



CORPORATE GOVERNANCE COMMITTEE – 10 MAY 2019

REPORT OF DIRECTOR OF LAW AND GOVERNANCE

ETHICAL STANDARDS IN LOCAL GOVERNMENT

Purpose of Report

1. The purpose of this report is to inform the Committee of the findings of the Committee on Standards in Public Life following its review of local government ethical standards.

Background

2. The Independent Committee on Standards in Public Life (CSPL) is an advisory body funded by the Cabinet Office. It advises the Prime Minister on ethical standards across the whole of public life in England and monitors and reports on issues relating to the standards of conduct of all public office holders.
3. In 2018 the Committee undertook a detailed review of the effectiveness of the arrangements for standards in local government which had been introduced by the Localism Act 2011 and it has recently published its report setting out its findings, making a number of recommendations which apply to all tiers of local government.
4. The CSPL's report runs to over 100 pages and a full copy can be accessed via the following link – <https://www.gov.uk/government/collections/local-government-ethical-standards>
The Committee made 26 recommendations many of which will require changes to primary legislation or secondary legislation, and changes to the Local Government Transparency Code. However, the Committee also made a number of best practice recommendations which it suggests local authorities should use as a benchmark of good ethical practice.
5. An assessment of both sets of recommendations has been undertaken and this has confirmed that largely the Council's arrangements already comply with much of what the Committee has proposed. A summary of the key issues raised by the Committee are set out below and a full list of its recommendations compared with the Council's current processes is attached as an Appendix to this report.

Summary of the Committee's Findings

6. The CSPL looked generally at how authorities could better promote high standards of conduct and specifically considered the following areas of operation of the system –

- The Code of Conduct
 - Arrangements for registration and declaration of interests.
 - The available sanctions.
 - The role of the Independent Person, Monitoring Officer and standards committees.
 - Support for parishes.
7. Overall the Committee continued to support the current framework whereby local authorities have responsibility for ethical standards, and although the need for a central body to govern and adjudicate on standards was considered, it found there was no appetite to return to a centrally-regulated system.
 8. The Committee accepted that the vast majority of councillors and officers maintain high standards of conduct, but found there was clear evidence of misconduct, sometimes persistent misconduct, by a few. It considered there was a need for a more consistent approach across all tiers of local government and that councils needed more effective tools to enable them to handle serious and persistent cases.
 9. So far as they relate to a county council, in summary, the Committee's key findings are set out below.

Code of Conduct

10. The Committee determined that codes of conduct are central to maintaining ethical standards in public life but that these need to be clear, relevant and proportionate. The review found considerable variation in the length, quality and clarity of authorities' codes which created confusion among members of the public, and among councillors who represented more than one tier of local government. The Committee therefore recommends a model code of conduct to enhance consistency and quality, though it proposes that use of this should be voluntary and capable of being adapted.
11. The Committee further considered that many codes of conduct failed to address adequately important areas of behaviour such as social media use and bullying and harassment. It therefore suggests that the scope of codes be widened to cover circumstances where a member is purporting to act as a member, and that there should be a rebuttable presumption that any public action by a councillor is within the scope of the Code including, for example, comments made on publicly accessible social media.
12. It is worth noting that the County Council's Code already includes provisions that specifically prohibit bullying and this is given a broad meaning within the Council's guide to the Code. However, in light of the Committee's recommendations, consideration will be given to expanding this to encompass more clearly the increasing use of social media. The Council has produced and circulated to members some guidance on the use of social media and this will also be reviewed in light of the Committee's recommendations.

13. Widening the Code to cover circumstances where a 'member is purporting to act as a member' or to include a presumption that a councillor is acting in an official capacity in their public conduct could be considered, however, such an extension would not be in line with current legislation. Members may recall that this was something specifically removed by the introduction of the Localism Act.

Registration and Declarations of Interest

14. The Committee found that inconsistencies in council codes of conduct were particularly marked when it came to interests and what needed to be registered and declared. It therefore considers that a more comprehensive and objective system for registering and declaring interests is needed which goes beyond the current statutory minimum (i.e. Disclosable Pecuniary Interests and other Pecuniary Interests).
15. The Committee recommends that the current requirements for registering interests be updated to include new categories of non-pecuniary interests (e.g. 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), a requirement to register gifts and hospitality over a value of £50 and provisions that would prevent a member from considering a matter which a member of the public with knowledge of the facts would regard as so significant as to prejudice their judgement.
16. Members will be aware that the Council's Code already goes beyond the statutory minimum requirements and therefore satisfies much of what the Committee is now recommending. When adopting its new Code in 2012, members sought to ensure that this continued to require members to declare 'personal interests' like those referred to by the Committee and to not take part in any decisions on matters where those personal interests might lead to bias. Members are also required to register gifts and hospitality over a value of £50. Members' registers are updated as soon as any change is notified and in any event, the Council also writes to members on an annual basis to ensure members registers are kept up to date.
17. In addition to the above, the Committee was of the view that the current criminal offences relating to non-registration and non-declaration of disclosable pecuniary interests are disproportionate and should be abolished.

Sanctions

18. The Committee determined that the current sanctions available to local authorities are insufficient and the lack of robust sanctions damages public confidence in the standards system and leaves local authorities with no means of enforcing lower level misconduct, or of addressing serious or repeated misconduct. The Committee recommends that Councils be given the power to suspend members for up to six months without allowances, subject to the agreement of the Independent Person. The introduction of such a penalty will first require a change in legislation.

The role of Independent Persons (IP), Monitoring Officers (MO) and standards committees

19. If there are to be tougher sanctions the Committee considers that there needs to be greater independence in the system. The Committee concluded that if greater sanctions were permitted, the role of the IP should be enhanced and the MO should be better supported and protected. It also considered that local authorities should have the discretionary power to establish a standards committee to advise on standards issues and decide on alleged breaches and sanctions, or a combination of these, and to co-opt the IP to this committee with voting rights if they so choose.
20. The Committee also recommends that councils be required to publish annually the number of complaints they receive and broadly what those complaints relate to, the outcome of those complaints and details of any sanctions imposed.
21. The County Council abolished its Standards Committee following the introduction of the Localism Act in 2012. However, all functions and responsibilities of that Committee were transferred to the Corporate Governance Committee which now has oversight of all conduct matters. The Committee receives an annual report on member conduct issues, including details of complaints, and a copy of this report is published on the Council's website.
22. A separate Member Conduct Panel was also established in 2012 to consider complaints and to hear matters referred for investigation. It was considered appropriate for this Panel to operate separately from the Corporate Governance Committee to ensure there would be no conflict of interest, as decisions of the Member Conduct Panel are reported to the Committee allowing for further action to be taken where appropriate either on a particular case or through the wider promotion of a standards issue within the organisation. Whilst the Independent Persons appointed by the Council do not attend meetings of the Corporate Governance Committee, they are invited to attend meetings of the Member Conduct Panel in order for the Panel to seek their views when it considers a specific complaint.
23. It is the view of the Monitoring Officer that this system is working effectively and the establishment of a separate Standards Committee is not necessary for the County Council. The current involvement of the Independent Persons is also considered appropriate.

Leadership and Training

24. Overall, the Committee emphasised that an ethical culture starts with tone and requires leadership. Whilst there will always be robust disagreement in a political arena, the tone of engagement should be civil and constructive.
25. Given the multi-faceted nature of local government, the Committee emphasised that leadership was needed from a range of individuals and groups: an

authority's standards (or other) committee, the Chief Executive, political group leaders, and the Chairman of the Council. The Committee highlighted the need for standards of behaviour to be embedded through effective induction and ongoing training and recommended that political groups should require their members to attend code of conduct training provided by a local authority and that this should be written into national party model group rules.

26. The Committee was also of the view that party discipline, whilst important in maintaining high standards, lacked the necessary independence to play a central role in the standards system. It found that whilst political groups have an important role to play in maintaining an ethical culture, they should be seen as a semi-formal institution sitting between direct advice from officers and formal processes by the council, rather than a parallel system to the local authority's standards processes. The Committee therefore concluded that political groups should set clear expectations of behaviour by their members, and senior officers should maintain effective relationships with political groups, working with them informally to resolve standards issues where appropriate.
27. In Leicestershire, political groups have been proactive in seeking to ensure high standards are met by their members and they have taken action in accordance with their own group rules where appropriate, including suspending members in some cases.
28. Following an election (or by-election) the County Council provides all members with a copy of the Council's Code of Conduct and Planning Code of Practice along with a detailed guide to the Code and in particular the rules regarding the registration of interests and gifts and hospitality. Training is also provided to all members on both the Code and the Planning Code of Practice and this is compulsory for all new members.

Conclusion

29. The Corporate Governance Committee took over responsibility for standards matters following the introduction of the Localism Act 2011. At the same time, the Council adopted a new Members' Code of Conduct and a new procedure for dealing with allegations of a breach against Members and Co-Opted Members. A brief assessment of these arrangements against the Committee's recommendations has been undertaken and these have been found to meet many of the requirements proposed. However, some improvements will be considered as part of the annual review of the Council's Constitution and revised versions of these documents will be presented to the Committee for approval as necessary alongside the annual report on the Members Code of Conduct.

Recommendations

22. The Committee is asked to note the report and provide feedback on the recommendations of the Committee on Standards in Public Life as set out in the appendix attached.

Equality and Human Rights Implications

None.

Background papers

Guide to the Leicestershire County Council Members' Code of Conduct

Leicestershire County Council's Procedure for dealing with allegations of a breach of the Members' Code of Conduct.

Report to the Corporate Governance Committee on 24 September 2012 - 'Arrangements for dealing with Member Conduct Complaints'

Report to the Corporate Governance Committee on 26 November 2012 - 'Arrangements for dealing with Member Conduct Complaints'

Circulation under the Local Issues Alert Procedure

None.

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