

Local Members Interest
N/A

Audit and Standards Committee – Monday 14 October 2019

Committee for Standards in Public Life – Report on Review Ethical Standards in Local Government

Implications for Staffordshire County Council/Members’ Code of Conduct and Standards Complaints System

Recommendations

The Committee is recommended to:

- a. Support and recommend to full Council:
 - i. The inclusion in the Code of Conduct of an additional Undertaking relating to the use of Social Media as detailed in paragraph 11 of this report and the adoption of the criteria for determining alleged breaches of that Code in relation to Social Media (as shown at Appendix 3)
 - ii. The update to the Declarations of Interest Form completed by Members to include a section on ‘Other Interests’ as shown at Appendix 4 to this report
 - iii. The updates to the Process chart for dealing with allegations of breaches of the Code of Conduct, as shown at Appendix 5.
- b. Give views on additional proposals detailed at paragraphs 16 and 19 of this report

Report of the Director of Corporate Services (Monitoring Officer)

Background

1. The March 2019 meeting of this Committee considered my annual report on the handling of complaints about breaches of the Code of Conduct by County Councillors. At that time I also briefly referred to a Report by the Committee for Standards in Public Life (CSPL) on their Review of Ethical Standards in Public Life. (That report is available at <https://www.gov.uk/government/collections/local-government-ethical-standards>)
2. Members asked for further information on the CSPL report and its implications for Staffordshire County Council.
3. The CSPL’s Report, published in January 2019 detailed 26 recommendations, the Government’s response to which is still awaited. Those recommendations cover the full range of Code of Conduct/Standards Complaints provisions currently in place.

Current Position

4. To date this Council's Code of Conduct for Members has reflected a 'light touch' approach however following an increase in the number of complaints made against members and the recent need to hold our first Standards Panel to consider one of those complaints, the CSPLs report presents a timely opportunity to review our Code and processes.

Key Proposals

5. The CSPL Recommendations are appended to this Report (Appendix 1) with comment on each in relation to the County Council's current and suggested future position.
6. Detailed consideration of the Recommendations has highlighted three main areas where our Code and arrangements for dealing with complaints might benefit for amendments/updating:

Reference in the Code to Social Media (Recommendation 3)

7. Of note in my annual report was the increase in references to issues around the use of social media and the content of posts by elected members.
8. Separately the CSPL has issued a report on Intimidation in Public Life. The call for that report originally stemmed from increasing problems during election campaign periods but one of its main focusses is on the effect which social media has had on political life. The report acknowledges the importance of social media as a vehicle for the free expression of opinion, giving instant, direct access to those sectors of the community who have not traditionally engaged in politics. However, in addition to acknowledging that social media facilitates freedom of speech, the Report also highlights the importance of protecting that freedom from abuse.
9. The 'General Undertaking' section of our current Code includes:

'Contributing to making the authority's decision making processes as open and transparent as possible to enable residents to understand the reasoning behind those decisions and to be informed when holding me and other members to account but restricting access to information when the wider public interest or the law requires it (*Being aware of the potential for information passed through social networking media to be distributed much more widely than intended by the author*)'
10. The above focuses on the management of information through social media but is no longer sufficient. The use of social media now needs to be considered in relation to the majority of the Seven Principles of Public Life which are the lynchpins of the Code of Conduct, most specifically the principles of: Honesty, Integrity, Objectivity, Accountability and Leadership.

11. It is therefore suggested that a new/additional General Undertaking be added to the Code:

Ensuring that my use of social media is at all times respectful to the audience (both intended and co-incidental) and does not portray the actions or views of either the County Council or me as a member of that Council, as offensive, discriminatory, abusive, inflammatory or defamatory. Furthermore, I will endeavour to maintain a clear distinction between any actions and views that I publish via social media in a private, personal capacity from those published in my role of elected member.

12. To assist members in adhering to this new Undertaking, the Guidance to Members on the use of Social Media has been updated. A copy is appended to this report (Appendix 2).
13. As mentioned earlier, issues around the use of Social Media by members has partly contributed to the increase in the number of complaints received over the past year. When considering whether such a complaint should be entered into the system the Monitoring Officer has not had the benefit of any clear criteria to help form a view. Attached at Appendix 3 is a suggested list of criteria against which any complaint relating to the use of Social Media could be assessed. The criteria is broadly based on Public Interest Guidance used by the Crown Prosecution Service in relation to Social Media cases.

The need to require Declaration of ‘Other Interests’ (Recommendation 5)

14. As mentioned above, the Council’s current Code is light touch in nature, limiting its focus on the need for Members to register and declare their Disclosable Pecuniary Interests. Whilst our current Declarations form includes an optional section for ‘other interests’ the Localism Act 2011 gave a more specific definition for the type of interest which should be listed.
15. Whilst supporting the retention of responsibility for ethical standards by each individual Authority, the CSPL report calls for consistency amongst the Codes of Conduct for local authorities in the same geographical area. All District and Borough Councils in Staffordshire include in their Declarations of Interest a section on ‘Other Interests’ which covers wider pecuniary interests. Section B of the revised Declarations Form attached at Appendix 4 mirrors the forms of the District and Borough Councils.
16. In general, Local Authorities also provide for the declaration of Personal Interests by members. Should this Committee decide to take that step further amendments could be made to the Declarations form. Members’ views are requested.

Review of the Processes for consideration of Alleged Breaches of the Code of Conduct and Sanctions available (Recommendations 16 and 17)

17. Earlier this year, for the first time since the Localism Act 2011 a Standards Panel met to consider an alleged breach of the Code of Conduct by a member. The administration of that meeting highlighted the need for a review of the complaints

handling process itself and for further consideration of the sanctions available. An updated version of that Process is attached at Appendix 5 for approval. Changes are proposed to better set out the communication lines between the Monitoring Officer and parties affected, the entitlement of the member being complained about to seek the views of an Independent Person (IP), and the involvement of the IP consulted by the Monitoring Officer in the Panel meeting itself.

18. The Process chart also includes additional sanctions which could be recommended by the Standards Panel. These are:
 - a. Recommendation to the Group Leader on the removal of the member from any position with special responsibility
 - b. Recommendation to the Group Leader on the removal of the member from all Outside Bodies

Other Proposals

19. Members' views are requested on the following:
 - a. **Period of Office for Independent Persons (Recommendation 8)** The CSPL advocates a fixed term of two years, renewable once.
 - b. **Role of Independent Person in formal decision making (Recommendations 9 and 11)** – whether to formally consider the views of the Independent Person as part of a Panel's decision-making process on an alleged breach of the Code and. If so, whether to provide indemnity.
 - c. **Publication of statistics on Code of Conduct complaints (Recommendation 15)** -Relating to the expansion of detail in the Annual Report to this Committee on Code of Conduct complaints.

Conclusion

20. The Recommendations contained in the CSPL Report cover all aspects of the Standards Regime. Some of the recommendations have assisted in a Review of the County Councils' Code of Conduct, revisions to which are submitted for Members consideration and recommendation to council for approval.

Legal Implications

21. The County Council is required to have a formal Code of Conduct for Members and a complaints procedure for the handling of complaints about elected members.

Risk Implications

22. Compliance with the arrangements addresses the risk of challenge to the governance arrangements of the Council.

Resource and Value for Money Implications

23. The proposals in the report do not generate any additional resource implications for the Authority

Climate Change Implications

24. There are no Climate Change Implications arising from this report.

List of Background Documents/Appendices:

CSPL Report on Review of Ethical Standards in Public Life
CSPL Report on Review of Intimidation in Public Life.

Appendix 1 – Committee for Standards in Public Life – Recommendations

Appendix 2 – Social Media Guidance DRAFT

Appendix 3 – Assessment Criteria

Appendix 4 – Register of Interests Form

Appendix 5 – Proposed Decision Making Procedure Flowchart

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