

Name of meeting: Standards Committee

Date: 7 March 2018

Title of report: Consultation by the Committee on Standards in Public Life to inform its review of Local Government Ethical Standards

Purpose of report: To brief Members about the review of Local Government Ethical Standards by the Committee on Standards in Public Life

Key Decision - Is it likely to result in spending or saving £250k or more, or to have a significant effect on two or more electoral wards?	No
Key Decision - Is it in the Council's Forward Plan (key decisions and private reports?)	No
The Decision - Is it eligible for call in by Scrutiny?	No
Date signed off by Strategic Director & name	N/A
Is it also signed off by the Service Director for Finance IT and Transactional Services?	N/A
Is it also signed off by the Service Director for Legal Governance and Commissioning Support?	Julie Muscroft 27 February 2018
Cabinet member portfolio	N/A

Electoral wards affected: N/A

Ward councillors consulted: N/A

Public or private: Public

1. Summary

To brief Members about the review of Local Government Ethical Standards by the Committee on Standards in Public Life. The Committee issued a consultation document on 29 January 2018. The consultation closes on 18 May 2018. A link to the review is <https://www.gov.uk/government/consultations/local-government-ethical-standards-stakeholder-consultation>. The terms of reference for the review are to:

1. Examine the structures, processes and practices in Local Government in England for:
 - a) Maintaining Codes of Conduct for local Councillors;
 - b) Investigating alleged breaches fairly and with due process;
 - c) Enforcing codes and imposing sanctions for misconduct;
 - d) Declaring interests and managing conflicts of interest; and
 - e) Whistleblowing.
2. Assess whether the existing structures, processes and practices are conducive to high standards of conduct in Local Government.
3. Make any recommendations for how they can be improved; and
4. 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 Committee invites responses to a number of consultation questions set out in the document below. Members are invited to comment on and/or respond to the questions they feel appropriate.

2. Information required to take a decision

Members of Standards Committee are invited to comment on the questions and decide if and how they wish to respond to the consultation question. The questions raised by the Committee with some initial observations from the Monitoring Officer are set out below for discussion at the meeting:

Question	Initial response/observation
a) Are the existing structures, processes and practices in place working to ensure high standards of conduct by local Councillors? If not, please say why.	Yes, but the local approach may have limitations.
b) What, if any, are the most significant gaps in the current ethical standards regime for Local Government?	Lack of enforceable sanctions.
<i>Codes of Conduct</i> c) Are local authority adopted Codes of Conduct for Councillors clear and easily understood? Do the codes cover an appropriate range of behaviours? What examples of good	In theory yes, but they need to be regularly updated/reviewed. Increased role of/use of social media has led to some issues. Add examples of what we do here perhaps.

<p>practice, including induction processes, exist?</p>	
<p>d) A local authority has a statutory duty to ensure that its adopted Code of Conduct for Councillors is consistent with the Seven Principles of Public Life and that it includes appropriate provision (as decided by the local authority) for registering and declaring Councillors interests. Are these requirements appropriate as they stand? If not, please say why.</p>	<p>Yes, they are appropriate but the contents vary.</p> <p>The definitions of pecuniary interests could be better defined and/or explained.</p>
<p><i>Investigations and decisions on allegations</i></p> <p>e) Are allegations of Councillor misconduct investigated and decided fairly and with due process?</p> <p>i. What processes do local authorities have in place for investigating and deciding upon allegations? Do these processes meet requirements for due process? Should any additional safeguards be put in place to ensure due process?</p> <p>ii. Is the current requirement that the views of an Independent Person must be sought and taken into account before deciding on an allegation sufficient to ensure the objectivity and fairness of the decision process? Should this requirement be strengthened? If so, how?</p> <p>iii. Monitoring Officers are often involved in the process of investigating and deciding upon code breaches. Could Monitoring Officers be subject to conflicts of interest or undue pressure when doing so? How could Monitoring Officers be protected from this risk?</p>	<p>Describe Kirklees' approach. Yes in principle but others may have other views about due process and safeguards.</p> <p>The role of the IP is important and helpful and provides a third party view. Possible argument the role could be increased.</p> <p>Yes they could. Most Monitoring Officers see and understand that and would seek to ensure there were appropriate steps in place to make sure this wasn't the case. The recent change to Kirklees process has helped to some extent.</p>
<p><i>Sanctions</i></p> <p>f) Are existing sanctions for Councillor misconduct sufficient?</p> <p>i. What sanctions do local authorities use when Councillors are found to have breached the Code of Conduct? Are these sanctions sufficient to deter</p>	<p>Generally there are a lack of sanctions in the current local arrangements. Training, apology, removal of resources, group sanctions, ultimately a report to Council in serious cases but there are difficulties with enforcement.</p>

<p>breaches and, where relevant, to enforce compliance?</p> <p>ii. Should local authorities be given the ability to use additional sanctions? If so, what should these be?</p>	<p>Yes. Possibly revert back to those in place when there was a national code in place? Potential financial sanctions. In serious cases removal from Council membership.</p>
<p><i>Declaring interests and conflicts of interest</i></p> <p>g) Are existing arrangements to declare Councillors' interests and manage conflicts of interest satisfactory? If not, please say why.</p> <p>i. A local Councillor is under a legal duty to register any pecuniary interests (or those of their spouse or partner) and cannot participate in discussion or votes that engage a disclosable pecuniary interest, nor take any further steps in relation to that matter, although local authorities can grant dispensations under certain circumstances. Are these statutory duties appropriate as they stand?</p> <p>ii. What arrangements do local authorities have in place to declare Councillors' interests and manage conflicts of interest that go beyond the statutory requirements? Are these satisfactory? If not, please say why.</p>	<p>Yes, although the requirements in the Localism Act may muddy the water as it is left to local codes to specify whether their interests are declared. There is a lack of understanding about the criminal aspect of the code. Unclear the extent to which the Police would act in some cases.</p>
<p><i>Whistleblowing</i></p> <p>h) What arrangements are in place for whistleblowing, by the public, Councillors and officials? Are these satisfactory?</p>	<p>Policy and process in place which is reviewed annually.</p>
<p><i>Improving standards</i></p> <p>i) What steps could <i>local authorities</i> take to improve Local Government ethical standards?</p>	<p>Raising awareness of expectations. Different learning approaches. What opportunities does the Democracy Commission offer?</p>
<p>j) What steps could <i>central Government</i> take to improve Local Government ethical standards?</p>	<p>Issue some guidance. Look at job descriptions/roles and expectations of Councillors.</p>
<p><i>Intimidation of local Councillors</i></p>	

<p>k) What is the nature, scale and extent of intimidation towards local Councillors?</p> <p>i. What measures could be put in place to prevent and address this intimidation?</p>	<p>Refer to Kirklees steps here. Members' views from the groups would be helpful.</p> <p>Consider sharing the conclusions of the Members Security group.</p>
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3. **Implications for the Council**

3.1 **Early Intervention and Prevention (EIP)**

3.2 **Economic Resilience (ER)**

3.3 **Improving Outcomes for Children**

3.4 **Reducing demand of services**

3.5 **Other (eg Legal/Financial or Human Resources)**

4. **Consultees and their opinions**

None.

5. **Next steps**

Members feed in any comments and decide if they wish to respond as a Standards Committee.

6. **Officer recommendations and reasons**

That Standards Committee note the consultation and provide feedback and comments on it as well as how to proceed in order to finalise any feedback to the Committee on Standards in Public Life.

7. **Cabinet portfolio holder's recommendations**

N/A

8. **Contact officer**

Julie Muscroft – Service Director – Legal, Governance & Commissioning

9. **Background Papers and History of Decisions**

Link to the consultation <https://www.gov.uk/government/consultations/local-government-ethical-standards-stakeholder-consultation>

10. **Service Director responsible**

