented by the Service Manager which provided an overview of the Whistleblowing cases which have been received over the past year.

Particular reference was made to the appendix to the report which set out clearly the description of the concerns received and action taken.

Resolved:- That the Whistleblowing concerns raised over the previous year and the actions taken to address these matters be noted.

6. **REVIEW OF COMPLAINTS**

Consideration was given to the report presented by the Service Manager, detailing the progress with the handling of complaints relating to breaches of the Council's Code of Conduct for Members and Town and Parish Councillors. The report listed the current cases of complaint and the action being taken in respect of each one.

Reference was made to each related case and recommended outcomes/actions identified were highlighted.

Resolved:- That the report be received and the contents noted.

7. **URGENT BUSINESS**

The Chair advised that there were no urgent items of business requiring the Committee's consideration.

STANDARDS AND ETHICS COMMITTEE - 16/06/22

8. DATE AND TIME OF NEXT MEETING

Resolved:- That the next meeting of the Standards and Ethics Committee be held on Thursday, 15th September, 2022, commencing at 2.00 p.m.