

## **Ethical Standards in local government**

Lead Member: Cllr William Wallace, Chair of the Committee

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### **1. Summary**

- 1.1. The current standards regime was introduced by the Localism Act, 2011 and the Council is no longer statutorily required to have a Standards Committee, but it decided that it should continue to do so in the interests of promoting transparency and high ethical standards in local governance. Following the May 2017 elections, the Council formed the Constitution and Standards Committee.
- 1.2. The operation of the Council's arrangements for members' conduct is fundamental to the Council's compliance with the requirements of the Localism Act 2011 and by promoting good ethics the Council is demonstrating its core values as contained in the seven principles of public life: selflessness, integrity, objectivity, accountability, openness, honesty and leadership.
- 1.3. During 2018/19 the Council, along with other councils in England, was consulted by the Committee for Standards in Public Life regarding 'ethical standards in local government'. The Committee for Standards in Public Life published their findings and recommendations in January 2019 and this was reported to the Constitution & Standards Committee in February 2019.

### **2. Recommendations**

- 2.1 **That the Committee considers the report and recommendations from the Committee for Standards in Public Life (appended) and the conclusion in section 4 of this report.**

### **3. Ethical Standards in Local Government**

- 3.1. During 2018/19, the Council was notified that the Parliamentary Committee on Standards in Public Life was undertaking a review of local government ethical standards and had commenced a consultation on this subject. The consultation was based upon a number of questions around ethical standards and associated issues.

The review was considered to be long overdue following the wholesale change to local authority standards arrangements made by the Government in 2011. The 'old' Standards Committee of the Council made representations to the secretary of State as early as 2012 asking for a review of the arrangements to address a number of concerns of the Committee. It is fair to say since then the Government has had similar representations from across the country highlighting perceived shortcomings of the new standards regime implemented in 2011. Key concerns raised at the time focused on:

- The change in the requirements and status of standards committees – with an associated reduction in the influence of the co-opted independent members of standards committees
- The risk of greater political influence over any standards arrangements put in place locally by councils
- The lack of 'serious' local sanctions for significant breaches of the Code of Conduct.

All elected members were sent the link to the consultation and invited to comment on the questions. Comments received included:

- Being strongly lobbied in their local councillor role, especially on regulatory matters such as planning applications.
- Comments on social media about elected members and the anxiety that this can bring
- Some examples of members mindful of their personal safety when meeting constituents and meeting them in public places and not in their homes, whenever possible.

Following consideration and endorsement at the Committee's meeting in May 2018, the Monitoring Officer consulted with the political group leaders prior to submitting the Council's proposed response.

**3.2.** In January 2019, the Parliamentary Committee on Standards in Public Life published their report and this was reported to the Constitution and Standards Committee meeting in February 2019. The report includes a series of recommendations to the Government for improvements to local authority standards arrangements including strengthening the ability for a council to take actions where a serious breach of the Code of Conduct is proven. The Committee welcomed the report and recommendations and the Government's response to the report is awaited.

**3.3.** The main changes considered by the Committee on Standards in Public Life: A Review of Local Government Ethical Standards ('the Review') are outlined below and relate to:

- (a) Creation of a Model Code of Conduct;
- (b) Reintroduction of sanctions;
- (c) Creation of Standards Committees;
- (d) Widening the requirement to register pecuniary interests;
- (e) Training of Members;
- (f) Strengthening the protection for the Monitoring Officer.

### **3.4. Summary of the report**

#### **Model Code of Conduct**

The Review considers that a Model Code of Conduct should be established and the Local Government Association should be tasked with drafting it. The Review criticises the current regime because Local Authorities operate under different codes of conduct and as a such, it is considered by the Committee that a much clearer and consistent Code.

**3.5.** The aim is to avoid confusion – particularly if a Member sits in different tiers of Local Authorities (a 'dual or triple hatter') – and to provide the public and councillors with a clear expectation as to the standards that should be followed.

**3.6.** The Review highlighted that current standards regimes only apply when an individual is acting in their role as a member of the Council. The Review considers this doesn't go far enough and that ethical standards do not 'stop at Council door'. The Review considers that comments made by individuals in other situations should also be considered under Code of Conduct. This includes comments made on social media. As such, the Code of Conduct should also apply to members 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.

### **3.7. Sanctions**

The Review considers that current sanctions are insufficient. It felt that whilst party discipline has an important role to play in maintaining high standards, it lacks the necessary independence and transparency to play a central role in a standards system. The Review considers that the current lack of robust sanctions damages public confidence in the standards system and leaves local authorities with no means of enforcing lower level sanctions, nor of addressing serious or repeated misconduct.

- 3.8.** The Review recommends the introduction of suspension for Members for up to 6 months without allowances if they are found to be in breach of the Code of Conduct. The Review did not consider there was a case for disqualification on the basis that only the public can be the proper judge of the suitability of a councillor to represent them which they only have the proper authority to do in an election or re-election.
- 3.9.** The Review considers that any standards process needs to have safeguards in place to ensure that decisions are made fairly and impartially. It is considered that the Independent Person is an important safeguard in the current system. The Review recommends that this safeguard should be strengthened and clarified: a local authority should only be able to suspend a councillor where the Independent Person agrees both that there has been a breach and that suspension is a proportionate sanction. Independent Persons should have fixed terms and legal protections. The view of the Independent Person in relation to a decision on which they are consulted should be published in any formal decision notice.
- 3.10.** Any Member, on being suspended, will have a right to appeal to Local Government Ombudsman

### **3.11. Standards Committee**

The Review considered that Local Authorities should maintain a standards committee. Such a committee would advise on standards issues and decide on alleged breaches and sanctions, or a combination of these. Independent members of decision-making standards committees should be able to vote.

### **3.12. Pecuniary interests**

The Review recommends that the current criminal offence (failure to declare a disclosable pecuniary interest) as imposed by the Localism Act 2011 should be abolished

### **3.13. Training of Members**

The Review reflects the Committee on Standards in Public Life's view that ethical standards training, even where offered, may not always be taken up by councillors and co-opted members. The Review suggests that a stronger role should be played by political groups and national political parties to ensure that councillors attend relevant training on ethical standards where this is offered by their local authority.

### **3.14. Strengthening the Role of the Monitoring Officer**

The review considers that the Monitoring Officer is the lynchpin of the current standards arrangements. The Review concluded, however, that the role is not unique in its tensions and can be made coherent and manageable with the support of other statutory officers. The Review considers that employment protections for statutory officers should be extended, and statutory officers should be supported through training on local authority governance

#### **4.0 Conclusion**

On the whole elected members take the need to maintain high ethical standards seriously. The Monitoring Officer will continue to examine ways and means to improve awareness and understanding of the Members' Code of Conduct, including seeking the views of the Constitution and Standards Committee.

- 4.1** Many of the Review's recommendations will require primary legislation which will be subject to Parliamentary timetabling. However, any other recommendations could be implemented relatively quickly by authorities themselves. The Committee for Standards in Public Life now await the Government's response to the Review which is anticipated to be within 3 months
- 4.2** In the meantime, this Committee might wish to recommend the Monitoring Officer to work with district council colleagues across Somerset to consider the recommendations and identify any actions that Somerset authorities could take, and to identify any preparations that could usefully be made now in advance of any statutory changes. Such that a report back to this Committee could then be made.

#### **5. Background papers**

- 5.1.** Ethical Standards in Local Government (January 2019):

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

Constitution and Standards Committee response to consultation on ethical standards (May 2018):

<http://democracy.somerset.gov.uk/ieListDocuments.aspx?CIId=244&MIId=584&Ver=4>

**Note:** For sight of individual background papers please contact the report author