



Name of meeting: Standards Committee

Date: 6th March 2019

Title of report: Committee on Standards in Public Life update

Purpose of report

To brief the Standards Committee on the report of the Committee on Standards in Public Life on Local Government Ethical Standards and seek its views about future steps that it recommends that the Council consider taking arising from the recommendations in the report.

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?	not applicable
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 Is it also signed off by the Service Director for Finance IT and Transactional Services? Is it also signed off by the Service Director for Legal Governance and Commissioning Support?	Yes
Cabinet member portfolio	

Electoral wards affected: All

Ward councillors consulted: None

Public or private: Public

Have you considered GDPR? Yes. There are no implications arising from this report

1. Summary

- 1.1 This report follows the publication by the Committee on Standards in Public Life (CSPL) of its report '*Local Government Ethical Standards*' on the 30th of January 2019.
- 1.2 The report followed a consultation exercise conducted by the CSPL over the course of a number months, in which various stakeholders were invited to express their views. You will recall that the consultation questionnaire was considered by this committee in March 2018 and the Monitoring Officer submitted a response on behalf of the Council. Appendix 1.
- 1.3 At the September 2018 Standards Committee meeting, reference was made to a speech by Dr Jane Martin, in which she outlined the main areas in which consultees had offered opinions.
- 1.4 The report has made a number of recommendations and has suggested best practice in a number of areas. Many of the recommendations will require legislation should the government choose to accept them. In contrast, the best practice suggestions are things that Councils can consider implementing straight away, as no legislation would be required.
- 1.5 In the summary, the report states that their best practice recommendations '*should be considered a benchmark of good ethical practice, which we expect that all local authorities can and should implement*'. The report suggests that the CSPL will review the implementation of their best practice recommendations in 2020.
- 1.6 The Appendix to this report describe each of the recommendations and best practice with an initial commentary from officers about them and where relevant some potential steps that Kirklees might consider taking to implement some of them.

2. Information required to take a decision

2.1 CSPL Report

- 2.1.1 The report contains 26 recommendations to the Government and 15 best practice suggestions. These are listed in full at appendix 1. All numbers below refer to the numbering in Appendix 1.
- 2.1.2 Many of the recommendations will require some legislation, although a number of the recommendations are for legislation to be introduced to compel local authorities to do something that they can already do on a voluntary basis, whereas the best practice suggestions can be implemented without the need for legislation.

2.1.3 Some of the key themes in the recommendations / best practice are as follows;

- Councillors should be presumed to be acting in an official capacity in their public conduct, including statements on publicly-accessible social media. The body of the report refers to there being created a rebuttable presumption that a member's public behaviour is in an official capacity.
- A Local Authority's Code of Conduct should apply to a member when they claim to act, or give the impression they are acting, in their capacity as a member or representative of the Local Authority.
- Local authorities should be given the power to suspend Councillors, without allowances, for up to six months. One of the issues that was clear from the consultation process was that there was a general view that there were insufficient sanctions available to local authorities. Recommendations 13 and 14 are for members who have been suspended to have the right of appeal to the Local Government Ombudsman. It is recommended that the Ombudsman has the power to consider both the findings and the sanction imposed, and not just whether or not the sanction applied was appropriate.
- Further consideration to the role of and support to Independent persons with a requirement to have at least two. Suggestions about length of term.
- That statutory officer protections be extended further.
- A number of changes are suggested to the role of standards in Parish and Town Councils with the Parish and/ town Clerks having specific qualifications.
- More consistency across Codes of Conduct with some minimum standards and also the need to be more specific about some behaviours including bullying and use of social media.
- The outcome of complaints be published on the web page.
- Better visibility of the Code of Conduct and how to complain.
- The need to ensure safety and security of members better.

- Better clarity about the role/ status of the Standards Committee and who may be a voting member of it.

2.1.4

Some of the recommendations which it might be possible to do straight away or which we already do are as follows and members are invited to discuss/ comment:

Recommendation	Comment / Suggestion
2. That the Government should ensure that candidates are not required to publicly disclose their home addresses. It recommends that the Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012 should be amended	Kirklees made some changes around 15 months ago in respect of candidate addresses and it is recommended that those changes continue.
6. A requirement for local authorities to establish a register of gifts and hospitality and record single gifts of £50 or over or gifts totalling £100 or over from a single source in one year. This recommendation is for legislation to be introduced to compel local authorities to keep a register, but it is not currently prohibited for an authority to keep a register.	Kirklees does currently keep a register and does require declarations of gifts or hospitality of the value of £25 or over. It is recommended that the current register be kept. Consideration should be given as to whether the current level that triggers a declaration should remain unchanged, be brought into line with the recommendation or changed to a different sum. The register is not currently published, but consideration should be given to whether it should be made available on line.
11. Local Authorities should provide legal indemnity to their Independent Persons if their views or advice are disclosed. Again, this is not currently prohibited and the recommendation is for legislation to compel the provision of legal indemnity.	It should be noted that Kirklees does already provide its Independent Person with legal indemnity.
15. The Local Government Transparency Code should be updated to require authorities to publish on an annual basis the number of Code of Conduct complaints received, what they	Currently, this information is reported to the Standards Committee on a 6 monthly basis and is contained in a publicly available document. Consideration should be given as

<p>relate to, the outcomes and details of any sanctions applied.</p>	<p>to whether this information could be provided in a different or more obvious way.</p>
<p>20. Town and Parish Councils should be required to adopt the Code of Conduct of their principal authority or the new model code. This is not currently prohibited and some Town and Parish Councils do adopt the Kirklees Code of Conduct. Given that Kirklees is responsible for breach investigations for Town and Parish Councils, it is likely to be of benefit to have a single Code of Conduct. It is also likely to be of benefit to those members who both sit as Kirklees Councillors and also on a Town or Parish Council.</p>	<p>It is recommended that the matter be raised with Town and Parish Councils with a view to seeking voluntary adoption of the Kirklees Code of Conduct.</p>
<p>23. The Local Government Transparency Code should be updated to require local authorities to ensure their whistleblowing policy specifies a named contact for the external auditor and to make that available on its website. The current whistleblowing policy does contain details of the external auditor, along with contact details.</p>	<p>Enquiries are being undertaken with the auditor to identify a named contact who can be included in the policy. It is recommended that a named contact be included in the published policy.</p>
<p>24. Councillors should be listed as 'prescribed persons' for the purposes of the Public Interest Disclosure Act 1998.</p>	<p>The current whistleblowing policy does treat Councillors as 'prescribed persons' and does list them as alternative contacts to line management. A prescribed person is one that can be approached by a whistleblower to make a disclosure. Making a disclosure to a designated prescribed person will make the disclosure protected. This means that the whistleblower has the right not to be unfairly dismissed or suffer a detriment as a result of their disclosure.</p>

<p>25. Councillors should be required to attend formal induction training by their political groups and the recommendation is for parties to add such a requirement nationally to their rules. Training and induction is important and it is of benefit to have the support of groups in ensuring members are properly skilled.</p>	<p>This appears to relate to groups/ national parties providing support and not just encouraging members to take part in Council training. It is unclear how this will work in respect of independent councillors It is recommended that the Standards Committee involve GBMs in any discussions on the role of political groups in member training.</p>
<p>26. Local Government Association peer reviews should include consideration of how an authority maintains ethical standards.</p>	<p>This may be worth bearing in mind in the event that Kirklees participates in another Peer Review. The Monitoring Officer has alerted the Chief Executive to this recommendation.</p>

Members are asked to consider the above suggestions and decide if further action is needed what if any further steps they would like to recommend that the Council take. Members are also asked to consider if there are other recommendations they feel could be introduced in advance of changes to legislation.

2.1.3 The best practice suggestions are set out below with a commentary with some suggested actions / recommendations:

Best Practice Suggestion	Comments
<p>1. Local Authorities should include prohibitions on bullying and harassment in their Codes of Conduct. It suggests that a list of example behaviours be included in the code</p>	<p>The current code does contain a prohibition on bullying and intimidation. The CSPL report contains a number of examples, which may find their way into the model code. It is recommended that the Kirklees code be amended to include such examples. Some consideration should also be given to social media guidance, as this has led to a number of complaints.</p>
<p>2. Local Authorities should have a provision in their codes that require members to comply with any standards investigation and</p>	<p>The Kirklees code does already contain a requirement for members to comply with the standards process, but the</p>

to prohibit trivial or malicious complaints.	sanctions for failing to comply are weak.
3. Authorities should review their codes of conduct each year and seek the views of the public, community organisations and other local authorities	It is believed that an annual review is impractical, given the suggestions on consultation and the process that needs to be followed to implement any changes. It is recommended that this suggestion is not adopted but that the Code of Conduct is reviewed at least bi-annually and a further discussion is held about the approach to consultation.
4. The Code of Conduct should be readily accessible, in a prominent position on the website and available in Council buildings.	Kirklees does publish its Code of Conduct on its website, and it can be easily found from the homepage. It is recommended that printed copies are made available at reception desks in council buildings.
5. Gifts and hospitality registers should be updated at least once per quarter and published.	It is recommended that the register should be published on the Council's website.
6. Councils should publish a clear and straightforward public interest test that would be used to filter allegations.	The report contains one currently used in Northern Ireland. It is recommended that this be used as a basis to formulate a public interest test to be incorporated in the Code of Conduct.
7. Local Authorities should have access to at least two Independent Persons. Kirklees formerly had two and this has been under review.	It is noted that the number of complaints that involve the Independent Person has been increasing and it is recommended that the recruitment process be started for a second Independent Person and it is agreed that the contract of the current Independent Person be extended.
8. An Independent Person should be consulted as to whether or not a complaint should progress and given an opportunity to comment on allegations made	Kirklees do this as part of the current agreed standards process, so no action is required in respect of this best practice suggestion.
9. Where a decision is made on an allegation of misconduct following a formal investigation, the decision notice should be published on the council's website, to include a brief	It is recommended that decision notices should be published provided there would not be any GDPR issues in making the findings public. In the current decision notices, the views of the

statement of facts, which provisions of the code were engaged, the view of the Independent Person, the reasoning of the decision maker and any sanctions applied.	Independent Person are referenced.
10. A Local Authority should have straightforward and accessible guidance to the complaints process on its website.	Kirklees does have this, but it is recommended that printed copies should be available in council buildings.
13. A Local Authority should have procedures in place to deal with any conflicts of interest that arise during a standards investigation.	The report suggests using a Monitoring Officer from a neighbouring authority. This has been raised at the WYLAW group meetings and it has been agreed that WYLAW members will do this.
14. Councils should report on separate bodies that they have set up or own as part of their annual governance statement	To some extent this is already done, but it is recommended that the Head of Risk be asked to look at this.
15. Senior officers should meet with group leaders or whips regularly to discuss standards issues.	Currently the GBMs meet regularly with the Monitoring Officer and the Group Leaders meet regularly with the Chief Executive and the Monitoring Officer. GBMs attend Standards Committee by invitation when there are relevant items on the agenda.

3. Implications for the Council

3.1 Early Intervention and Prevention (EIP)

N/A

3.2 Economic Resilience (ER)

N/A

3.3 Improving Outcomes for Children

N/A

3.4 Reducing demand of services

N/A

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

The promotion and maintenance of high standards of conduct by councillors is an important part of maintaining public confidence in both the council and its members. Failure to do so could have reputational implications.

4. **Consultees and their opinions**

N/A

5. **Next steps**

- 5.1 Any recommendations by this committee which require changes to policy, and/or further approval and/or changes to the Constitution will be presented to Corporate Governance and Audit Committee and/ or Council as applicable.
- 5.2 Any approved amendments to the Code of Conduct and / or policy and / or the Constitution will be made.

6. **Officer recommendations and reasons**

- 6.1 It is recommended that the contents of the CSPL report are noted and welcomed.
- 6.2 It is recommended that the actions set out in Section 2 of the report are agreed and appropriate steps taken to refer them on for implementation and approval.

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

N/A

8. **Contact officer**

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

- 9.1 Report to Standards Committee 7 March 2018 -
<https://democracy.kirklees.gov.uk/documents/g5415/Public%20reports%20pack%2007th-Mar-2018%2011.00%20Standards%20Committee.pdf?T=10>

- 9.2 Report of the Committee on Standards in Public Life -
<https://www.gov.uk/government/publications/local-government-ethical-standards-report>
- 9.3 Committee on Standards in Public Life Consultation document -
<https://www.gov.uk/government/consultations/local-government-ethical-standards-stakeholder-consultation>
- 9.4 Kirklees Council's response to the consultation.
10. **Service Director responsible**

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