

Government response to the Committee on Standards in Public Life review of local government ethical standards (Law and Governance, Clare Pinnock)

Synopsis of report:

To provide Members with the results of the Government's response to the Committee on Standards in Public Life review of local government ethical standards

Recommendation(s):

None. This report is for information.

1. Context of Report

- 1.1 The Department for Levelling Up, Housing and Communities has provided a response on behalf of the Government to the Committee on Standards in Public Life review of local government ethical standards.
- 1.2 Members will recall that in January 2019, the Committee on Standards in Public Life published a report and 26 recommendations on ethical standards in local government.
- 1.3 There have been four previous reports to this Committee on the report and Model Code of Conduct (28 July 2020, 23 November 2021) and the Best Practice Recommendations (22 September 2020 and 26 May 2021)

2. Report

- 2.1 The Department for Levelling Up, Housing and Communities looked at those best practice recommendations that were directed at the Government as well as the Model Code of Conduct.

Recommendation 1 - Model Code of Conduct

- 2.2 The Government has confirmed its 'light touch' approach to local authorities and their choice of whether to adopt the Local Government Association's Model Code of Conduct.
- 2.3 We adopted the Model Code and revised version but reinstated a section on dispensations. We are still awaiting clarification from the LGA on 'Table 2 Declarations of Other Registerable Interests' with regard to the requirement to declare ordinary membership of various bodies and organisations as opposed to being in a position of management or control.

Recommendation 2 – non-disclosure of home address on Register of Interests

- 2.4 The Government agrees that to reduce the risk of intimidation that Councillors should not be required to disclose their home address i.e. not make it publicly available. This would require an amendment to the Relevant Authorities

(Disclosable Pecuniary Interests) Regulations 2012. In practice, although we require addresses for certain communications such as sending the Council Summons, we do not disclose home addresses if Councillors ask us not to if they feel there is a risk to themselves or their loved ones.

Recommendation 3 – presumption of acting in official capacity on social media

- 2.5 The Government considers local authorities should make their own judgement about this and errs toward not assuming that a Councillor is always acting in their official capacity. There is a boundary between a Councillor's private and public life, the right to free speech and freedom of association. However, there is a line not to cross between engaging in political debate and being offensive or failing to treat others with respect. This is a key consideration when we consider complaints about Councillors, particular in respect of their activity on social media if they are clearly identifiable as a Councillor.

Recommendation 4 – no amendment to Section 27(2) Localism Act 2011

- 2.6 Local Authorities are encouraged to review their codes of conduct regularly with regard to when a Councillor's activities are considered to be in their official capacity and to ensure training for Councillors is provided and refreshed.
- 2.7 We adopted the LGA Model Code of Conduct which states that the code applies when a member of the public could reasonably assume, being in possession of the full facts, that a Councillor's actions are giving the impression that they are acting as a Councillor. As with social media Councillors need to demonstrate that they are acting in good faith in the public interest.

Recommendation 5 – no amendment to the Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012.

- 2.8 The Model Code of Conduct was amended to include unpaid directorships and other relevant roles that a Councillor might have in their private capacity in case it gives rise to a potential conflict of interest. For example, being a trustee of a charity, which then submits an application for funding or a planning application to a Committee that Councillor serves on.
- 2.9 The Government seeks to keep this under review but has no plans to amend the Regulations.

Recommendation 6 – Gifts and Hospitality

- 2.10 As recommended, we publish gifts and hospitality that Councillors make us aware of, and the value if over £50, but we do not have a provision for cumulative values from the same source for a sustained period, unless they total over £50 together.
- 2.11 Councillors can either submit an on-line form via the website or email us the details for publication. The register is held by the Chief Executive's Personal Assistant and Officers in Democratic Services also hold the information in order to update the Councillor's profile page on the website.

- 2.12 Declarations of Interest are kept for a period of 6 years but currently we do not have a retention period for gifts and hospitality but might wish to do so?

Recommendation 7 – no repeal of section 31 of the Localism Act 2011.

- 2.13 This concerns disclosable pecuniary interests and the Councillor's consequent requirement not to participate or vote in a matter where an interest has been declared.
- 2.14 It is not proposed to repeal this requirement in the interests of transparency and the principle of integrity.

Recommendation 8 – fixed term of office for Independent Persons

- 2.15 The Government does not accept this recommendation because (and we agree) it is too restrictive and would be an onerous task to have to source and appoint new Independent Persons every 4 years (a two year term of office renewable once).
- 2.16 The Independent Person has to have no political affiliation, no current or previous association with the Council and no friends or family members associated with the Council.
- 2.17 We currently have one Independent Person who meets this criteria, who also demonstrates, as recommended, capability and sound judgement. He has proved to be invaluable when consulted on complaints about Councillors.

Recommendation 9 – requirement to record in the official decision notice the view of the Independent Person in relation to a decision on which they are consulted

- 2.18 The Government disagrees with this recommendation which would also mean that the Local Government Transparency Code would have to be updated.
- 2.19 In our minutes of any hearings that have taken place we state that the advice of the Independent Person was sought and taken into account. They often will attend the hearing as a non-voting participant.

Recommendations 10, 12, 13, 14 and 16 – concerning issues about suspension of Councillors

- 2.20 There is currently no legislative provision to suspend a Councillor found to be in breach of the Code. Therefore, all the above recommendations are theoretical.
- 2.21 The Government believes that Councillors are ultimately held to account via the ballot box and that political groups are unlikely to select unsuitable people to become Councillors or re-select someone that has brought their group into disrepute.
- 2.22 The Government undertakes to engage with all sector representatives and organisations in local government to seek views on options to strengthen sanctions to address serious incidents of bullying and harassment or disruptive behaviour but stops short of considering suspension as an option.

Recommendation 11 – legal indemnity to Independent Persons where advice is disclosed via secondary legislation if necessary.

- 2.23 The Government agrees with this in principle and some local authorities do this now. Rather than use secondary legislation the Government is inclined to recommend it as best practice. This is something that Officers will consider.

Recommendation 15 – annual publication of complaints about Councillors and outcomes

- 2.24 The Government does not seek to prescribe what information local authorities publish but considers it best practice to do this in some shape or form.
- 2.25 We have decided to provide an annual report on complaints about Councillors and is elsewhere on this agenda.

Recommendation 17 – clarification regarding sanctions

- 2.26 The Government has not come to a conclusion on this matter but considers that the instances where a Councillor has acted in such a manner to necessitate barring them from the Council premises would be very rare.
- 2.27 Where a Councillor's behaviour is covered by Criminal law the Government considers this is sufficient. For example, breach of public order, anti-social behaviour and harassment.

Recommendation 18 – Criminal offences in the Localism Act 2011 relating to Disclosable Pecuniary Interests should be abolished.

- 2.28 The Government disagrees and states that making the failure to disclose a pecuniary interest a criminal matter is a necessary and proportionate safeguard and deterrent against corruption.
- 2.29 The Model Code of Conduct includes this provision. All Councillors are reminded on a regular basis that they must disclose pecuniary interests in a full and timely manner.

Recommendations 19, 20 and 21 – concerning parish council clerks, adoption of the code of conduct by parish councils and sanctions they can impose

- 2.30 Runnymede has no parish councils.

Recommendation 22 – disciplinary protection for statutory officers.

- 2.31 The Government agrees that the three statutory officers; the Head of Paid Service (Chief Executive), the Section 151 Officer (Assistant Chief Executive) and Monitoring Officer (Corporate Head of Law and Governance) should have a higher degree of protection at all levels of potential disciplinary action. This is because they may be subject to personal pressures when dealing with high profile breach of conduct investigations.
- 2.32 The Government will engage with the sector to seek views on amending the Local Authorities (Standing Orders) (England) (Amendment) Regulations 2015 accordingly.

Recommendation 23 – named contact for the external auditors alongside their contact details in a council’s Whistleblowing policy

- 2.33 The Government agrees this is essential for openness and it is what we do by giving the contact details of our external (internal) auditors TIAA in the Council’s Constitution, available on our website. We do not give a named contact. However, in addition to TIAA our Whistleblowing Policy also gives details of the other Regulators and how to contact them.

Recommendation 24 – Councillors should be listed as ‘prescribed persons’ for the purposes of the Public Interest Disclosure Act 1998

- 2.34 Local Councillors do not meet the criteria of being external to an individual’s workplace in relation to matters affecting the Council. However, the Government is open to further representations on the matter of how local accountability can be strengthened in this regard.

Recommendations 25 and 26 – concerning induction training by political groups and Local Government Association corporate peer reviews to include consideration of a local authority’s processes for maintaining ethical standards

- 2.35 The Government has not made any comment on these recommendations.
- 2.36 Whilst we conduct induction and other training (some mandatory) for Councillors, we are not aware of what training political groups provide their members with.
- 2.37 We last conducted a Local Government Association peer challenge review in October 2019, the results of which were reported to the Corporate Management Committee and the report itself is published on the Council’s website. [Corporate Peer Challenge Peer Challenge Report \(runnymede.gov.uk\)](https://www.runnymede.gov.uk/corporate-peer-challenge-report)
- 2.38 The Peer Review included ‘political and managerial leadership’ and ‘governance and decision making’. Councillors were interviewed along with relevant Officers and other members of staff.
- 2.39 When the Council next embarks on a peer challenge this is something that could be considered, bearing in mind the Government has not made a specific recommendation in this regard.

3. Policy Framework Implications

- 3.1 The Code of Conduct is contained within the Council’s Constitution which is reviewed annually.
- 3.2 This report is relevant to the following Corporate Values and Goals:
- Transparent
 - Have sound leadership and decision making processes

4. Resource Implications

4.1 Implementing the best practice recommendations is now embedded in our policies and procedures.

5. **Legal implications**

5.1 As explained in the body of the report there is a legal duty imposed on all local authorities to adopt a code of conduct for their elected Members. The Committee on Standards in Public Life is an independent, advisory non-departmental public body (NDPB) established in 1994. The Committee is not founded in statute and has no legal powers to compel witnesses to provide evidence, or to enforce its recommendations.

5.2 The Committee on Standards in Public Life are responsible for:

- advising the Prime Minister on ethical issues relating to standards in public life
- conducting broad inquiries into standards of conduct
- promoting the 7 principles of public Life

Their remit does not allow them to investigate individual allegations of misconduct. If any recommendations are made in any reports prepared by the Committee on Standards in Public Life their implementation is dependent on adoption by Government and the enactment of legislation.

6. **Equality Implications**

6.1 The Council has a duty under the Equality Act 2010. Section 149 of the Act provides that we must have due regard to the need to;

- a) eliminate discrimination, harassment, victimisation and other conduct prohibited by the Act
- b) to advance equality of opportunity
- c) foster good relations between persons who share a relevant protected characteristic and persons who do not share protected characteristics.

We should at all times act in a way that is non-discriminatory through our policies and procedures and interactions with people.

6.2 The Committee on Standards in Public Life has a principle of promoting equalities by its commitment to addressing incidents of bullying and harassment, intimidation and maintaining high standards of conduct and behaviour.

(For information)

Background papers

Department for Levelling Up, Housing and Communities letter to Lord Evans dated 18 March 2022

Committee on Standards in Public Life Best Practice Recommendations 19 January 2019

LGA Peer Challenge Review October 2019

Correspondence between Democratic Services and the Corporate Head of Law and Governance, March 2022