

19 April 2018

Committee	Standards Committee
Date	Monday, 30 April 2018
Time of Meeting	2:00 pm
Venue	Committee Room 1

ALL MEMBERS OF THE COMMITTEE ARE REQUESTED TO ATTEND



**for Sara J Freckleton
Borough Solicitor**

Agenda

1. ANNOUNCEMENTS

When the continuous alarm sounds you must evacuate the building by the nearest available fire exit. Members and visitors should proceed to the visitors' car park at the front of the building and await further instructions (during office hours staff should proceed to their usual assembly point; outside of office hours proceed to the visitors' car park). Please do not re-enter the building unless instructed to do so.

In the event of a fire any person with a disability should be assisted in leaving the building.

2. APOLOGIES FOR ABSENCE

To receive apologies for absence.



Item	Page(s)
3. DECLARATIONS OF INTEREST	
<p>Pursuant to the adoption by the Council on 26 June 2012 of the Tewkesbury Borough Council Code of Conduct, effective from 1 July 2012, as set out in Minute No. CL.34, Members are invited to declare any interest they may have in the business set out on the Agenda to which the approved Code applies.</p>	
4. MINUTES	1 - 3
<p>To approve the Minutes of the meeting held on 18 September 2017.</p>	
5. REVIEW OF LOCAL GOVERNMENT ETHICAL STANDARDS	4 - 18
<p>To consider whether to make a response to the Local Government Ethical Standards Consultation and, if so, to delegate authority to the Borough Solicitor/Monitoring Officer to finalise the response in consultation with the Chair of the Standards Committee.</p>	
6. SEPARATE BUSINESS	
<p>The Chairman will move the adoption of the following resolution:</p> <p>That under Section 100(A)(4) Local Government Act 1972, the public be excluded for the following items on the grounds that they involve the likely disclosure of exempt information as defined in Part 1 of Schedule 12A of the Act.</p>	
7. SEPARATE MINUTES	19 - 21
<p>To approve the separate Minutes of the meeting of the Committee held on 18 September 2017.</p>	
8. CODE OF CONDUCT COMPLAINTS	22 - 25
<p><i>(Exempt – Paragraph 1 of Part 1 of Schedule 12A of the Local Government Act 1972 – Information relating to any individual)</i></p> <p>To consider an update report on complaints received.</p>	

DATE OF NEXT MEETING	
TUESDAY, 17 SEPTEMBER 2018	
MEMBERSHIP OF COMMITTEE	
Tewkesbury Borough Council Members	Councillor M Dean Councillor Mrs S E Hillier-Richardson Councillor T A Spencer Councillor P D Surman (Vice-Chair) Councillor M G Sztymiak Councillor H A E Turbyfield and Councillor M J Williams (Chair)
Non-Voting Independent Persons	Mr M Jauch and Mr P J Kimber
Non-Voting Parish Representatives	Mr D J Horsfall and Vacancy

Recording of Meetings

Please be aware that the proceedings of this meeting may be recorded and this may include recording of persons seated in the public gallery or speaking at the meeting. Please notify the Democratic Services Officer if you have any objections to this practice and the Chairman will take reasonable steps to ensure that any request not to be recorded is complied with.

Any recording must take place in such a way as to ensure that the view of Councillors, Officers, the public and press is not obstructed. The use of flash photography and/or additional lighting will not be allowed unless this has been discussed and agreed in advance of the meeting.

TEWKESBURY BOROUGH COUNCIL

**Minutes of a Meeting of the Standards Committee held at the Council Offices,
Gloucester Road, Tewkesbury on Monday, 18 September 2017 commencing at
2:00 pm**

Present:

Tewkesbury Borough Council
Members:

Councillor M Dean
Councillor Mrs S E Hillier-Richardson
Councillor T A Spencer
Councillor P D Surman (Vice-Chair)
Councillor M G Sztymiak
Councillor H A E Turbyfield and
Councillor M J Williams (Chair)

Non-Voting Independent Persons: Mr P J Kimber

Non-Voting Parish Representatives: Mr D J Horsfall

ST.3 ANNOUNCEMENTS

3.1 The evacuation procedure, as noted on the Agenda, was advised to those present.

ST.4 APOLOGIES FOR ABSENCE

4.1 An apology for absence was received from Independent Person, Mr M Jauch.

ST.5 DECLARATIONS OF INTEREST

5.1 The Committee's attention was drawn to the Tewkesbury Borough Council Code of Conduct which was adopted by the Council on 26 June 2012 and took effect from 1 July 2012.

5.2 There were no declarations of interest made on this occasion.

ST.6 MINUTES

6.1 The Minutes of the meetings held on 21 March 2016, 17 May 2016, 16 May 2017 and the special meetings held on 27 June 2016 and 22 November 2016, copies of which had been circulated, were approved as correct records and signed by the Chair.

6.2 Referring to the Minutes of the meeting held on 22 November 2016, a Member questioned whether the Protocol for Councillors and Officers Involved in the Planning Process was working well. In response, the Monitoring Officer indicated that the Protocol was effective as could be seen through the Planning Committee meetings. A new procedure had also been implemented which meant any new Officers who had any involvement with planning had to sign to say they had read the Protocol and would comply with it; this ensured everyone that needed to be was familiar with it.

ST.7 REVIEW OF GIFTS AND HOSPITALITY PROTOCOL

- 7.1 The report of the Deputy Monitoring Officer, circulated at Pages No. 13-26, put forward proposals for a review of the Gifts and Hospitality Protocol for Councillors and Members were asked to agree that a review take place.
- 7.2 The Monitoring Officer explained that this was the last of the Council's Protocols that needed to be reviewed. As the review of the Protocol for Member/Officer Relations had gone so well it was suggested that the same process be followed for the review of the Gifts and Hospitality Protocol for Councillors whereby the Committee would meet as a Working Group and talk to Members to ascertain their views on the effectiveness of the Protocol and what, if any, changes would improve it. The Monitoring Officer advised that the Chair had questioned whether a Working Group was needed for this particular review and she had responded that it would be possible for her to update the Protocol and bring back a report on the changes made but equally the Working Group scenario had worked well previously. There had never been any problem with Members not observing the Gifts and Hospitality Protocol and, although it was mostly common sense, it was felt to be necessary.
- 7.3 In terms of whether the Protocol had any 'teeth', the Monitoring Officer explained that it was an addition to the Code of Conduct. If a Councillor was in breach of the Protocol they would almost certainly also be in breach of the Code of Conduct which was where complaints could be made. The Protocol was as much for members of the public to understand how the Council dealt with gifts and hospitality as it was for Councillors to follow as it demonstrated the standards the Council adhered to. A Member felt that the Protocol provided accountability and transparency for the public and gave Councillors protection in that they could use it as a reason for refusing a gift so as not to cause offence to the person offering it. She also felt a Working Group meeting would be helpful for the similar reason in that it gave the public the comfort that the Standards Committee took the matter seriously. Another Member agreed with those views. In response to a query, the Monitoring Officer indicated that she was sometimes asked what hospitality was but, in general, Members knew what was declarable and what was not. There had not, so far, been any Code of Conduct complaints regarding gifts and hospitality.

7.4 Accordingly, it was

RESOLVED That the whole Committee meet as a Working Group, as set out in Paragraph 2 of the report, to review the Gifts and Hospitality Protocol for Councillors.

ST.8 SEPARATE BUSINESS

8.1 The Chair proposed, and it was

RESOLVED That, under Section 100(A)(4) of the Local Government Act 1972, the public be excluded from the meeting for the following items on the grounds that they involve the likely discussion of exempt information as defined in Part 1 of Schedule 12A of the Act.

ST.9 SEPARATE MINUTES

9.1 The separate Minutes of the meeting held on 21 March and the special meeting held on 22 November 2016, copies of which had been circulated, were approved as correct records and signed by the Chair.

ST.10 CODE OF CONDUCT COMPLAINTS

(Exempt – Paragraph 1 of Part 1 of Schedule 12A of the Local Government Act 1972 – Information relating to any individual)

10.1 The Committee considered an update report on complaints received.

The meeting closed at 2:45 pm

TEWKESBURY BOROUGH COUNCIL

Report to:	Standards Committee
Date of Meeting:	30 April 2018
Subject:	Review of Local Government Ethical Standards
Report of:	Sara Freckleton Monitoring Officer
Corporate Lead:	Sara Freckleton Monitoring Officer
Number of Appendices:	Two

Executive Summary:

The Committee on Standards in Public Life is undertaking a review of Local Government ethical standards to ensure that these are robust enough to safeguard local democracy. The review will consider whether the current structures, processes and practices in place in Local Government in England are conducive to high standards of conduct. The Committee will consider a number of elements including codes of conduct, declarations of interest and available sanctions in cases where a code of conduct is breached. Views have been invited from stakeholders including local authorities as the bodies responsible for maintaining codes of conduct for their Councillors (and, in the case of District Councils for the Parish Councils in their areas) and responding to complaints of any breach. This report invites Tewkesbury Borough Council Standards Committee to consider submitting a response to the consultation.

Recommendation:

The Committee is asked to consider whether to make a response to the consultation and, if so, to delegate authority to the Borough Solicitor/Monitoring Officer, in consultation with the Chair of Standards Committee, to finalise the response.

Reasons for Recommendation:

To provide the Committee the opportunity to participate in the consultation.

Resource Implications:

None.

Legal Implications:

None.

Risk Management Implications:

None.

Performance Management Follow-up:

The Committee's views will be sent to the Committee for Standards in Public Life by the consultation response deadline of 18 May 2018.

Environmental Implications:

None.

1.0 INTRODUCTION/BACKGROUND

- 1.1** On 29 January 2018, the Committee on Standards in Public Life announced a review of ethical standards in Local Government.
- 1.2** The current Standards regime was introduced by the Localism Act 2011. Changes at that time included the abolition of the Standards for England, which had previously dealt with serious allegations of Councillor misconduct and Local Authorities were given the freedom to adopt their own local code of conduct (to include statutory requirements in respect of Disclosable Pecuniary Interests). Local Authorities were also required to make and maintain their own arrangements for dealing with any allegations of breaches of the code of conduct by their Councillors (and in the case of District Councils, Parish Councillors). The previous sanctions of disqualification and suspension of Councillors in respect of serious breaches were removed although new criminal sanctions were introduced for breaches of the statutory requirements on Disclosable Pecuniary Interests.
- 1.3** The Localism Act 2011 also introduced the role of the Independent Person and a requirement for Local Authorities to appoint at least one, whose views must be taken into account before the authority takes a decision in relation to any complaints against Councillors that have been investigated. The current review also examines the role of the Independent Person.

2.0 CONSULTATION BY COMMITTEE FOR STANDARDS IN PUBLIC LIFE

- 2.1** The Committee for Standards in Public Life has been tasked with reviewing the current regime and is holding a public stakeholder consultation which is open for responses until 18 May 2018. The Committee is seeking concise submissions from a wide range of stakeholders including all tiers of Local Government and is interested in current arrangements and also in views as to what changes could be made to improve Local Authority ethical standards.
- 2.2** The Stakeholder consultation document is attached at Appendix 1. The terms of reference of the review are to:
1. Examine the structures, processes and practices in local government in England for:
 - a. Maintaining codes of conduct for local Councillors;
 - b. Investigating alleged breaches fairly and with due process;
 - c. Enforcing codes and imposing sanctions for misconduct;
 - d. Declaring interests and managing conflicts of interest; and
 - e. Whistleblowing.
 2. Assess whether the existing structures, processes and practices are conducive to high standards of conduct in local government;
 3. Make any recommendations for how they can be improved; and 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.

- 2.3** Responses are being sought to 11 questions as set out (a–k) in Appendix 1 and stakeholders are invited to respond to as many or few of those questions as they consider appropriate.
- 2.4** The questions are set out in full in Appendix 2 to this report, together with some initial brief comments which will be expanded upon for discussion at the meeting and may be useful to the Committee in considering what response it may wish to make.
- 3.0 CONSULTATION**
- 3.1** All Borough Councillors and Parish Councils within the Borough have been provided with a copy of the Consultation Document and invited to make comments for consideration by the Standards Committee or, if preferred, directly to the Committee for Standards in Public Life. Winchcombe Town Council has made comments direct to the Committee for Standards in Public Life but no other responses had been received prior to the preparation of this report; the Committee will be updated at the meeting.
- 4.0 RESOURCE IMPLICATIONS (Human/Property)**
- 4.1** None.
- 5.0 SUSTAINABILITY IMPLICATIONS (Social/Community Safety/Cultural/ Economic/ Environment)**
- 5.1** None.
- 6.0 IMPACT UPON (Value For Money/Equalities/E-Government/Human Rights/Health And Safety)**
- 6.1** None.
- 7.0 RELATED DECISIONS AND ANY OTHER RELEVANT FACTS**
- 7.1** Decision of Council on 26 June 2012 – Localism Act 2011 : New Conduct Regime.

Background Papers: Localism Act 2011.

Tewkesbury Borough Council Code of Members' Conduct.

Report to and Minutes of Tewkesbury Borough Council dated 26 June 2012.

Contact Officer: Sara Freckleton, Tewkesbury Borough Monitoring Officer
Tel: 01684 272011 Email: sara.freckleton@tewkesbury.gov.uk

Appendices: 1 – Review of Local Government Ethical Standards- Stakeholder Consultation Document.
2 – Comments on the Stakeholder Consultation Questions.

Review of Local Government Ethical Standards: Stakeholder Consultation

The Committee on Standards in Public Life is undertaking a review of local government ethical standards.

Robust standards arrangements are needed to safeguard local democracy, maintain high standards of conduct, and to protect ethical practice in local government.

As part of this review, the Committee is holding a public stakeholder consultation. The consultation is open from 12:00 on Monday 29 January 2018 and closes at 17:00 on Friday 18 May 2018.

Terms of Reference

The terms of reference for the review are to:

1. Examine the structures, processes and practices in local government in England for:
 - a. Maintaining codes of conduct for local councillors;
 - b. Investigating alleged breaches fairly and with due process;
 - c. Enforcing codes and imposing sanctions for misconduct;
 - d. Declaring interests and managing conflicts of interest; and
 - e. Whistleblowing.
2. Assess whether the existing structures, processes and practices are conducive to high standards of conduct in local government;
3. Make any recommendations for how they can be improved; and
4. Note any evidence of intimidation of councillors, and make recommendations for any measures that could be put in place to prevent and address such intimidation.

The 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).

Local government ethical standards are a devolved issue. The Committee's remit does not enable it to consider ethical standards issues in devolved nations in the UK except with the agreement of the relevant devolved administrations. However, we welcome any evidence relating to local government ethical standards in the devolved nations of the UK, particularly examples of best practice, for comparative purposes.

Submissions will be published online alongside our final report, with any contact information (for example, email addresses) removed.

The Committee will publish anonymised submissions (where the name of the respondent and any references to named individuals or local authorities are removed) where a respondent makes a reasonable request to do so.

Consultation questions

The Committee invites responses to the following consultation questions.

Please note that not all questions will be relevant to all respondents and that submissions do not need to respond to every question. Respondents may wish to give evidence about only one local authority, several local authorities, or local government in England as a whole. Please do let us know whether your evidence is specific to one particular authority or is a more general comment on local government in England.

Whilst we understand submissions may be grounded in personal experience, please note that the review is not an opportunity to have specific grievances considered.

- a. Are the existing structures, processes and practices in place working to ensure high standards of conduct by local councillors? If not, please say why.
- b. What, if any, are the most significant gaps in the current ethical standards regime for local government?

Codes of conduct

- c. Are local authority adopted codes of conduct for councillors clear and easily understood? Do the codes cover an appropriate range of behaviours? What examples of good practice, including induction processes, exist?
- d. A local authority has a statutory duty to ensure that its adopted code of conduct for councillors is consistent with the Seven Principles of Public Life and that it includes appropriate provision (as decided by the local authority) for registering and declaring councillors' interests. Are these requirements appropriate as they stand? If not, please say why.

Investigations and decisions on allegations

- e. Are allegations of councillor misconduct investigated and decided fairly and with due process?
 - i) What processes do local authorities have in place for investigating and deciding upon allegations? Do these processes meet requirements for due process? Should any additional safeguards be put in place to ensure due process?
 - ii) Is the current requirement that the views of an Independent Person must be sought and taken into account before deciding on an allegation sufficient to ensure the objectivity and fairness of the decision process? Should this requirement be strengthened? If so, how?
 - iii) Monitoring Officers are often involved in the process of investigating and deciding upon code breaches. Could Monitoring Officers be subject to conflicts of interest or undue pressure when doing so? How could Monitoring Officers be protected from this risk?

Sanctions

- f. Are existing sanctions for councillor misconduct sufficient?
 - i) What sanctions do local authorities use when councillors are found to have breached the code of conduct? Are these sanctions sufficient to deter breaches and, where relevant, to enforce compliance?
 - ii) Should local authorities be given the ability to use additional sanctions? If so, what should these be?

Declaring interests and conflicts of interest

- g. Are existing arrangements to declare councillors' interests and manage conflicts of interest satisfactory? If not please say why.
 - i) A local councillor is under a legal duty to register any pecuniary interests (or those of their spouse or partner), and cannot participate in discussion or votes that engage a disclosable pecuniary interest, nor take any further steps in relation to that matter, although local authorities can grant dispensations under certain circumstances. Are these statutory duties appropriate as they stand?
 - ii) What arrangements do local authorities have in place to declare councillors' interests, and manage conflicts of interest that go beyond the statutory requirements? Are these satisfactory? If not, please say why.

Whistleblowing

- h. What arrangements are in place for whistleblowing, by the public, councillors, and officials? Are these satisfactory?

Improving standards

- i. What steps could *local authorities* take to improve local government ethical standards?
- j. What steps could *central government* take to improve local government ethical standards?

Intimidation of local councillors

- k. What is the nature, scale, and extent of intimidation towards local councillors?
 - i. What measures could be put in place to prevent and address this intimidation?

Who can respond?

Anyone with an interest may make a submission. The Committee welcomes submissions from members of the public.

However, the consultation is aimed particularly at the following stakeholders, both individually and corporately:

- Local authorities and standards committees;
- Local authority members (for example, Parish Councillors, District Councillors);
- Local authority officials (for example, Monitoring Officers);
- Think tanks with an interest or expertise in local government;
- Academics with interest or expertise in local government; and
- Representative bodies or groups related to local government.

How to make a submission

Submissions can be sent either in electronic format or in hard copy.

Submissions must:

- State clearly who the submission is from, i.e. whether from yourself or sent on behalf of an organisation;
- Include a brief introduction about yourself/your organisation and your reason for submitting evidence;
- Be in doc, docx, rtf, txt, ooxml or odt format, not PDF;
- Be concise – we recommend no more than 2,000 words in length; and
- Contain a contact email address if you are submitting by email.

Submissions should:

- Have numbered paragraphs; and
- Comprise a single document. If there are any annexes or appendices, these should be included in the same document.

It would be helpful if your submission included any factual information you have to offer from which the Committee might be able to draw conclusions, and any recommendations for action which you would like the Committee to consider.

The Committee may choose not to accept a submission as evidence, or not to publish a submission even if it is accepted as evidence. This may occur where a submission is very long or contains material which is inappropriate.

Submissions sent to the Committee after the deadline of 17:00 on Friday 18 May 2018 may not be considered.

Submissions can be sent:

1. Via email to: public@public-standards.gov.uk
2. Via post to:

Review of Local Government Ethical Standards
Committee on Standards in Public Life
GC:07
1 Horse Guards Road
London
SW1A 2HQ

If you have any questions, please contact the Committee's Secretariat by email (public@public-standards.gov.uk) or phone (0207 271 2948).

Initial Comments on Consultation Questions

- a. Are the existing structures, processes and practices in place working to ensure high standards of conduct by local councillors? If not, please say why.
- b. What, if any, are the most significant gaps in the current ethical standards regime for local government?

Comment

The Code of Council adopted by the Borough Council exceeds the minimum required provisions and is based upon the pre- Localism Act statutory version of the Code. A suitably adapted version of that Code has also, upon the recommendation of the Borough Council Standards Committee, been adopted by the majority of the 43 Parish Councils operating within the Borough, the remainder having adopted their own versions which comply with the statutory requirements. Experience of the operation of the Code of Conduct over the past 6 years has resulted in very few formal complaints about Borough Councillor conduct and there have not been any instances where there has, following consideration of a complaint, been found to be a breach of the Code of Conduct. There have been a number of formal complaints made against Parish Councillors, a significant number of which (over 50%) were made by other Councillors. The more serious complaints have been referred for investigation and some have resulted in breaches of the Code being found; other clear breaches of the Code have been dealt with by the Monitoring Officer in consultation with the Independent Persons and have resulted in, for example, Councillors giving written apologies and / or agreeing to undertake Code of Conduct training.

One of the advantages of the current regime (as compared to the pre- 2012 position) is that there is discretion to resolve complaints informally. This is helpful as, for less serious complaints, there can be a quicker resolution to the matter without the “bureaucracy” that existed previously.

The most significant gap, however, is the lack of sanctions to address any serious breaches of the Code of Conduct which is further referenced below (f).

Codes of conduct

- c. Are local authority adopted codes of conduct for councillors clear and easily understood? Do the codes cover an appropriate range of behaviours? What examples of good practice, including induction processes, exist?

Comment

The TBC Code of Conduct is based upon the pre-Localism Act statutory Code. Members chose to adopt a Code which reflects the Nolan principles, with requirements that go beyond the statutory minimum. Members of the Council have all attended comprehensive training on the Code of Conduct, This training is compulsory as part of the Induction process carried out within a few days of election to office. Members are encouraged to seek advice from the Monitoring Officer / Deputy and frequently do so if at all unsure as to the implications of the Code of Conduct. The most frequent queries arise on the matter of interest declaration. The same training and advice opportunity is offered to all Parish Councillors (and Clerks) within the Council area and has been relatively well taken up with individual bespoke sessions / refresher sessions carried out for Parish Councils on request.

- d. A local authority has a statutory duty to ensure that its adopted code of conduct for councillors is consistent with the Seven Principles of Public Life and that it includes appropriate provision (as decided by the local authority) for registering and declaring councillors' interests. Are these requirements appropriate as they stand? If not, please say why.

Comment

The requirement for a Code of Conduct to reflect the Seven Principles is appropriate; however, a consistent Code of Conduct across Local Government would be of benefit to facilitate public awareness of the standards of conduct which are expected across Local Government. This would also assist Members who are elected to more than one Local Authority, each of which could have different conduct requirements, albeit all containing the statutory provisions and being based on the Seven Principles. The Council has and continues to express concerns about the precise statutory requirements on interest registration and publication which are briefly addressed below (g).

Investigations and decisions on allegations

- e. Are allegations of councillor misconduct investigated and decided fairly and with due process?
- (i) What processes do local authorities have in place for investigating and deciding upon allegations? Do these processes meet requirements for due process? Should any additional safeguards be put in place to ensure due process?
 - (ii) Is the current requirement that the views of an Independent Person must be sought and taken into account before deciding on an allegation sufficient to ensure the objectivity and fairness of the decision process? Should this requirement be strengthened? If so, how?
 - (iii) Monitoring Officers are often involved in the process of investigating and deciding upon code breaches. Could Monitoring Officers be subject to conflicts of interest or undue pressure when doing so? How could Monitoring Officers be protected from this risk?

Comment

The Council has made arrangements for allegations of misconduct to be investigated and decided fairly. These arrangements include a delegation to the Monitoring Officer to determine, after consultation with the Independent Person(s), whether a complaint should be investigated and to arrange for investigation. The delegation also enables the Monitoring Officer to seek local resolution of complaints without investigation where it is possible to do so. Where an investigation is undertaken, this is done by a suitably qualified officer (normally from One Legal) who undertakes the investigation independently and along the lines of the procedure used previously by Standards for England. It has to be recognised that there is a significant cost to the authority in resourcing an investigation and consequently these are likely only to occur where it is considered to be in the public interest to do so.

The role of the Independent Person is critical to the objectivity and fairness of the process. At TBC, the Independent Persons are also non-voting co-opted members of the Standards Committee. The review may consider whether it would be appropriate for Independent Persons to be full voting members of Standards Committees.

As stated above, investigations are dealt with independently of the Monitoring Officer and there is an appointed Deputy Monitoring Officer which should reduce the risk of there being conflicts of interest. Whilst there is no experience at TBC of undue pressure being applied, the review could consider whether it may be appropriate for Independent Persons to have a role in supporting

Monitoring Officers should such circumstances occur. There is also in place within the Council, a Protocol for Member / Officer Relations, which assists in forming and maintaining good Member / Officer working.

Sanctions

- f. Are existing sanctions for councillor misconduct sufficient?
- (i) What sanctions do local authorities use when councillors are found to have breached the code of conduct? Are these sanctions sufficient to deter breaches and, where relevant, to enforce compliance?
 - (ii) Should local authorities be given the ability to use additional sanctions? If so, what should these be?

Comment

The sanctions available are restricted to censure, apology, training or, where appropriate and with the support of the relevant Political Group Leader, removal from a Committee / External Body. These sanctions are not sufficient to deter serious breaches and neither are there additional sanctions available in the event that a Councillor who has been found to be in breach of the Code of Conduct, refuses to accept the sanction (e.g. apology).

It is appreciated that the basis for removal of sanctions such as suspension and disqualification was that a Councillor's tenure should be determined by the electorate. However, the sanctions available currently would appear to be insufficient in cases where there have been serious and potentially repeated breaches of the Code. Members of the public who have occasion to raise concerns about conduct have been surprised at the limited sanctions available.

The statutory requirement for the Council to have in place arrangements for considering and determining complaints that a member has failed to comply with their relevant Code of Conduct. Clearly, in order to discharge that obligation fairly, there has to be a process for investigation and formal Hearing of the most serious complaints. This process carries a significant cost as well as being unsettling for the member and complainant alike and yet appears to be completely disproportionate to the available sanctions.

Declaring interests and conflicts of interest

- g. Are existing arrangements to declare councillors' interests and manage conflicts of interest satisfactory? If not please say why.
- (i) local councillor is under a legal duty to register any pecuniary interests (or those of their spouse or partner), and cannot participate in discussion or votes that engage a disclosable pecuniary interest, nor take any further steps in relation to that matter, although local authorities can grant dispensations under certain circumstances. Are these statutory duties appropriate as they stand?
 - (ii) What arrangements do local authorities have in place to declare councillors' interests, and manage conflicts of interest that go beyond the statutory requirements? Are these satisfactory? If not, please say why.

Comment

The Standards Committee will be aware of the serious concerns that have been raised with the Government and the Information Commissioner about the potential conflict of the current DPI registration and publication requirements with Data Protection and Human Rights legislation, particularly as these relate to third parties (spouses and partners etc.) who have not been elected to any office. These are not repeated in these initial comments but the Monitoring Officer would intend to write separately in some detail on this point which is of increasing concern given the requirements of the General Data Protection Regulations taking effect in May.

The Borough Council interest registration and declaration requirements exceed the statutory minimum and requires disclosure of "other interests" including bodies in which the Member holds a position of management or control whether or not appointed by the Council and to charitable bodies, lobby groups and other public bodies. Members are also required to disclose gifts and hospitality which they have received where it is worth an estimated value of £50 or more.

Where Members have an "other interest" and a decision on a matter affects, for example, the financial position of that other interest, Members are required, by the Code of Conduct to declare the interest and not to speak or vote unless dispensation has been received.

The Council has also amended its Standing Orders to reflect the requirement to leave the meeting when Members are precluded from participation.

These arrangements have proved satisfactory.

Whistleblowing

- h. What arrangements are in place for whistleblowing, by the public, councillors, and officials? Are these satisfactory?

Comment

The Council has a Whistleblowing Policy which is available for use by the public, Councillors and officials and this appears, to date, to have been satisfactory.

Improving standards

- i. What steps could *local authorities* take to improve local government ethical standards?

Comment

Local Authorities should, as TBC does, ensure that all Councillors (District and Parish) receive training on the Code of Conduct and also ensure that it is clear that the Monitoring Officer (or Deputy / representative) and Independent Persons are available to provide advice /guidance to individual Members on all aspects of the Code of Conduct. The Code of Conduct should be regularly reviewed to ensure that the Council considers it fit for purpose and complaints that Councillors have failed to comply with the Code of Conduct should also be reviewed by Members (in TBC's case the Standards Committee) to identify any action, e.g. training, which may be necessary to prevent such breaches recurring.

- j. What steps could *central government* take to improve local government ethical standards?

Comment

The review provides the opportunity to resolve the tension between the statutory requirement to have in place arrangements to deal with complaints and the sanctions available to respond to breaches of the Code of Conduct. If there are not to be meaningful sanctions which act as a deterrent then the requirement for the formality of investigating complaints should be reconsidered. The current regime of requiring a formal process which is fair with "due process" is costly to the Council's resources and creates expectation on the part of complainants that serious breaches will be dealt with proportionately which is not always possible given the constraint on sanctions.

Intimidation of local councillors

- k. What is the nature, scale, and extent of intimidation towards local councillors?
 - (i) What measures could be put in place to prevent and address this intimidation?

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