

UK local government associations agree programme to promote “civility in public life”

0 Comments (https://localgovernmentlawyer.co.uk/governance/396-governance-news/41971-uk-local-government-associations-agreed-programme-to-promote-civility-in-public-life#disqus_thread)

The leaders of the UK’s four Local Government Associations earlier this month agreed a shared programme of action promoting greater civility in public life.

The programme was agreed at the UK Forum – held in Cardiff on 5 November – amid concerns about “the impact the growing level of intimidation of councillors and the increasingly toxic nature of debate is having on the democracy of our country”.

Cllr James Jamieson, Chair of the Local Government Association, said: “Debate and having different views is all part of a healthy democracy, but abuse, intimidation and threats undermine democratic decision making by generating fear in those who represent it.

“One of our most pressing concerns is the increasing incidents of intimidation and abuse of our elected representatives. These attacks risk the personal safety of councillors, undermine local democracy and can put off prospective candidates from standing.”

Baroness Wilcox of Newport, Leader of the Welsh Local Government Association, said: “It’s hugely important for the local government family to meet through the UK Forum, we share common aims and experience common challenges. Our associations provide a united voice for local government and where we can speak as one across all four associations, then our voice will be stronger still.”

On the issue of Brexit, the leaders called for greater UK Government urgency over proposals for the Shared Prosperity Fund, the successor to European Funding.

Cllr Alison Evison, President of the Convention of Scottish Local Authorities (COSLA), said: “We recognise Brexit is yet to be resolved, but local authorities need clarity and assurance that no country, region or community will be worse off through the Shared Prosperity Fund.”

Commenting on the role of councils in Northern Ireland in the absence of a sitting Northern Ireland Assembly, Cllr Martin Kearney, Vice President of the Northern Ireland Local Government Association (NILGA) said: “Despite the Assembly not sitting for a thousand days, councils and councillors have rolled up their sleeves and carried on delivering and providing leadership for local communities.

“Key decisions and funding however are being held up by this impasse at a crucial period during Brexit planning; councils in Northern Ireland should be empowered and resourced with these democratic decisions being devolved to local government to allow us to get on with the job of delivering for our communities.”

Councillor fined, banned from public office over bogus signature on nomination paper

0 Comments (https://localgovernmentlawyer.co.uk/governance/396-governance-news/42009-councillor-fined-banned-from-public-office-over-bogus-signature-on-nomination-paper#disqus_thread)

A long-serving councillor at Kings Lynn & West Norfolk has been removed from office for using a bogus signature on his nomination paper for last May's election.

The *Lynn News* (<https://www.lynnnews.co.uk/news/former-west-norfolk-borough-councillor-devastated-following-five-year-ban-from-public-office-9090482/>) has reported that David Pope was ordered to pay more than £3,500 in fines and costs and banned from public office for five years by local magistrates. He has resigned as a councillor.

Mr Pope had hoped to get an acquaintance to sign his nomination paper but the man concerned was absent and his son signed instead, although he later said he could not recall doing so.

The incident came to light when the local Conservative agent challenged the nomination form.

Mr Pope had for many years been a Conservative councillor but this year stood as an independent, defeating his former party.

Mark Smulian

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Independent report finds it would be unfair to say council had "sexist culture"

0 Comments (https://localgovernmentlawyer.co.uk/governance/396-governance-news/41958-independent-report-finds-it-would-be-unfair-to-say-council-had-sexist-culture#disqus_thread)

An independent report into Stratford-on-Avon District Council carried out by a leading local government lawyer has found that it would be "unfair" to brand the local authority as having a 'sexist culture'.

Olwen Brown, a partner at Anthony Collins Solicitors, was commissioned by the council's monitoring officer to produce the report into the wider culture at the local authority after a former head of paid service, Isabel Briançon, made a series of allegations on Facebook to friends and family members about sexism. The comments were subsequently leaked to the press.

In her report, which can be found here

(<https://www.stratford.gov.uk/doc/208823/name/Appendix%201%20Culture%20Report%20FINAL.pdf>),

Ms Brown's findings included that:

- Whilst there was a split between those officers who felt that matters could be raised easily there was also some concern, particularly amongst some junior staff about how they should raise issues of unacceptable and inappropriate behaviour, particularly from members.
- Most of the concerns raised were about the behaviour of two members, Cllrs Barnes and Feilding, who had been the subject of findings in breach of the Code of Conduct where the council had, in her view, taken the appropriate action possible under the provisions of the legislation in respect of them. "Without the behaviour of these two members, the evidence of an inappropriate and sexist culture is much reduced, and I think it would be unfortunate if the whole council was to be stigmatised largely because of their behaviour." Both councillors had apologised and were undergoing training.
- There was an issue of why this behaviour, which had been known about for a considerable amount of time, had not been effectively tackled previously. "Whilst there is some evidence of these two members being spoken to about their behaviour in part, it clearly had little effect; and yet the evidence is of longstanding, inappropriate and unacceptable conduct which would have justified a Code of Conduct investigation much earlier. Some of this, as some of the witness evidence says, is because officers did not feel confident that they would be supported [if] they did raise this behaviour, and believed, whether or not this was true, that it had to be tolerated, even though it was widely known and regarded as unacceptable."
- The council needed to demonstrate that it not only tolerated but positively expected officers to raise issues of unacceptable behaviours, whether or not these were committed by councillors and that if they did so their concerns would be taken seriously. "I also think that it is important that officers can be confident that should they raise matters of concern they will not be treated unfairly for doing so; that there is that 'safe mechanism'."
- Both Mr Buckland and Cllr Jefferson, as the new Chief Executive and Leader respectively, were "genuine in their commitment to do what they can to make sure that the council does not have and is not seen as having a sexist culture".

- It was important the council considered how it communicated to all officers, particularly junior ones, that raising matters which concerned them was the right thing to do and that they would be given support if they chose to do so. "Making a complaint against a member is quite a step for officers, especially younger officers to take and the evidence from a notable proportion of the witnesses shows that officers often felt that they had to put up with behaviour which they found inappropriate and offensive."
- In concluding that it would be unfair to brand Stratford-upon-Avon as having a "sexist culture", she had borne in mind that Ms Briançon was extremely upset about her appraisal process and the results of that, particularly some of the comments that she reported in her evidence. "She clearly was genuinely sensitive to what she saw and heard and quite clearly the behaviour of Cllr Barnes towards her was unacceptable. My instructions do not extend to examining the assessment process." Ms Briançon said on Facebook that she had been told she *"needed to chat more, do more corridor conversations. The feedback was that elected members wanted me to be more informal. That was it. Nothing else. Taking this feedback on board I spoke to other elected members to find out where they felt my leadership needed to grow. This is what I got back, and I quote verbatim... "it would help if you were six foot two; "you need to throw your opinions around a bit more"; and "be more dominant". Ms Briançon had also reported that she "went on a ward walk with a councillor and he told me unashamedly (being the farmer type that he is) that I had good breeding hips and if I wanted fertility support he would do a pagan ritual for me. I did not want to tell him that I did not have a womb! When I sat down with another councillor he told me thought it was a disgrace to have to enforce gender equality on a public board"*.
- It was true that there were presently very few women in the most senior positions at Stratford-upon-Avon although Ms Brown said she had been told, and had no reason to doubt, that the council hoped to change this following the recruitment to new posts at the top of the organisation once the new management structure was in place; "provided of course that these are suitable candidates who are appointed on merit."


Ms Brown recommended that:




- The council demonstrates that it positively expects officers to raise issues of unacceptable behaviours, whether these are committed by councillors or not, and for officers to be confident that if they do so their concerns will be taken seriously, and they will not be treated unfairly for doing so.
- The further training for both officers and members on equality and diversity is put in place promptly.
- The council considers how it communicates to all officers that raising matters which concern them is the right thing to do and that they will be given support if they choose to do so.
- Where officers and members have experience of other workplaces their views about how the council operates are sought to consider if they have useful suggestions from their previous roles.
- The council assess its current arrangements whereby officers can raise concerns and consider if and how they need to be improved.


Ms Brown's report will now go to the council's Audit and Standards Committee on 18 November for consideration. A detailed action plan (<https://www.stratford.gov.uk/doc/208824/name/Appendix%202%20Culture%20Report.pdf>) to address the recommendations will also be considered at the meeting.


Chief executive David Buckland said: "The District Council takes any allegations involving any form of discrimination extremely seriously and when we were aware the Monitoring Officer instigated an independent review immediately. I would like to thank all the staff and members that contributed to the review and also to the investigator for such a thorough report.

"Whilst I am obviously very pleased that the investigator has concluded we are not a 'sexist' organisation. Staff can be fully assured that the recommendations arising from the report will be implemented in full, and I would encourage anybody who has any such concerns to come forward. They will be taken seriously and they will be supported."



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Former Leader of Welsh council suspended after helping personal assistant at interview

0 Comments (https://localgovernmentlawyer.co.uk/governance/396-governance-news/42710-former-leader-of-welsh-council-suspended-after-helping-personal-assistant-at-interview#disqus_thread)

Former Flintshire County Council leader Aaron Shotton has been suspended from office by a tribunal.

The Adjudication Panel for Wales found the Labour councillor broke the code of conduct by helping his personal assistant at a job interview. He was suspended from the council for three months.

The panel heard a referral of the case from the Public Services Ombudsman for Wales.

It found that Cllr Shotton breached the code by, in his official capacity, using or attempting to use his position to improperly secure an advantage for his assistant by providing her with an opportunity to view questions before her interview for the permanent personal assistant role.

Cllr Shotton additionally breached the code by sending and/or encouraging his assistant to send inappropriate messages, to include messages of a sexual nature, during office hours.

The panel said it expected to publish a full decision notice later this month.

Cllr Shotton stood down as leader of Flintshire last April during a public dispute within the Labour group between him and his then deputy Bernie Attridge. He cited the pressure this controversy had caused to his family.

At the time Welsh Local Government Association leader Debbie Wilcox said: "It is particularly disappointing that an elected representative has decided to stand down due to the challenges of being a senior public figure at this time and the impact that it has on them and their families.

"I am confident however that the council will be providing Aaron and any others affected with the necessary guidance and support."

Mark Smulian

Welsh councillor suspended for four months for conduct breaches

0 Comments (https://localgovernmentlawyer.co.uk/governance/396-governance-news/42454-welsh-councillor-suspended-for-four-months-for-conduct-breaches#disqus_thread)

Cardiff Council has handed a councillor a four months suspension after an investigation by the Public Services Ombudsman for Wales.

Its standards and ethics hearing panel made the ruling in the case of independent councillor Neil McEvoy, who is also a member of the Welsh Assembly.

This arose from a dispute over statements made by Cllr McEvoy about the council's children's services.

The panel said it was "aware of Cllr McEvoy's personal views in relation to Cardiff children services and the Ombudsman and the panel reiterated that should Cllr McEvoy have concerns, these need to be channelled through correct procedures".

The Ombudsman had found that Cllr McEvoy's conduct may have breached the council's code of conduct and the panel decided that he had failed to show respect and consideration of others, had used bullying behaviour and had brought the authority into disrepute.

It imposed a four months suspension from the council, for which Cllr McEvoy has a 21-day period in which to appeal.

In a posting on his Facebook page

(<https://www.facebook.com/neiljmcevoy/photos/pb.1538311623148335.-2207520000../2419037661742389/?type=3&theater>), Cllr McEvoy said: "Been stitched-up again. I've allegedly broken the code for speaking up for a child that alleged abuse in a private care home.

"The system in Wales has to change and I will be appealing. People who are abused are always let down."

The BBC has reported that police were called (<https://www.bbc.co.uk/news/uk-wales-politics-51113541>) after a disturbance at the panel hearing.

Mark Smulian

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A LEADING Ulverston councillor has been criticised for branding a fellow councillor a "plonker".

Conservative councillor James Airey could be seen shaking his head at Liberal Democrat councillor Matt Severn.

It came during a discussion about setting the 2019-20 council tax at a full meeting of the council on Tuesday.

Cllr Severn, who represents Kendal West, told the Conservative benches that they had abstained or voted against the agenda item in previous years.

"Whatever you think of the budget, we now have to provide the money not only to this authority but to the authorities whose budgets are out of our control, such as the county council or policing budget. If you don't support this you are saying you don't want them to have any funds," said Cllr Severn.

Cllr Airey, the shadow cabinet member for economy and assets, was heard to reply: "Oh you are a plonker."

"While we disagree professionally and personally, which is absolutely fine, to be mouthing obscenities is unacceptable and conduct unbecoming of anyone who seeks to become a member of parliament," said Cllr Severn.

Cllr Airey, the Conservative candidate for Westmorland and Lonsdale, began to leave the chamber but said he was heading off because it was "lambing time".

"I think if the word plonker is now obscene then I think we live in another world," said Cllr Airey, who represents the Furness Peninsula.

Cllr Airey leads the opposition Conservatives on Cumbria County Council. A similar storm was whipped up when he described the Liberal Democrats on the county council as "poodles" propping up Labour. That remark led to a complaint from Lib Dem cabinet member Cllr Pat Bell. She asked Cllr Airey to withdraw his "unpleasant language" and treat councillors with courtesy and respect.

Cllr Airey, of Great Urswick told her: "I will not be withdrawing it, I will not be apologising and I fully stand behind my comments." Cllr Sue Sanderson, the Lib Dem cabinet member for schools, replied she was unhappy being likened to a poodle but was comfortable with rottweiler.

Police look into 'racist' comments by councillor

A Conservative councillor who warned that a Travellers' site would end up looking like "My big fat Gypsy cesspit" is to have his comments assessed by police.

Mark Coxshall, a member of Thurrock Council, made the remarks in relation to a planning application for a site at Stanford -le-Hope, Essex. He welcomed the council's decision to block the application but said delays had allowed the Travellers to "bed in".

"We all know what happens next: they start building walls and fences and we end up with a section of Stanford that looks like a cross between 'my big fat Gypsy cesspit' and Shameless," Mr Coxshall said in a press release.

Travellers' groups said the comments were racist and complained to the council.

Yesterday, Essex Police confirmed it was studying hate-crime allegations. "We are ascertaining whether any criminal offence has been committed," the force said in a statement.

Mr Coxshall said: "I utterly refute any suggestion that the comments I have made are in any way racist.

Don't call me 'he'! Transgender Tory councillor calls in police because Labour opponent keeps calling her 'he' in meetings

A Tory councillor who transitioned from male to female a decade ago has complained to police after being addressed as 'he' by her Labour opponent.

Transgender Bolton councillor Zoe Kirk-Robinson has accused the town's former mayor of 'misgendering' her after he repeatedly called her 'he' and 'him' instead of 'she' and 'her' at a meeting.

Officers are understood to be taking the allegation seriously and investigating the incident as a potential hate crime.

The comments were allegedly made by Guy Harkin at a meeting of Bolton council last week at which councillors were discussing pensions.

A 69-year-old retired lecturer, Councillor Harkin once suggested naming streets after Adolf Hitler and other notorious Nazis in a bid to sabotage a planned housing development on the greenbelt.

Councillor Kirk-Robinson, 35, claimed he repeatedly 'misgendered' her as part of a 'personal attack' during the meeting at Bolton town hall.

In a video blog, she said: 'If I'm truthful, it hurt a lot, the guy had no reasons to ever suggest that I was male, he has never met me as a male.

'I transitioned over ten years ago and I have lived in Bolton for seven, going on eight years, he never met me before I transitioned.'

In a tweet after the meeting she wrote: 'Labour Cllr Guy Harkin repeatedly misgendered me in tonight's council meeting, while going off on a personal attack against me.'

Later she added: 'I can't say I'm surprised at his behaviour but I had hoped that Bolton's leading political group wasn't transphobic.'

And in another tweet she said: 'I will be calling on Bolton Labour Group to denounce his behaviour. Bolton does not welcome transphobia.'

Speaking afterwards she added: 'This obviously was a shock, and not a pleasant one. I expected better of a member of the Council.'

'Bolton has a problem with hate crime and for Councillor Harkin to engage in a personal attack against me in this matter only serves to legitimise transphobia in the eyes of the average bigot – which makes life harder for all LGBT people.'

A writer, artist, filmmaker and game developer, Councillor Kirk-Robinson transitioned from male to female more than ten years ago.

She campaigns for equality for gay and transgender people and is a 'hate crime ambassador' as part of a local police-council partnership.

'The incident has been referred to Greater Manchester Police, and therefore is now out of my hands,' she added.

'As a hate crime ambassador, I always urge people to report hate crime when it occurs and I will continue to do so.'

Councillor Harkin, 69, who served as the town's mayor in 2012/13, insisted the accidental 'slip' happened a couple of times, not repeatedly.

He added that he had been 'utterly unaware of the slip of the tongue' until it was pointed out to him the day after the meeting.

'I offered immediately to apologise as there is not a homophobic or any kind of phobic bone in my body,' he added.

Officers are understood to be treating the incident as a hate crime and to have proposed a meeting between the two councillors to resolve it by 'restorative justice'.

Bolton's Labour group is also understood to be looking into her complaint.

Appendix B



20 November 2019

MEDIA RELEASE

WEST LOTHIAN COUNCILLOR SUSPENDED FOR SHARING AN ANTISEMITIC ARTICLE ONLINE

A West Lothian Councillor, Frank Anderson, was sanctioned for disrespectful conduct by the Standards Commission at a public Hearing held in Livingston on 20 November 2019, and was suspended from all meetings of the council for 3 months. The case arose from complaints made about Cllr Anderson's actions in sharing, on Twitter and Facebook, and subsequently defending in a national newspaper, an antisemitic article from a third-party blog.

The Panel heard that it was not in dispute that, on 28 October 2018, Cllr Anderson shared, on Twitter and Facebook, an article from a third-party blog, 'Grouse Beater', that was critical of a member of the GMB Union, and in particular, her activities as the organiser of a two-day equal pay strike in Glasgow. The Panel found that the article inferred that the individual, as a person playing a prominent role in trade union activity, represented a stereotype of 'the Jew' as referred to by Hitler. The Panel noted that while the article did not specifically refer to the individual as being Jewish, that information was in the public domain as she sits on the Labour Party's National Executive, had been involved in its policy on antisemitism and was at the time the prospective UK Parliamentary candidate for Livingston. The Panel was satisfied that the article was antisemitic. The Panel noted that the article's author had been suspended by the SNP after writing it and was subsequently expelled from the party.

The Panel noted that Cllr Anderson's position was that while he had not read the article properly at the time and had not realised the individual concerned was Jewish, he now accepted it could be perceived as antisemitic. The Panel noted, however, that the Respondent had initially defended the article in comments published in the 'The National' on 30 October 2018, where he was quoted as stating that he did not accept it was antisemitic. The Panel noted that Respondent had subsequently sent the individual concerned an email, on the same day, in which he had apologised for sharing it. An apology from him was also published in the media the same day.

The Panel found that by sharing the article, Cllr Anderson was, in essence, endorsing its contents or, at the very least, could have been perceived as doing so. The Panel considered that the article contained comments that were antisemitic and that it also amounted to a personal attack on the individual named in it. The Panel was satisfied that, by sharing and subsequently defending an article that was antisemitic and offensive, Cllr Anderson caused the individual concerned a great deal of distress and breached the Councillors' Code of Conduct by failing to behave in a respectful manner towards her. The Panel suspended Cllr Anderson for a period for three months.

Mr Paul Walker, Standards Commission Member and Chair of the Hearing Panel, said:

“Councillors have a duty under the Code to treat others with courtesy and respect and cannot, therefore, indulge in offensive personal abuse. While the Panel was pleased to note that Cllr Anderson apologised to the individual concerned, it nevertheless considered that his conduct, in sharing and subsequently defending an offensive and antisemitic article, went well beyond that which is acceptable”.

A full written decision of the Hearing will be issued and published on the Standards Commission’s website within 14 days.

In determining whether the article was antisemitic, the Panel referred to the International Holocaust Memorial Alliance’s definitions and illustrations.

All councillors have a personal responsibility to adhere to the provisions outlined in the Councillors’ Code of Conduct, which is based on nine key principles, including, integrity, honesty and respect.

The Standards Commission for Scotland is an independent public body, responsible for encouraging high standards of behaviour by councillors and those appointed to boards of devolved public bodies.

The public bodies include colleges, National Health Service boards and regional bodies, such as the Highlands and Islands Enterprise.

It also covers national organisations like the Scottish Qualification Authority, Sport Scotland and Scottish Water, among many others.

Further information on the role of the Standards Commission for Scotland can be found at <http://www.standardscommissionscotland.org.uk/>

ENDS

Issued by the Standards Commission for Scotland. For further information please contact the Standards Commission on 0131 348 6666 or enquiries@standardscommission.org.uk



7 November 2019

MEDIA RELEASE

COUNCILLOR CLEARED OF BREACH OF THE COUNCILLORS' CODE OF CONDUCT

A Scottish Borders' councillor, James Fullarton, was found by the Standards Commission not to have breached the Councillors' Code of Conduct, in respect of allegations that he had behaved in a disruptive and disrespectful manner at a meeting of Eyemouth Community Council when issues relating to a Berwickshire Housing Association development were being discussed.

At a public Hearing held in Newton St Boswells on 6 November 2019, the Commission's Hearing Panel heard evidence from five witnesses, including Councillor Fullarton, about a heated meeting of the Community Council meeting on 29 January 2018. Members of the Community Council had repeatedly directed a number of questions towards Councillor Fullarton, who was a board member of the Housing Association, and, in particular, had raised issues regarding repairs to properties within one of its developments. When members of the Community Council had made it clear they did not accept Councillor Fullarton's response, the meeting had become heated with those present talking over each other. The Panel noted that Councillor Fullarton accepted he had banged his fist on a table a number of times during the discussion and had made a comment to the effect that at least one of the members present was moaning.

While the Panel noted Councillor Fullarton's position was that he had only banged on the table to get people's attention and to stop them shouting, it considered that it was also likely he had done so out of frustration. The Panel was of the view that banging on a table was poor behaviour but it did not consider, in the particular context of the meeting, that doing so amounted to a breach of the respect provision in the Code.

The Panel found that the Respondent may have directed his comment about moaning towards one individual present, but was not satisfied that there was sufficient evidence to conclude doing so was a personal attack, as opposed to his opinion of the member's conduct at the meeting. While the Panel considered the comment was unhelpful, it also did not consider that the making the comment in the context of the heated discussion amounted to a breach of the Code.

Ms Ashleigh Dunn, Standards Commission Member and Chair of the Hearing Panel, said: "Councillors have a duty under the Code to treat members of the public with courtesy and respect, even if they disagree with their views. However, while they cannot simply indulge in offensive behaviour or personal abuse, they have a right when discussing matters of public concern, to freedom of expression. In a political context a degree of the immoderate and emotive must be tolerated.

“In this case, the Panel’s opinion was that Councillor Fullarton’s conduct, in the context of a heated meeting and discussions with community councillors, being other public representatives, fell within the scope of that which is acceptable.”

After hearing and weighing up the evidence, the Panel concluded that Councillor Fullarton had not breached the Councillors’ Code of Conduct.

A full written decision of the Hearing will be issued and published on the Standards Commission’s website within 14 days.

All councillors have a personal responsibility to adhere to the provisions outlined in the Councillors’ Code of Conduct, which is based on nine key principles, including, integrity, honesty and respect.

The Standards Commission for Scotland is an independent public body, responsible for encouraging high standards of behaviour by councillors and those appointed to boards of devolved public bodies.

The public bodies include colleges, National Health Service boards and regional bodies, such as the Highlands and Islands Enterprise.

It also covers national organisations like the Scottish Qualification Authority, Sport Scotland and Scottish Water, among many others.

Further information on the role of the Standards Commission for Scotland can be found at <http://www.standardscommissionscotland.org.uk/>

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The Code of Conduct Casebook

Issue 22 October 2019

Introduction

The Public Services Ombudsman for Wales considers complaints that members of local authorities in Wales have broken the Code of Conduct. The Ombudsman investigates such complaints under the provisions of Part III of the Local Government Act 2000 and the relevant Orders made by the National Assembly for Wales under that Act.

Where the Ombudsman decides that a complaint should be investigated, there are four findings, set out under section 69 of the Local Government Act 2000, which the Ombudsman can arrive at:

- a) that there is no evidence that there has been a breach of the authority's code of conduct;
- b) that no action needs to be taken in respect of the matters that were subject to the investigation;
- c) that the matter be referred to the authority's monitoring officer for consideration by the standards committee;
- d) that the matter be referred to the President of the Adjudication Panel for Wales for adjudication by a tribunal (this generally happens in more serious cases).

In the circumstances of (c) and (d) above, the Ombudsman is required to submit the investigation report to the standards committee or a tribunal of the Adjudication Panel for Wales and it is for them to consider the evidence found by the Ombudsman, together with any defense put forward by the member concerned. It is also for them to determine whether a breach has occurred and, if so, what penalty (if any) should be imposed.

The Code of Conduct Casebook contains summaries of reports issued by this office for which the findings were one of the four set out above. However, in reference to (c) and (d) findings, The Code of Conduct Casebook only contains the summaries of those cases for which the hearings by the standards committee or Adjudication Panel for Wales have been concluded and the outcome of the hearing is known. This edition covers July to September 2019.

The Code of Conduct Casebook

Issue 22 October 2019

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Case summaries

No evidence of breach

Caia Park Community Council - Disclosure and registration of interests

Case number: 201805133 - Report issued in July 2019

The Ombudsman received a complaint that a Member ("the Member") of Caia Park Community Council ("the Council") had breached the Code of Conduct for members, in October 2018, when they submitted an application for funding for a community project, in which they had an interest, which was above the Council's agreed limit, against the advice of the Clerk. It was alleged that the Member's behaviour could bring the Council into disrepute.

The investigation established that the Clerk had advised that the Council could consider an application for funding above the agreed limit. The Member declared an interest and there was no evidence that they sought to influence the decision making. Therefore, the Ombudsman found that there was no evidence that the Member had breached the Code of Conduct.

Powys County Council - Accountability and openness

Case Number: 201803272 – Report issued in August 2019

The Ombudsman received a complaint that a Member ("the Member") of Powys County Council ("the Council") had breached the Code of Conduct ("the Code") in relation to the connection of water supplies to two of his properties and in respect of his actions in relation to his caravan site.

An investigation was commenced to consider whether the Member had breached the part of the Code relating to disrepute. Copies of relevant documents were obtained. The evidence found by the investigation was shared with the Member before he was formally interviewed.

The Ombudsman determined there was no evidence to suggest that the Member had breached the Code.

Denbighshire County Council - Promotion of equality and respect

Case Number: 201900044 – Report issued in August 2019

The Ombudsman received a complaint about a Member ("the Member") of Denbighshire County Council ("the Council"). It was alleged that the Member's behaviour had been inappropriate and disrespectful and breached the Code of Conduct.

During the course of the investigation, information was provided by relevant parties including the complainant, and the Monitoring Officer.

The Ombudsman found that there was no evidence to support the concerns raised and found that there was no breach of the Code of Conduct.

Prestatyn Town Council - Promotion of equality and respect

Case Number: 201900045 – Report issued in August 2019

The Ombudsman received a complaint about a Member ("the Member") of Prestatyn Town Council ("the Council"). It was alleged that the Member's behaviour had been inappropriate and disrespectful and breached the Code of Conduct.

During the course of the investigation, information was provided by relevant parties including the complainant, the Clerk to the Council and the Monitoring Officer.

The Ombudsman found that there was no evidence to support the concerns raised and found that

there was no breach of the Code of Conduct.

Sully and Lavernock Community Council - Duty to uphold the law

Case number: 201900025 - Report issued in September 2019

The Ombudsman received a complaint that a Member ("the Member") of Sully and Lavernock Community Council ("the Council") had breached the Code of Conduct when he allegedly physically attacked someone.

The Ombudsman's investigation was suspended pending the outcome of a criminal prosecution made against the Member in relation to the incident. The case was heard by the Magistrates Court; there was no direct witness evidence to the alleged incident and the Member was found not guilty. Therefore, the Ombudsman did not consider that the evidence suggested that the Member had breached the Code of Conduct in this case. The Ombudsman's finding under s69(4)(a) of the Local Government Act 2000 was therefore that there was no evidence that the Member had failed to comply with the Code.

No action necessary

Llandrindod Wells Town Council - Promotion of equality and respect

Case number: 201803394 - Report issued in July 2019

The Ombudsman received a complaint that a Member ("the Member") of Llandrindod Wells Town Council ("the Council") had inappropriately accessed the Council's computer, withheld information gathered from it from the Council and failed to declare a personal and prejudicial interest in matters the Council was considering. It also alleged that the Member had engaged in bullying behaviour towards the Clerk at two meetings, in particular.

The investigation considered whether the Member might have breached paragraphs 4(b) and (c), 5(b), 7(a), 11 and 14 of the Code of Conduct. Copies of relevant documents, including the approved minutes of the two meetings, were obtained and telephone interviews were conducted with relevant witnesses. The evidence found by the investigation was shared with the Member before he was formally interviewed.

The investigation found that the evidence did not suggest the Member had acted in a bullying manner, prevented the Council from obtaining access to information to which it was entitled or used his position improperly. The Member was entitled to comment on matters to do with the Council and had legitimate grounds for his actions.

The investigation found evidence that the Member had failed to show due respect and consideration to the Clerk at one meeting, and that he had failed to take appropriate action in respect of a personal and prejudicial interest. However, the Member had been acting in good faith and in the best interests of the Council. In addition, he demonstrated a reasonable level of personal reflection since the time of the events. The Ombudsman found that, therefore, no action needed to be taken in respect of the matters investigated.

Bridgend Town Council - Disclosure and registration of interests

Case number: 201707582 - Report issued in September 2019

The Ombudsman received a complaint about a Member ("the Member") of Bridgend Town Council ("the Council"). It was alleged that the Member had failed to disclose a personal and prejudicial interest during a meeting of the Council and proceeded to participate in discussions relating to that matter. Additionally, it was alleged that the Member failed to show respect and consideration during the meeting and behaved in a bullying manner towards the Clerk to the Council.

During the course of the investigation, information was provided by relevant parties including the complainant, and the Council.

The Ombudsman found that the evidence gathered was suggestive that the Member had failed to appropriately declare a personal and prejudicial interest at the meeting of the Council. In addition, the Member's actions in failing to leave the room and making representations were also suggestive of a failure to comply with the relevant provisions of the Code. Further, the Ombudsman determined that the evidence was suggestive that the Member failed to show respect and consideration to the Clerk during that meeting.

In deciding what action to take the Ombudsman considered the custom and practice of declaring interests within the Council at the relevant time, the mitigation provided by the Member and recent evidence confirming a significant improvement in working relationships within the Council. The Ombudsman concluded that it would not be in the public interest to take matters further and that no action should be taken in respect of the matters investigated.

[Bridgend Town Council - Disclosure and registration of interests](#)

[Case number: 201707583 - Report issued in September 2019](#)

The Ombudsman received a complaint about a Member ("the Member") of Bridgend Town Council ("the Council"). It was alleged that the Member had failed to disclose a personal and prejudicial interest during a meeting of the Council and proceeded to participate in discussions relating to that matter. Additionally, it was alleged that the Member had used his position improperly in an attempt to gain an advantage for himself or his close personal associates.

During the course of the investigation, information was provided by relevant parties including the complainant, and the Council.

The Ombudsman found that the evidence gathered was suggestive that the Member had failed to appropriately declare a personal and prejudicial interest at the meeting of the Council. In addition, the Member's actions in failing to leave the room and making representations are also suggestive of a failure to comply with the relevant provisions of the Code. However, the Ombudsman was not persuaded that the evidence was suggestive that the Member used his position in an attempt to gain an advantage as suggested.

In deciding what action to take the Ombudsman considered the custom and practice of declaring interests within the Council at the relevant time and the mitigation provided by the Member. The Ombudsman concluded that it would not be in the public interest to take matters further and that no action should be taken in respect of the matters investigated.

[Trefeurig Community Council - Disclosure and registration of interests](#)

[Case number: 201806748 - Report issued in September 2019](#)

The Ombudsman received a complaint that a Member ("the Member") of Trefeurig Community Council ("the Council") had breached the Code of Conduct. It was alleged that, during a discussion about a planning application for a local development, the Member failed to declare an interest in the matter.

During the course of the investigation, information was provided by relevant parties including the complainant, and the Clerk to the Council.

The Ombudsman found that no action needed to be taken in respect of the matters investigated.

Referred to Standards Committee

[Prestatyn Town Council - Promotion of equality and respect](#)

[Case number: 201700947 – Report issued in July 2019](#)

The Ombudsman received a complaint that a Member ("the Member") of Prestatyn Town Council

("the Council") may have used threatening and abusive behaviour towards a fellow member of the Council and behaved in an aggressive and confrontational manner at two Council meetings in November 2016 and May 2017.

The Ombudsman obtained relevant information about the matter from the Council and interviewed a number of witnesses. The Member was interviewed and provided his response to the complaint. Having considered the evidence the Ombudsman found that there was evidence to suggest that the Member may have breached the Code of Conduct and referred the matter for consideration by the Council's Standards Committee.

The Standards Committee determined that the Member failed to show respect and consideration to Police Officers who were in attendance at the meeting in November 2016 and towards his fellow member in the meeting in May 2017. In addition, the Standards Committee found that the Member's behaviour at both meetings was capable of bringing the Council into disrepute.

The Standards Committee decided that on the basis of the findings reached that the Member should be suspended from office of member of the Council for a period of four months.

Neath Town Council - Promotion of equality and respect

Case number: 201707990 – Report issued in July 2019

On 21 March 2018, I received a complaint that a member of the Council ("the Member") failed to observe the code of conduct for members of Neath Town Council ("the Council"). It was alleged that the Member had commented that a Neath resident had deserved to be murdered.

The investigation found that the Member's unsolicited comments about the victim were both disrespectful and distasteful and, whilst it may have been the member's private opinion, there was no reason for it to have been expressed publicly. In view of the effect of the Member's comments on the citizens of Neath Town Council, many of whom believe that the Member is no longer a suitable representative, and the effect on the reputation of the Town Council itself, the Ombudsman concluded that the Member may have breached paragraph 6(1)(a) of the Code of Conduct.

The Ombudsman determined that the matter should be referred to the Monitoring Officer of Neath Port Talbot County Borough Council for consideration by that Council's Standards Committee. The Standards Committee found that the Member had breached the Code of Conduct and she was suspended for four months.

Referred to Adjudication Panel for Wales

Mathern Community Council - Promotion of equality and respect

Case number: 201802799 – Report issued in July 2019

During a public hearing of the Adjudication Panel For Wales held on 19 July 2018, a member of Mathern Community Council ("the Member") made a statement which he followed up with a letter to the Adjudication Panel. Both the statement and the letter contained language either the same as or similar to language which the Adjudication Panel had advised him would amount to a breach of the Code of Conduct.

The Ombudsman decided to investigate whether the Member's actions amounted to a breach of paragraph 6(1)(a) of the Code of Conduct on the basis that the matter had come to his attention as a result of the investigation which was being heard by the Adjudication Panel for Wales on 19 July.

The Ombudsman considered that a reasonable person would conclude that the Member actions affected the reputation of both the Office of Member and the Authority of which he is a member and that they may amount to a breach of paragraph 6(1)(a) of the Code of Conduct. The Ombudsman also considered that any restriction of the Member's right to freedom of expression under article 10 of the Human Rights Act, would be necessary for the protection of the rights and interests of others.

The Ombudsman referred the matter to the Adjudication Panel for Wales. However, on 17 July 2019 the Adjudication Panel determined that the matter did not come to the Ombudsman's attention as a result of the investigation heard on 19 July 2018 as that investigation concluded on 20 December 2017 (when the matter was referred to the Adjudication Panel for Wales) and determined it would therefore not consider the case. No further action was taken.

Review of Political Parties' Codes of Conduct

Background

1. The Jo Cox Foundation (JCF) and the Committee on Standards in Public Life (CSPL) have come together to agree with political parties in Westminster a common approach to tackling intimidation and abuse. This builds on the recommendation in the CSPL report, [Intimidation in Public Life](#), that the political parties must work together to develop a joint code of conduct on intimidatory behaviour during election campaigns.
2. Following meetings held with political parties in November 2018 and March 2019 the output envisaged has evolved into a high level 'Joint Standard' around conduct and behaviour consistent with the aspiration in *Intimidation in Public Life* that there should be cross-party consensus on recognising and addressing intimidation, harassment and abusive behaviour.

Political parties' codes of conduct

3. This paper reviews the codes of conduct of political parties holding seats in Parliament, considering scope, themes, and language.¹ It should be read alongside the table at annex A.
4. The paper provides a foundation for creating a Joint Standard owned by the political parties, which contains a shared understanding of the minimum standards of behaviour expected from all party members. The intention is that behaviour that breaches the unacceptable behaviour described in the Joint Standard will constitute grounds for disciplinary action under each party's disciplinary framework. This paper therefore focuses on the language contained in the party codes, although reference is made to other party documentation containing information about procedures for alleged breaches in paragraph 14.
5. The analysis in this paper is based on a review of the following literature:
 - a. Conservative Party - [Code of Conduct for Conservative Party Representatives](#)
 - b. Labour Party - [Social Media Code of Conduct](#); [Sexual Harassment and Gender Discrimination Code of Conduct](#); and [Antisemitism and other forms of racism Code of Conduct](#)
 - c. Liberal Democrat Party - [Members' Code of Conduct](#)
 - d. Scottish National Party - [SNP Code of Conduct](#)
 - e. Green Party - [Green Party Members Code of Conduct](#)
 - f. Plaid Cymru - [Westminster Group Handbook](#)

¹ The DUP have not been included in the review as their code does not appear to be available online. They have not engaged in this work since sending apologies to the first meeting held on 20 November 2018.

6. In addition, rules relating to internal standards covering issues of intimidation, harassment and abusive behaviour can be found in other party documentation, whether explicitly (e.g. the Liberal Democrat constitution states: *'As a Member of the Liberal Democrats, you must treat others with respect and must not bully, harass, or intimidate any Party member, member of staff employed to support Liberal Democrats, Party volunteer, or member of the public.'*) or implicitly (e.g. the Conservative Party constitution states that no party representative or member shall have engaged or engage in conduct which brings or is likely to bring the Party into disrepute).

Scope of the codes

7. The codes reviewed are binding on all party members, apart from the Conservative Party Code of Conduct, which applies to anyone who formally represents the Party as an elected or appointed official². The Green Party Code applies to members and non-member volunteers.

Purpose of the codes

8. While there are differences in language, there is consistency in the intent that the codes should set a minimum standard of behaviour. The Liberal Democrat Code of Conduct takes the approach of setting out the rights and responsibilities of party members. The Conservative Party Code includes the additional purpose: *'to support equality of opportunity, diversity and inclusion, and the absence of any and all inappropriate behaviour.'*

Prohibiting intimidation, harassment and abusive behaviour

9. The party codes all prohibit bullying, harassment and unlawful discrimination - conduct that clearly falls within the scope of intimidation. Some of the codes list further categories of behaviour that will not be tolerated by the parties, including victimisation, abuse and hateful language.

Protecting the debate

10. The UK's constitutional framework respects the right of political parties and the public to engage in what may at times be trenchant debate on political issues, especially during elections. Political parties and their candidates must expect to be subject to searching scrutiny of their programme and ideas for government. The CSPL report, *Intimidation in Public Life*, acknowledged *'public discourse must allow significant and robust political disagreement, but without creating the conditions which encourage intimidatory behaviour.'*

² The Conservative Party also has a code of conduct for the leadership and management of volunteers which makes reference to intimidatory or bullying behaviour of volunteers by volunteer leaders.

11. The Labour Party Social Media Code, the Liberal Democrat Code and the Green party Code all emphasise the importance of robust critical discussion of political views, in contrast to personal attacks, which are clearly not acceptable.

Treating people with fairness, respect and dignity

12. As well as precluding poor behaviour, many of the codes explicitly refer to the positive behaviours expected by party members. While there is a range of language used, fairness, respect, tolerance and dignity are common themes. The Green Party Code includes a requirement to maintain civilised standards of conduct towards each other and others such as political opponents or non-members.

Responsibility for challenging unacceptable behaviour

13. The expectation that members will challenge unacceptable behaviour is included in several of the codes. The Green Party Code explains that it is a breach of the code for a person in a role with responsibility, such as a Chair, Moderator or similar, to fail to take appropriate action to prevent or stop discriminatory, oppressive or abusive behaviour. Members should also be aware of risks and act to mitigate them. The Labour Party Social Media Code of Conduct states, *'We all have a responsibility to challenge abuse and to stand in solidarity with victims of it.'* The Conservative Party Code requires those subject to it to actively promote and robustly support the Nolan principles *'and be willing to challenge poor behaviour wherever it occurs.'*

Linking with existing party disciplinary process - being clear about the repercussions

14. The codes vary in their approach to referring to the procedures for alleged breaches:
 - a. The Code of Conduct for Conservative Party Representatives sets out the procedure for making a complaint against elected representatives or officers of the Party and the process that will be followed. The code also refers to disciplinary processes set out in the [Constitution of the Conservative Party](#).
 - b. The Labour Social Media Code states that any member found in breach of the policies will be dealt with according to the rules and procedures of the Labour Party. The rules and procedures of the Labour Party are contained in the [Labour Party Rule Book](#).
 - c. The Liberal Democrat Members' Code of Conduct states, *'behaviour which is unlawful, dishonest, deceitful, violent, or threatening will constitute bringing the Party into disrepute, will constitute grounds for disciplinary action under [the Constitution of the Liberal Democrats In England](#)'.*
 - d. The SNP Code states, *'Every member owes a duty to the Party to abide by its constitutionally laid down policy and direction and its Constitution, Rules and Standing Orders.'* SNP's disciplinary procedures are set out in the [Constitution of the Scottish National Party](#).
 - e. The Members Code of Conduct for the Green Party states that the code, *'forms part of the national disciplinary framework that applies to all Green Party members, as set out in the Green Party of England and Wales Constitution and Standing Orders for Party Discipline... Other Party*

documents set out that a breach of this Code of Conduct constitutes grounds for disciplinary action.'

- f. The Plaid Cymru Westminster Group Handbook includes procedures for seeking advice and making a formal complaint.

15. Research of the parties' online published material revealed a range of possible sanctions that are included in parties' disciplinary frameworks. These include: formal warning; reprimand; suspension from party membership; barring the subject of the disciplinary procedure from holding or standing for election to any specified party office or role either permanently, for a specified period; and revocation of party membership. However, it was not clear from what was publicly available, whether *all* the parties' disciplinary frameworks include *all* of these sanctions.

Reporting illegal behaviour to the police

16. In some cases, including but not limited to offences against the person and damage to property, as well as credible threats of violence, the behaviour may be illegal. This is acknowledged in some of the party codes. The Conservative Party Code states, *'If there is an allegation of criminal wrongdoing, we will strongly advise the complainant to report this to the relevant authority as soon as practicable. In certain instances, we may have a duty to contact the relevant authority directly.'* The Liberal Democrat Code states, *'... the party reserves the right to refer any breach of this code of conduct which breaks the criminal law to the police rather than/ as well as dealing with it under this code of conduct.'* The Labour Social Media Code states, *'We encourage the reporting of abusive behaviour to the Labour Party, administrators of the relevant website or social media platform, and where appropriate, to the police. This is a collective responsibility and should not be limited to those who have been subjected to abuse.'*

The CSPL Review of Ethical Governance and Bullying

0 Comments (https://localgovernmentlawyer.co.uk/governance/314-governance-a-risk-articles/42357-the-cspl-review-of-ethical-governance-and-bullying#disqus_thread)

Paul Feild looks at what the Committee for Standards in Public Life has recommended in relation to bullying and sets out the actions councils can take to address the issue.

On 30 January 2019 the Committee for Standards in Public Life (CSPL) published its 20th Report; the 2019 Review of Local Government Ethical Standards (the 'Review'). The Review sets out the CSPL findings of research conducted in 2018 on the subject of ethical standards in local government.

This article follows up my recent commentary of 13 September 2019 on the CSPL Review (</governance/396-governance-news/41434-localism-and-the-cspl-review-of-ethical-standards>) and this time considers the CSPL findings and recommendations aspects in terms of behaviours, bullying and cultures, particularly in relation to member's relations with officers. Incidentally a key thrust was that as localism is still government policy it was unlikely that there would be any changes in the current law soon. I don't consider the new post 12 December 2019 administration will be likely to prioritise changes either as not covered in the Queen's Speech.

To recap the terms of reference of the CSPL Review were 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 review will consider all levels of local government in England, including town and parish councils, principal authorities, combined authorities (including Metro Mayors) and the Greater London Authority (including the Mayor of London).

The Review therefore did not specifically address the question of bullying directly but as we shall see it emerged to become a key theme and led to specific proposals from the CSPL regarding measures to tackle it.

Reference to Bullying - what the Review says

The aspect of bullying is a reoccurring theme. It is mentioned 50 times.

Let's highlight the key observations. Firstly, the letter to the Prime Minister[i] specifically refers to bullying and it says:

"It is clear that the vast majority of councillors and officers want to maintain the highest standards of conduct in their own authority. We have, however, identified some specific areas of concern. A minority of councillors engage in bullying or harassment, or other highly disruptive behaviour, and a small number of parish councils give rise to a disproportionate number of complaints about poor behaviour." Review p.6

Both the recommendations and best practice proposals put forward the need to record breaches of the Code of Conduct with specific reference to bullying.

It calls for the transparency code be so amended and that local authorities should specifically prohibit bullying in their local code of conduct with a specific definition of what constitutes bullying. The Review later cites the ACAS definition to be as it were a potential working definition, it says:

Whilst there is no statutory definition of bullying, the Advisory, Conciliation and Arbitration Service (ACAS) have codified a helpful definition: "offensive, intimidating, malicious or insulting behaviour, an abuse or misuse of power through means that undermine, humiliate, denigrate or injure the recipient". Review p. 34

I would guess that for reasons of consistency that will be the definition which most authorities will chose. A sensible choice, as in the fateful event of bullying being directed at staff the definition will accord with established employment law.

Next in Chapter 1, it is observed that many behaviour issues are related to bullying and harassment. It is not the only kind of misbehaviour of course, but it is the dominant form. We are told:

"Of councils that had received complaints, 83% said complaints had been made about disrespectful behaviour, 63% about bullying and 31% about disruptive behaviour" Review p. 22

Later (p.32) the Review notes that the subject of bullying is much better recognised since the last time the CSPL reviewed local government standards. They note that local codes do not always specifically refer to the subject. Nevertheless, bullying can have a very detrimental effect on officers and of course is corrosive to leadership [ii]. As well, bullying could lead to decision making which is not in the public interest and a failure of standards and governance.

An example is given (p.33) of an investigation into a local authority where bullying of an officer led to a breakdown of governance. The evidence led the CSPL to conclude that a requirement of 'respect' was not enough it observed:

"The Committee heard from Monitoring Officers and independent investigators that the broad 'respect' provision upon which many councils rely is not suitable for dealing with allegations of bullying and harassment." Review p.33

As a result, the CSPL makes the proposal:

"Best practice 1: Local authorities should include prohibitions on bullying and harassment in codes of conduct. These should include a definition of bullying and harassment, supplemented with a list of examples of the sort of behaviour covered by such a definition."
Recommendation

The Review then considers the issue of bullying and sanctions.

The CSPL explains (at page 65) that in their view sanctions serve four purposes being:

- motivating observance of standards arrangements,
- deterring damaging behaviour,
- preventing further wrongdoing, and
- maintaining public confidence.

It is interesting to observe that punishment for wrongdoing is not one of the reasons. This leads to a strange state of affairs in that for example, say a member is found to have bullied or harassed another member, officer or citizen and committed a clearly wrongful act yet the application of a sanction for the behaviour is not for the purpose to be used for formal punishment. Thus, any decision to award a sanction against the member must be to either / or, encourage good standards, to deter damaging behaviour or further offending or to maintain public confidence. Yet the fact that the Member may be an unrepentant recidivist who deserves to be punished is apparently not a good reason for a sanction.

Indeed, at present they cannot be deprived of their basic members' allowances.

Now let us consider the case of say a standards committee finding that an officer has been bullied by a member and, if as will be likely the ACAS definition is used, then it will be effectively finding an act which amounts to a repudiatory employment breach permitting an employment claim for possible discrimination or constructive dismissal. As clearly the committee has no power to award compensation or recompense, it means that for the aggrieved victim that is unlikely to be the end of the matter. Not surprising then that a likely outcome is a reach for the compromise agreement and inevitable confidentiality clause and the council funds paying for it. More than likely the deal will include the officer withdrawing his or her complaint too!

But why should the council taxpayer pick up the cost and the member be able to carry on?

When I interviewed persons during my doctorate, one interviewee made the astute point that there is a possibility that the worst examples of member behaviour never end up as complaints because they are settled.

So far, we have considered the bullying member and the bullied officer. What if the bullied victim is a Monitoring Officer or the Chief Executive / Head of Paid Service and the bully is a senior elected politician?

While there are the provisions for independent investigation (See the Local Authorities (Standing Orders) (England) (Amendment) Regulations 2015), the political reality is that if there is a falling out it will be the officer who walks.

The likely resolution is again the compromise agreement which can be for many tens of thousands of pounds. Consequently, the bullying behaviour does not go to a standards committee to be heard, settlement papers are signed and off they go. It is as if it never happened. The outcome is that the public purse is picking up the cost for bad behaviour. This practice is wrong.

In the case of the Chief Finance Officer and the Monitoring Officer, they at least should have the backing of the Head of Paid Service as their line management. Insistence should be to use internal and statutory provisions. But on the other hand, a Chief Executive will have to think very carefully before they put in a grievance or a complaint against a leader who will inevitable have a say in the quarterly (or shorter) personal performance assessment of the said Chief Executive.

Nevertheless, I do think there is a way out of this. The best way to eliminate bullying is to ratchet up the organisational cultural unacceptability of bullying in the same way as discrimination is totally forbidden. For organisations they need to make no bullying de rigueur. This means local authorities must consider declaring full council support for local standards codes that are integrated with anti-bullying policies which specifically included provision to prevent the possibility of the taxpayer picking up the cost of bad politicians' behaviour.

In addition, the use of compromise agreements by local authorities should be aligned with councils anti-bullying policies that requires civil evidential proof of bullying and that where individuals are identified as being responsible, then the authority will reserve to right to recover the cost from them be they member or officer. Sure, this measure will have its opponents for a quiet life and reputational management, but the CSPL Report to my mind forcefully argues something must be done and bullying needs to be eliminated, full stop.

Summary - action to take

Unless your Constitution already is compliant with the CSPL recommendations, it is time for revision. The implication is that your Local Code needs to reflect the advice to refer explicitly to bullying and reference the ACAS definition for adoption.

As a full council will have to approve the changes it is an ideal time to raise the subject of bullying as a governance concern and the commitment to training on the subject be provided and be integrated within a member's development programme. Attendance can be set as a 100% performance target.

This action should be backed by an authority-wide initiative for officers too. Thus, there will be a dual prong approach of leading by example. The member/ officer cadres need to make it abundantly clear there will be zero tolerance to inappropriate behaviour be it bullying or in a similar form of intimidation, victimisation or discrimination. Compromise agreements must not be used for allegations of bullying without civil evidence levels of proof and a policy that enables the local authority to recover the cost of compensation from members if they are found responsible for breach of the local code of conduct by bullying following the due process of a Localism Act complaints process.

It maybe that while this work is at its peak that reports may come through about on-going bullying and it is recommended that a strategy and support mechanisms are so devised. This will be of special concern if the bullying is directed to influencing decision makers to take perverse decisions and in extremis could be criminal too if it were say for example influencing commissioning of contractors.

Conclusion

As observed the changes sought by the CSPL are contrary to localism and I don't see the new Johnson government abandoning the party view that standards are a local matter at least for England. In other words, no imminent action should be expected.

Good governance is about being relied upon to do the right thing right away. A heavy responsibility lies with the triumvirate of the Head of Paid Service, the Chief Finance Officer and the Monitoring Officer. They must resist the lure of the compromise agreement fix. It is a bounden duty to uphold standards even if it hurts in the short term. They will emerge stronger. If they are on the receiving end themselves of bullying, then the temptation of a deal will be strong. But it won't do them any good in the long run. News of unethical behaviour does get around, as does what people did about it. What needs to happen is their professions as a whole need to rally round and support the colleagues who are going through such travail, and that does not mean being a friendly emissary assisting with signing off the compromise agreement.

Organisations that place value on integrity do acquire a good reputation and equally those who put their figurative heads in the sand can and do shed good people and in due course unravel. But this does not need to be so. By strengthening the local code to address bullying head on and restricting the use of compromise agreements, it will deliver results.

Finally, Happy High Standards New Year!

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[i] Teresa May

[ii] See David Prince's comments " *...reports have historically shown how, if unchecked at the outset, a corrosive and demoralizing culture can quickly take hold.*" Written evidence No. 31

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Civility in public life and the review of the model code of conduct

There are growing concerns about the impact an increasing level of public intimidation and toxicity of debate is having on our country's democratic processes, particularly at a local level. Responding to these concerns, the LGA is leading on 'civility in public life' and this report sets out our programme of work.

Civility in public life

Background

One of the most pressing concerns facing those in public office at the moment is the increasing incidents of public intimidation and abuse. These attacks risk the personal safety of our members, undermine local democracy and decision-making, and can put off prospective candidates from standing. Intimidation and physical threats of violence against councillors are a real and growing concern in every area of the country. Whilst debate and having different views is all part of a healthy democracy; abuse, public intimidation and threats are designed to undermine democratic decision making by generating fear in those who represent it.

Intimidation, abuse and harassment of councillors is a crime, as it would be towards any member of the public. However, reports from LGA members indicate that there is not a consistent response from the police across the country and that there is confusion about reporting, support, the legislation, and the broader impacts for our society and democracy. We need a wider discussion with our citizens on how they involve themselves in public debate. We collectively need to be clear that abuse, harassment, intimidation and violence is not the way for anyone to engage in modern-day politics.

Concern has also been raised about incidents of intimidation within councils, involving councillors as well as officers. If we expect decent standards of behaviour from members of the public when they engage with councillors, then good standards of behaviour need to be modelled within the council.

Purpose

The purpose of the programme is:

- to address the intimidation of local government members and officers
- to address standards of public discourse
- to address standards of political discourse and behaviour in public office
- to provide support and advice to councils and councillors

Objectives

The LGA's objectives in embarking on this programme of work are:

- to articulate what local government believes are good standards for anyone engaging in public and political discourse and debate, and what is needed to achieve these standards
 - to show leadership at a local, national, UK-wide and international level in good standards of political debate, engagement and decision-making, demonstrating the positive impact it can have
 - to understand the scale and impact of intimidation and abuse behaviour our membership is experiencing
 - to challenge the 'new-norms' of intimidation, abuse, threats and aggressive behaviour by many engaging in political and public discourse
-
- to demonstrate the impact that intimidation and abusive behaviour in our political system and from the general public has on our democratic system, and recommendations for achieving positive debate and public engagement in local decision-making
 - to support its member councils in addressing intimidation and abuse
 - to enhance the reputation of local government and local politicians, and encourage more people to become councillors by addressing the issues of intimidation and abuse
 - to support all democratically elected local representatives in delivering their best on behalf of their local communities
 - to build on the good practice that already exists within member councils

LGA Leadership

The LGA will provide leadership through:

- engaging in positive political discourse
- challenging poor political discourse
- the application of consistent and high standards for all public office
- emphasising the benefits of becoming a councillor, encouraging prospective candidates to stand for public office and encouraging a diversity in candidates
- demonstrating the positive outcomes that can be achieved through civil and respectful debate, discussion and decision-making within and between political parties
- accepting and promoting a council duty of care for the wellbeing, safety and security of councillors
- facilitating a pan-UK local government response

The programme of work

The LGA will focus on three elements – prevention, support and challenge:

Prevention

- improvement support and guidance for our member authorities, building on our existing improvement and leadership programmes and the guide for councillors on handling intimidation
- desktop research into the prevalence, impact, good practice and international action on the intimidation of those in public office

Support and intervention

- the development of policy and legislative proposals with partners, government and stakeholders that address intimidation and standards of public discourse, particularly with a view to gaining a more consistent and robust response from the police and Crown Prosecution Service (CPS). This includes the proposal for a new criminal offence for intimidating a person in public office and engagement with Police Crime Commissioners (PCCs)
- exploring the potential for an informal council 'duty of care' towards its councillors as good practice
- a revision of the local government model code of conduct with a view to promoting it as standard for all in public office

Challenge

- the development of a pan-UK commitment and public statement for discussion at the UK Forum for the leaders of all the UK local government associations taking place in November 2019
- exploring opportunities for a public and political-facing campaign

Oversight

- a small member-led steering group will oversee the LGA civility in public life work programme to provide ongoing insight and commentary

The review of the model code of conduct

Introduction

The LGA is reviewing and updating the member model code of conduct. The member model code of conduct is suggested national good practice, and councils can adopt this code, or adopt their own local code.

Why is the model code of conduct being reviewed?

The LGA is undertaking a review of the member model code of conduct in response to the recommendations made by the Committee on Standards in Public Life, but also in response to rising local government concern about the increasing incidence of public, member-to-member and officer/member intimidation and abuse and overall behavioural standards and expectations in public debate, decision making and engagement.

The LGA aims to develop a code that benchmarks a standard for all public office and for those engaged in public discourse and debate. It will set out the duties and expectations of persons in public office as well as their rights, particularly their right to be protected from abuse and intimidation resulting from their undertaking of public office.

Objectives

The LGA's objectives in reviewing the model code of conduct are to:

- articulate what local government believes are good standards for all in public office
- show leadership in good standards of conduct for those in public office, both elected and as employees
- achieve consensus between the stakeholders affected by local government conduct
- support its member councils and partners in achieving good standards of conduct
- produce a code that is fit for purpose, useful and held in high regard
- enhance the reputation of local government and local politicians
- support the good running of councils
- support all democratically elected local representatives to deliver their best on behalf of their local communities
- build on the good practice that already exists within member councils

Why the LGA?

The LGA is well placed to lead on the review and renewal of the model code of conduct because, as set out in the articles of association of the Local Government Association, the LGA's objects are:

- to support, promote and improve local government in England and Wales
- to represent, wherever possible by consensus, the interests of Member Authorities to national governments, to Parliament, to political parties, to European and other international institutions and to other bodies, and to negotiate on behalf of local government
- to formulate policies to support the improvement and development of local governance, effective management in local authorities and the enhancement of local democracy in England, Wales and elsewhere
- to provide forums for discussion of matters of common interest and/or concern to Member Authorities, including groups of Member Authorities, and a means by which **joint views may be formulated and expressed**

- to endeavour to give democratically elected local representatives from different political groups the opportunity to contribute to the Association's work and to the development of policies which represent, as far as possible, **consensus between the political groups and between groups of Member Authorities**
- to support all democratically elected local representatives of Member Authorities

The LGA also has the responsibility to speak for all Member Authorities in matters of local government in general or which concern all Member Authorities. In this way, the LGA is well placed to bring together the different stakeholders under the umbrella of local government to achieve understanding and consensus, which will be vital for the adoption and success of any reviewed and renewed code of conduct. It will be important to understand, respect and bring together the range of views on the code of conduct if it is to be successful.

How will the LGA review the model code of conduct?

The LGA aims to work collaboratively with a range of officer and member stakeholders in a spirit of co-production. As such, the LGA will engage with the representative organisations and also with officers and members across the country.

The LGA will gather evidence and opinion on what is needed in an updated and fit-for-purpose code, including considering the review into local government ethical standards undertaken by the Committee on Standards in Public Life and the evidence submitted to the review. The LGA will research the existing local bespoke codes currently used by councils across the country and will work with elected members and officers to consider and evaluate good practice.

The LGA will seek to identify good practice codes from the range of tiers of government, other sectors, and organisations that address important issues for local government and public office.

The LGA will hold a workshop with members, officers and representative organisations during this period as part of the broader LGA Civility in Politics work. This workshop will also present an opportunity for an exchange of ideas, developing an understanding of the different stakeholders' views with the aim of co-production, collaboration and consensus. From this exercise a collection of suggested propositions for inclusion in the final model code will be presented to the LGA Leadership Board. Following the outcome of the Leadership Board consideration, a draft model code will be prepared for consultation.

The form of consultation will need further discussion and will be determined by how the model code develops. The LGA will use its existing methods of research, communication and engagement with its membership, partners and stakeholders. This could include conferences, round tables, regional meetings, online forums, etc, with the aim of achieving as wide a sector engagement as is possible. It is proposed that the consultation period should be a minimum of 8 weeks.

The outcome of the consultation and a draft final model code will be presented to the LGA Leadership Board for final discussion and approval. It is recommended that Leadership Board put forward the final model code, as part of its broader work on Civility in Politics, to the LGA General Assembly, held at the LGA annual conference in July, for adoption.

How will a final renewed code of conduct be agreed?

The structures of the LGA mean that the final sign-off of the code on behalf of the LGA and its member authorities will be the responsibility of the LGA's Board of Directors / Leadership Board, which they will do on behalf of all member authorities in local government. The LGA will also seek, in a spirit of consensus and collaboration, for NALC, CCN, DCN, SOLACE, Lawyers in Local Government, Cipfa, the Association of Democratic Services Officers, the Society of Local Councils Clerks, Monitoring Officers Network, and MHCLG to also endorse the revised model code of conduct. This is not an exhaustive or exclusive list. It is also proposed to take the updated model code of conduct to LGA General Assembly at the July 2020 annual conference.

Developing consensus in the development and adoption of a renewed model code of conduct

For the model code of conduct to have traction with the sector, it will need to address the expectations, views, opinions and experiences of members and officers, recognise the value of good political discourse and how trust in local government is affected by conduct. The LGA's organisational structures mean that agreement is on behalf of local government, rather than a single interest group within the local government structure and family.

Members at the LGA have expressed their view that, as individuals whose behaviour is being modelled in the code of conduct, it is essential that they oversee and are fully involved in its development and can sign up to it. The LGA has championed the value of peer-to-peer review and support, and we will embrace those principles in the review of the code. It is in the interests of the LGA and all elected members that the office of local councillor is imbued with trust and a high degree of ethics so that their role and decisions can be robustly defended. It is also important in the continued recruitment of future councillors.

Members at the LGA want to ensure that the code will be compatible with upholding the country's democratic principles and structures, and on-going political representation for their residents. They want to see an equal expectation of conduct between members and officers, between members, with the general public, and with others in public office such as Police Crime Commissioners and MPs, so that all are clear about the expected behaviour and the procedures should their behaviour fall short.

Members at the LGA also want to ensure that the code is not used as a tool that could remove members on grounds that may not follow natural justice or that it is abuse for personal or political gain by members, officers or the general public. The code needs to provide safeguards for both members and officers.

We want to achieve a shift in attitudes that sees the code of conduct as a tool to support members in achieving good standards in public office, rather than a tool that simply penalises poor behaviour. The code should be a way of supporting members who have been subjected to poor behaviour by members and/or staff and/or the general public.

It is also important that the impact on staff and the running of the council, should a member's behaviour fall short of what is expected of public office, is given due weight in any review, and that the code provides the tools to address such behaviour.

For the code to be successful we need to seek to build consensus, with the primary objective that the code articulates the standards that are expected for anyone in public office or working for the public.

For more information please email ModelCode@local.gov.uk
