



Northumberland

County Council

STANDARDS COMMITTEE

18 APRIL 2019

Committee on Standards in Public Life

Report of Liam Henry, Legal Services Manager
Cabinet Member: Councillor Nick Oliver, Corporate Services and Cabinet Secretary

Purpose of report

This report advises the Committee on the outcome of the review by the Committee on Standards in Public Life (CSPL) on Local Government ethical standards

Recommendations

1. To note the 26 recommendations made by the Review of Local Government Ethical Standards by Committee on Standards in Public Life and the 15 best practice points
2. To note the Council already practices many of the recommendations which do not require legislative changes as a matter of good practice.
3. To consider what further changes, if any, could be made to the Council's Members Code of Conduct and Arrangements for dealing with complaints alleging a breach of the Members' Code of Conduct, which would not require legislative changes.

Link to Corporate Plan

This report links to the "We want to be efficient open and work for everyone" priority within the Council's Corporate Plan

Key issues

CSPL have concluded their review into local government ethical standards

A number of recommendations and best practice points are contained within the report

Standards Committee are invited to consider the CPSL report in its entirety and consider what changes, if any, they may wish to make to the Council's current ethical framework arrangements in light of the report's findings

Background

On 29 January 2018 CSPL launched a consultation on Local Government Ethical Standards.

The terms of reference for the review were to examine the structures, processes and practices in local government in England for:

- maintaining codes of conduct for local councillors
- investigating alleged breaches fairly and with due process
- enforcing codes and imposing sanctions for misconduct
- declaring interests and managing conflicts of interest; and
- whistleblowing and to:
- assess whether the existing structures, processes and practices are conducive to high standards of conduct in local government
- make any recommendations for how they can be improved
- 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 Council's Standards Committee together with the Council's Independent Person responded to the consultation in April 2018. A copy of the Council's response to the review is appended to this report marked Appendix 1.

The Report on Local Government Ethical Standards

The CSPL published its report on 30 January 2019. The report can be accessed here:

<https://www.gov.uk/government/publications/local-government-ethical-standards-report>

The report proposes a range of measures which it mainly recommends to Government but also to the Local Authorities, including Parish Councils.

The report reinforces the high standards of conduct required in local government to protect the integrity of decision-making, maintain public confidence and safeguard local democracy.

It concludes that there is no need to return to a centralised body to govern and adjudicate on standards and that local authorities should retain ultimate responsibility for implementing and applying the seven principles of public life (Nolan Principles) in Local Government.

Members are specifically referred to the Executive Summary and Recommendations. Some of the recommendations require changes to primary legislation, secondary legislation and the Local Government Transparency Code.

The report also sets out a list of Best Practice recommendations which local authorities should consider as a benchmark of good ethical practice and implement.

Summary of key findings relevant to the County Council

The report is divided into 8 chapters. This report does not refer to all chapters but instead aims to summarise some of the key issues relevant for the County Council. The key findings the Committee is asked to note are as follows:

- i) Whilst it is recommended that there should be an updated model code of conduct, the review recognised that there are benefits to councils being able to adopt their own codes depending on its own culture and the specific issues it may face.
- ii) The report highlights that areas such as gifts and hospitality, social media use, and bullying and harassment have all increased but are not regularly reflected in the codes of conduct recommended by the Government and the Local Government Association.
- iii) Bullying/ harassment: In particular, codes do not have specific behaviours that would amount to bullying. The Committee can consider whether it would be helpful for the Council's code to include a definition of bullying/ harassment. There is no statutory definition of bullying but the report refers to a definition used by ACAS (Advisory, Conciliation and Arbitration Service). Harassment is defined in the Equality Act 2010.
- iv) Social Media: The report states that, at the moment, codes of conduct can only apply when Councillors are acting in their capacity as a Councillor. The report recognises how the use of social media presents a challenge in determining whether a code of conduct applies to instances of behaviour. One of the recommendations is that Councillors should be presumed to be acting in an official capacity in their public conduct, including statements on publicly accessible social media. This will require a change in legislation to permit local authorities to presume so when deciding upon code of conduct breaches.
- v) Gifts and hospitality: The report refers to gift value of £50 to £100. The report highlights that there are three broad principles surrounding gifts and hospitality that should guide whether an individual should accept gifts or hospitality, namely purpose, proportionality, avoiding conflicts of interest to safeguard the principle of integrity. Northumberland County Council's code requires members to register gifts and hospitality with a value in excess of £50. In addition the County Council in early 2018 adopted a detailed guidance note which provides advice to members on a range of issues pertaining to the offer, acceptance and refusal of gifts and hospitality. It is considered that this guidance already adequately covers the three principles highlighted in the report.
- vi) Planning and gifts and Hospitality: The report states that as part of their review the evidence received suggests that the acceptance of gifts and hospitality is of most concern when it comes to planning. "Planning is an area of decision- making where a small number of councillors can have a significant impact on the financial interests of specific individuals or firms. Councillors involved in planning decisions should generally therefore not accept over- frequent or over-generous hospitality and should always ensure that acceptance of such hospitality does not constitute a conflict of interest."
- vii) Investigations and Safeguards: The report recognises that there has to be an effective, fair, impartial and transparent procedure, in which Councillors and the public can have confidence. The report considers the role of the Independent Person (IP) and how this role could be strengthened and clarified. The review makes a number of recommendations in relation to the role of the IP, some of which the Council already has in place. There is, for example, a provision that the IP is consulted by the Monitoring Officer

when considering whether a complaint should be investigated or not. It is recommended that the views of the IP are included in any investigation report. A further recommendation, which is something which is in practice at the County Council is that IPs are invited to Standard hearings and their views are taken into account before the Committee takes any decision on whether the member's conduct constitutes a failure to comply with the code and as to any action to be taken following a finding of failure to comply with the Code

vi) Filtering of complaints: The report states that the focus should remain on individual local authorities maintaining high standards in their own councils. This should include a filtering mechanism to ensure only allegations of real merit are investigated and the use of serious sanctions should remain rare. The County Council has a set of assessment criteria against which the Monitoring Officer, in consultation with the IP, considers whether any complaint of member misconduct is assessed.

vii) Sanctions: The report states that the current sanctions available to local authorities are insufficient and that a lack of robust sanctions damage public confidence in the standards system and that there is no means of addressing serious or repeated misconduct. The report recommends that local authorities should be given the power to suspend councillors without allowances for up to six months and any Councillors who is suspended should be given the right to appeal to the Local Government Ombudsman. This change will require legislation.

viii) Supporting Officers: The report highlights the challenging and broad role of the Monitoring Officer as well as the practical tensions and potential for conflicts of interest. While no formal process is in place at present there is scope for the Monitoring Officer to refer an assessment decision to another officer within the Council's Legal Services team or, for that matter, to the Monitoring Officer of another authority. In addition code of conduct investigations can and have been externalised and other external legal advice has been and will be sought as necessary and appropriate.

ix) Leadership and culture: The report states that an ethical culture requires leadership from a range of individuals and groups: an authority's Chief Executive, political group leader and the chair of the Council. Maintaining an ethical culture day to day relies on an impartial, objective Monitoring Officer who is supported by the Chief Executive and Councillors. The Monitoring Officer notes and supports the best practice recommendation for senior officers to meet regularly with political group leaders and whips to discuss standards issues. There is perhaps a need to arrange for mandatory training for Councillors in relation to ethics and the code of conduct.

List of good practice already adopted by the County Council

The Council has already adopted some of the recommendations and best practice guides. It is worth noting the following:

i) The Council's code of conduct requires Members within 28 days of receipt to register any gift, benefit or hospitality in excess of £50 which they have accepted as a member from any person or body other than the County Council. The Register is online and is updated as and when Members register new entries, whereas the CSPL recommends quarterly. As mentioned above the County Council have also adopted a detailed guidance note relating to this area.

ii) Whilst a legislative change is required to s31 Localism Act 2011 in relation to declaring interests and not taking part in debate and decisions where there is no Disclosable Pecuniary interest, the existing members code of conduct already provides for members to declare an interest and not take part in debate and decision “If a member of the public, with knowledge of the material facts would reasonably regard the interest as so significant that it is likely to prejudice your consideration or decision- making in relation to that matter”. Members do consider whether they should participate in a debate or vote at a meeting in such circumstances and heed the relevant provisions of the code.

iii) The views of the IP are taken into account by the Monitoring Officer when considering whether to dismiss or investigate a complaint. A process is in place for the IP to be invited to Standards Committee hearings and their views in relation to any findings concerning a breach of the code and sanctions would be taken into account by the Committee and recorded in any decision/ minutes. The Council has provision for only one IP, whereas the recommendation is for two. In addition the Monitoring Officer can call upon other legal officers to undertake investigations or externalise these where circumstances justify this course of action.

iv) The Monitoring Officer presents an annual report to the Standards Committee in relation to the number of complaints in the last year and themes arising.

vi) Following the implementation of the Localism Act 2011 the Council adopted a “model” code of conduct drawn up in consultation with other authorities in the North East. The Arrangements for dealing with complaints alleging a breach of the code of conduct have been subsequently amended when there have been lessons to be learnt from complaints (“The Arrangements”).

vii) The Council’s code of conduct and the Arrangements are published on the Council’s website. The website provides guidance as to how complaints can be made and who they should be sent to.

viii) The Monitoring Officer and his officers provide support and assist with training to local councils concerning complaints and the code of conduct generally.

As already referred to, most of the recommendations within the CSPL will require a change in legislation.

Implications

Policy	N/A
Finance and value for money	N/A
Legal	These are as set out in the report
Procurement	N/A
Human Resources	N/A
Property	N/A
Equalities	N/A

(Impact Assessment attached) Yes <input type="checkbox"/> No <input type="checkbox"/> N/A <input type="checkbox"/>	
Risk Assessment	N/A
Crime & Disorder	N/A
Customer Consideration	It is anticipated that any changes made to the Arrangements as a result of the Committee's consideration of this report will improve customers' experience of the member complaints process
Carbon reduction	N/A
Wards	All

Background papers:

Report sign off.

Authors must ensure that officers and members have agreed the content of the report:

	initials
Monitoring Officer/Legal	LH
Executive Director of Finance & S151 Officer	AS
Relevant Executive Director	KA
Chief Executive	DL
Portfolio Holder(s)	NO

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