
Ethics Committee

30 June 2022

Name of Cabinet Member:

N/A- Ethics Committee

Director Approving Submission of the report:

Director of Law and Governance

Ward(s) affected:

None

Title:

Report on the Government's March 2022 Response to the Committee on Standards in Public Life Report of 2019

Is this a key decision?

No

Executive Summary:

This report is to outline the Government's March 2022 Response to the Committee on Standards in Public Life Report (CSPL's) report of 2019, entitled Local Government Ethical Standards and to inform the Ethics Committee of relevant matters of concern in their work area on a national level.

Recommendations:

The Ethics Committee is recommended to:

- (1) Note the content of the response and consider any points upon which it may wish to take action; and
- (2) Request the Monitoring Officer to continue to monitor the national picture as regards standards and report back on any issue which may be of relevance to the Council on a local level.

List of Appendices included:

None

Other useful background papers:

- Committee on Standards in Public Life Report entitled: *Local Government Ethical Standards, dated January 2019:*

<https://www.gov.uk/Government/publications/local-Government-ethical-standards-report>

- Government response to the Committee on Standards in Public Life review of local Government ethical standards, published 18 March 2022:

<https://www.gov.uk/Government/publications/local-Government-ethical-standards-Government-response-to-the-committee-on-standards-in-public-life-report/Government-response-to-the-committee-on-standards-in-public-life-review-of-local-Government-ethical-standards>

- Local Government Transparency Code:

<https://www.gov.uk/government/publications/local-government-transparency-code-2015>

Has it been or will it be considered by Scrutiny?

No

Has it been or will it be considered by any other Council Committee, Advisory Panel or other body?

No

Will this report go to Council?

No

1 Context (or background)

1.1 The Committee on Standards in Public Life (the CSPL) was set up in 1994. It monitors, reports and makes recommendations on all issues relating to standards in public life. This includes not only the standards of conduct of holders of public office, but all those involved in the delivery of public services. Its purpose is to help promote and maintain ethical standards in public life and thereby to protect the public interest through:

- monitoring standards issues and risks across the United Kingdom (by invitation in the devolved areas);
- conducting inquiries and reviews and making practical and proportional recommendations that are generally implemented;
- researching public perceptions on standards issues relating to specific areas of concern, and also over time.

Its terms of reference make it clear that it encompasses all involved in the delivery of public services, not solely those appointed or elected to public office.

1.2 Whilst it is a national body, having an overarching concern about public standards, its views and recommendations can be taken in account by local Government and other organisations delivering public services when designing, implementing and monitoring their own ethical standards regime.

1.3 The CSPL published a report on Local Government Ethical Standards in January 2019. The report reviewed the current framework established by the Localism Act 2011. The 2019 report provided assurance that the arrangements in place in local authorities are promoting and maintaining standards expected by the public and that the majority of local councillors do maintain high ethical standards.

2.1.1 The CSPL recommended though that some improvements were required, in particular, the need for maximum independence in local complaints processes and the need for greater sanctions, where appropriate, in the rare cases of significant or repeated breaches of the code of conduct.

2.1.2 One of the CSPL's key recommendations was that there should be a non-mandatory model code of conduct which has now been produced by the Local Government Association, and which the Council have adopted a revised version of with effect from the 2021/22 municipal year.

2.1.3 In summary the Government have responded as follows (numbering refers to the CSPL's recommendation numbers):

Recommendation 1: The recommendation for a model code has been actioned and published by the LGA (NB the Council adopted a revised version of the Model Code of Conduct with effect from the 2021/22 municipal year);

Recommendation 2: The Government agrees with the principal not to require public disclosure of home addresses for candidates and councillors and will

engage with interested parties to ensure such disclosure is not required (whilst noting that it is important to register internally with the Monitoring Officer);

Recommendation 3: Creating a presumption that a Councillor is acting in an official capacity including on publicly accessible social media should be dealt with by use of the Code of Conduct recognising the boundary between public and private life (embedded in the Council's Code of Conduct);

Recommendation 4: Whilst keeping under review, the Government has no immediate plans to legislate for the Code of Conduct to apply when a Councillor claims to act or gives the impression as acting in their capacity (note this is in the LGA's model code and has been adopted by Coventry City Council);

Recommendation 5: Whilst keeping under review, the Government has no immediate plans to amend the Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012 to include other interests not currently specified;

Recommendation 6: It is for local authorities to set gifts and hospitality registration requirements. The register should be publicly available (as is the case at the Council);

Recommendation 7: Whilst keeping under review, the Government has no immediate plans to repeal s31 Localism Act in respect of participating in discussion or voting at a meeting where an interest, whether registered or not, exists and the interest is reasonably regarded as significant;

Recommendation 8: The Government does not accept that Independent Persons should be appointed for a fixed term of two years, renewable once, on the basis it would be unworkable. Discussions with Monitoring Officers has indicated that in practice most local authorities would likely find servicing this rate of turnover unachievable. "There is frequently a small pool of people capable and willing to undertake the role, who also fit the stringent specifications of being amongst the electorate, having no political affiliation, no current or previous association with the council, and no friends or family members associated with the council";

Recommendations 9 and 15: The Government does not agree that the Local Government Transparency Code should include decisions of the Independent Person. This document sets out the minimum data that local authorities should be publishing, the frequency it should be published and how it should be published. It does accept there is merit to the substantive policy suggestion but cautions it depends on the circumstances.

Recommendations 10, 13, 14 and 16: These recommendations all cover sanctions, power to establish decision making standards committees, right of appeal to the Local Government Ombudsman and its power to investigate, together with 6-month suspension powers.

The Government affirmed that the lack of suspension sanction was a deliberate policy decision by the coalition Government at the time of the Localism Act, to differentiate the new regime from that of the previous Standards Board stating that the Standards Board had a 'chilling effect on free speech' and that it would be

'undesirable to have a Government quango to police the free speech of councillors'.

The Government's position is that councillors are 'ultimately held to account via the ballot box' and that the Government has already recommended that every political party 'establish their own code of conduct for party members including elected representatives'.

Further the response insisted that "on the rare occasions" where notable breaches of the code of conduct had occurred, local authorities were not without sanctions under the current regime.

"Councillors can be barred from Cabinet, Committees, or representative roles, and may be publicly criticised. If the elected member is a member of a political group, they would also expect to be subject to party discipline, including being removed from that group or their party. Political parties are unlikely to reselect councillors who have brought their group or party into disrepute. All councillors are ultimately held to account via the ballot box."

The Government has recommended that every political party establish their own code of conduct for party members, including elected representatives.

The Government has promised to engage with sector representative bodies of councillors and officers of all tiers of local Government "to seek views on options to strengthen sanctions to address breaches of the code which fall below the bar of criminal activity and related sanctions but involve serious incidents of bullying and harassment or disruptive behaviour".

The CSPL had also called on the Government to clarify if councils may lawfully bar councillors from council premises or withdraw facilities as sanctions. "These powers should be put beyond doubt in legislation if necessary," it had said.

In its response the Government said: "The criminal law, overseen by the police and courts, provides for more appropriate and effective action against breaches of public order, for anti-social behaviour, and against harassment.

Recommendation 11: The Government agrees in principle to the provision of legal indemnity to an Independent Person if their views or advice are disclosed but does not see the need to legislate for this, rather endorsing local authorities who already provide it.

Recommendation 12: The Government does not believe that there is a requirement to prescribe to local authorities the form and content of Standard Committee annual reports which are better addressed through the sector adopting as best practice a regular pattern of annual reporting by Standards Committees.

Recommendation 18: The Government does not agree that criminal offences in the Localism Act 2011 relating to Disclosable Pecuniary Interests should be abolished.

Recommendation 19: “Parish council clerks should hold an appropriate qualification, such as those provided by the Society of Local Council Clerks” was not responded to.

Recommendation 20: The Government does not agree it is necessary to amend s27(3) of the Localism Act 2011 to state that parish councils must adopt the code of conduct of their principle authority, but acknowledges there is merit in achieving consistency whilst noting instances to reflect local circumstances might be different.

Recommendation 21: Government has no plans to repeal s28(11) of the Localism Act 2011 to enable sanctions of parish councillors to be determined by their relevant principal authority but will give it further consideration.

Recommendation 22: The Government agrees in principle to amend The Local Authorities (Standing Orders) (England) (Amendment) Regulations 2015 to extend disciplinary protections for statutory officers (this would include the Monitoring Officer) to all disciplinary actions (not just dismissal) and will engage sector representatives of all tiers to seek views on the amendments.

Recommendation 23: The Government recommends that local authorities publish their whistleblowing policies and named contact as best practice and the Department for Levelling Up, Housing and Communities will work with local Government to advance transparency in the sector and support local Government to solidify transparent policies whilst encourage proactive publication of open data.

Recommendation 24: The Government is open to further representations on how local accountability can be strengthened and recognises that councillors being listed as prescribed persons for the purposes of the Public Interest Disclosure Act 1998 provides a further check and balance against corruption.

2.6 Recommendations

The Ethics Committee is recommended to

- (1) Note the content of the report and consider any points upon which it may wish to take action; and
- (2) Request the Monitoring Officer to continue to monitor the national picture as regards standards and report back on any issue which may be of relevance to the Council on a local level.

3 Results of consultation undertaken

There has been no consultation as there is no proposal to implement at this stage which would require a consultation.

4 Timetable for implementing this decision

Not applicable

5 Comments from the Chief Operating Officer (Section 151 Officer) and the Director of Law and Governance

5.1 Financial implications

There are no specific financial implications arising from the recommendations within this report.

5.2 Legal implications

The Council's current standards regime complies fully with the Localism Act 2011. However, the Ethics Committee should consider the response from Government and how this impacts on the local picture.

6 Other implications

6.1 How will this contribute to the Council Plan (www.coventry.gov.uk/councilplan/)?

Not applicable.

6.2 How is risk being managed?

There is no direct risk to the organisation as a result of the contents of this report, but the Ethics Committee may wish to consider the wider impact of the damage to public confidence in the elected membership of the Council if the ethical standards framework was not perceived as transparent and effective.

6.3 What is the impact on the organisation?

There is no immediate impact on the organisation.

6.4 Equalities / EIA

There are no public sector equality duties which are of relevance at this stage.

6.5 Implications for (or impact on) climate change and the environment

None

6.6 Implications for partner organisations?

None

Report author(s): Sarah Harriott

Name and job title: Sarah Harriott, Corporate Governance Solicitor, Regulatory Team, Legal Services

Directorate: Law and Governance

Tel and email contact: 024 7697 6928, sarah.harriott@coventry.gov.uk

Enquiries should be directed to the above person.

Contributor/approver name	Title	Directorate or organisation	Date doc sent out	Date response received or approved
Contributors:				
Suzanne Bennett	Governance Services Officer	Law and Governance	09/06/22	09/06/22
Names of approvers for submission: (officers and members)				
Graham Clark	Lead Accountant – Business Partnering	Finance	14/06/22	14/04/22
Julie Newman	City Solicitor and Monitoring Officer	Law and Governance	06/06/22	08/06/22
Cllr Walsh	Chair, Ethics Committee		16/06/22	20/06/22

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