

Committee for Standards in Public Life – Report on Review of Ethical Standards in Public Life

RECOMMENDATIONS

	Recommendation (Lead Body as per CSPL)	Comment
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 (LGA)	Action awaited.
2	The government should ensure that candidates standing for or accepting public office are not required publicly to disclose their home address. The Relevant Authorities (Disclosable Pecuniary Interests (DPIs)) Regulations 2012 should be amended to clarify that a Councillor does not need to register their home address on an authority' register of interest (Government)	<p>Regulations introduced in readiness for the May 2019 local elections removed the requirement for candidates to publish their home address on ballot papers and associated election documentation</p> <p>Currently, Members are required to include their home address under the 'Land' category of DPIs. Legislation would be required to remove that need.</p> <p>The Monitoring Officer has the authority to permit the withholding of an individual member's address if that information is deemed to be sensitive (ie its disclosure could cause the member or person associated with him/her to be subjected to violence or intimidation). The Monitoring Officer has exercised his discretion in this respect for a small number of cases, in the main involving persistent complainants.</p>
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	<p>The widening of the capacity in which the member's actions can be judged against the Code would need legislative changes.</p> <p>This report proposes updates to the Code of Conduct in</p>

	when deciding upon code of conduct breaches (Government)	relation to the use of social media and is accompanied by detailed guidance on acceptable use and the criteria against which alleged breaches of the Code due to the use of social media will be assessed.(Appendices 2 and 3)
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 (Government)	As above, the widening of the scope of the Code would require legislative changes
5	The Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012 should be amended to include unpaid directorships, trustees, management roles in a charity or a body of a public nature and membership of any organisation that seeks to influence opinion or public policy (Government)	<p>This list of additional roles essentially mirrors the 'Other Interests' included in the 2012 Model Code of Conduct produced by the LGA.</p> <p>When the County Council's Code was approved in 2012 there was a clear wish to adopt a 'light touch' approach therefore these additional interests were not included. One of themes of the CSPL report is the need for consistency amongst local authorities in the same geographical area in order to avoid confusion amongst the general public.</p> <p>As all of the Districts and Boroughs in Staffordshire have 'Other Interests' included in their Codes, it is proposed to amend the County Council's Code to include that section. More details are given in the body of this report and at Appendix 4.</p>
6	Local authorities should be required to establish a register of gifts and hospitality, with Councillors required to record any gifts and hospitality received over a value of £50 or totalling £100 over a year from a single source. This requirement should be	Since 2000 we have published a Register of Gifts and Hospitality received by Members and Senior Officers. The monetary threshold for declaration is 'above the value of £25'.

	included in an updated model code of conduct. (Government)	The Gifts and Hospitality Register is being reviewed as a separate exercise.
7	Section 31 of the Localism Act 2011 should be repealed, and replaced with a requirement that Councils include in their 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 unlikely to prejudice your consideration or decision-making in relation to that matter'(Government)	<p>Section 31 prohibits members participating in discussions on matters which they have listed on their Register of Interests as a Disclosable Pecuniary Interest (DPI). The Council's own Standing Orders add the further requirement for the member to physically leave a meeting after making a Declaration.</p> <p>This more general proposal is similar to the requirement which existed in relation to personal/prejudicial interests under the Code of Conduct applicable before the Localism Act.</p>
8	The Localism Act 2011 should be amended to require that Independent Persons are appointed for a fixed term of two years renewable once (Government)	<p>The CSPL Report refers to the varying degrees of involvement which Independent Persons (IPs) have in dealing with conduct matters and highlights the expertise which many possess. It proposes a two year fixed term appointment period to give security of tenure.</p> <p>The procedure for handling complaints requires a minimum of 2 Independent Persons (we currently have 3).</p> <p>Two years is a relatively short period of time for any IP to gain knowledge of the role and develop their expertise. For authorities such as the County Council where few Code of Conduct complaints are received, it is questionable whether a two year term of office would provide sufficient opportunities for all IPs to develop their knowledge and expertise. Two yearly appointments might also pose potential problems in terms of recruitment.</p>

		<p>However, in feedback on the recommendation one of our IPs expresses support taking the view that the regular recruitment of new IPs clearly demonstrates to the general public the independence of the role and avoids the risk of public perception being that a close relationship exists between the IPs and the Council.</p> <p>One IP also queries the advisability of paying them an Honorarium as this may also be perceived as a link to the Council.</p>
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 (Government)	<p>The CSPL suggest that whilst the decision maker may ultimately reach a different view than the IP, the safeguard that they provide would be stronger if their view was made transparent. In order for this to be practical and acceptable to IPs protection would be required (see 11 below re indemnity).</p> <p>IP feedback is in support of this proposal and also calls for details of the process followed in handling Code of Conduct complaints to be easily accessible to the public.</p>
10	A local authority should only be able to suspend a councillor where the authority's Independent Person agrees both with the finding of a breach and that suspending the councillor would be a proportionate sanction. (Government)	This would require legislative changes.
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. (Government/All local authorities)	If revisions were made to the decision making procedures for Code of Conduct matters such that Independent Persons had an increased and more formal involvement in that process, the County Council could indemnify those IPs regardless of any statutory requirement. The Council's Insurance Officer and Brokers advise that indemnity could be provided to

		<p>protect IPs against challenges to the influence which their views/report may have on a complaint decision.</p> <p>IPs have indicated that they would assume that formal indemnity would be provided as a matter of course if the system involved their comments contributing to the formal decision making process and being published.</p>
12	<p>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. (Government)</p>	<p>Currently legislation provides for the inclusion of non-voting Independent Members on a Standards Committee (NB this is not the Independent Person).</p> <p>This proposal suggests that the Independent Member be given full voting rights to enhance the independence of the formal decision making process. This would be in addition to changes proposed above in relation to formalising the contribution of Independent Persons to the decision making process.</p> <p>At present Staffordshire's Audit and Standards Committee does not have any Independent members.</p> <p>Attached to this Report is a revised process map for handling Standards complaints. Revisions have been made in the light of experience at the only Standards Panel convened since the introduction of the current Code of Conduct. The revisions include stipulating that the Independent Person consulted by the Monitoring Officer be formally invited to attend and to contribute to the Panels discussions (at this stage it falls short of formalising the consideration given to the IPs views _ as referred to at items 9 and 11 above)</p>

		The references to Parish Council representation are not applicable to the County Council.
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. (Government)	This would require legislative changes in relation to the role of the Local Government and Social Care Ombudsman.
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, on appeal by a councillor who has had a suspension imposed. The Ombudsman's decision should be binding on the local authority. (Government)	<p>This would require legislative changes in relation to the role of the Local Government and Social Care Ombudsman.</p> <p>Of note is that whilst it would be unusual for a local authority to not comply with decisions/recommendations of the Ombudsman, those decisions are not legally binding on a local authority. This proposal therefore goes beyond the 'normal' powers of the Ombudsman.</p>
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. (Government)	<p>Rather than await changes to the Transparency Code, The annual (open) report to Audit and Standards Committee on complaints handled could be expanded to include the detail suggested in the recommendation.</p> <p>A link to that report could then be added to the 'contact, compliments and complaints' section of the County Councils website. This section already includes links to the formal process for reporting alleged breaches of the code of conduct.</p>
16	Local authorities should be given the power to suspend councillors, without allowances, for up to six months (Government)	<p>This would require legislative changes.</p> <p>Feedback from one of our IPs supports the strengthening of sanctions, considering the current arrangements to have minimal effect on deterring</p>

		<p>unacceptable behaviour.</p> <p>The proposed amended Process chart for dealing with standards complaints includes two new sanctions relating to recommendations to the Group Leader on removal from positions with Special Responsibility and from Outside Bodies.</p>
17	<p>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. (Government)</p>	<p>The CSPL report explains that to date statute/case law only specifies less severe sanctions.(eg training, censure, publicising a breach of the Code). The legality of sanctions such as a ban for the Council's premises has not been tested.</p> <p>This recommendation seeks clarity on the level of sanctions deemed to be acceptable.</p>
18	<p>The criminal offences in the Localism Act 2011 relating to Disclosable Pecuniary Interests should be abolished. (Government)</p>	<p>The criminal matters referred to are: participating in matters in which you have a Disclosable Pecuniary Interest and knowingly or recklessly providing false or misleading information in relation to DPIs. These offences are subject to criminal penalties, including a fine of up to £5000 and disqualification from being a Councillor for up to 5 years.</p> <p>Feedback from an IP suggests that unless general sanctions are strengthened, these offences should be retained as the only sanctions.</p>
19	<p>Parish council clerks should hold an appropriate qualification, such as those provided by the Society of Local Council Clerks.(Parish Councils)</p>	<p>Not applicable</p>
20	<p>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</p>	<p>Not applicable</p>

	model code. (Government)	
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. (Government)	Not applicable
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. (Government)	This would require legislative changes. The intention of this proposals is to improve the protection given to statutory officers following action/decisions against an elected member.
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. (Government)	External auditors are 'prescribed persons' under the Public Interests Disclosure Act (employment protection is provided for whistleblowers when disclosures in the public interest are made to prescribed persons). This recommendation calls for the authority's Whistleblowing Policy to include contact details for the relevant representative from our external auditors to make it easier for whistleblowers to report issues. The County Councils Internal Auditors support this proposal with the proviso that a mechanism is in place for keeping up to date with External Auditor's contact details as they change from time to time.
24	Councillors should be listed as 'prescribed persons' for the purposes of the Public Interest Disclosure Act 1998. (Government)	This recommendation aims to widen the options for a whistleblower to make a disclosure beyond the Council's Officers. Whilst supporting this in principle, the Internal Auditors raise concerns at the security and management of the information passed to and held by Councillors, the risk that such a number of prescribed persons would lead to inconsistency in approach and difficulty in monitoring

		and reporting on cases.
25	Councillors should be required to attend formal induction training by their political groups. National parties should add such a requirement to their model group rules.(Political Groups/National political parties)	<p>The CSPL highlight the importance of providing training on standards of conduct and the ethical culture of the Authority as early as possible however their research has shown that political parties/groups have an important role to play in ensuring their members' participation in that training.</p> <p>The Leaders of the 2 Political Groups here at the County Council have both queried the appropriateness of Groups being called on to act, taking the view that this is a matter on which their national parties should lead.</p>
26	Local Government Association corporate peer reviews should also include consideration of a local authority's processes for maintaining ethical standards.(LGA)	Action awaited