

TEWKESBURY BOROUGH COUNCIL

Report to:	Standards Committee
Date of Meeting:	19 September 2022
Subject:	Government Response to The Committee on Standards in Public Life's (CSPL) review of Local Government Ethical Standards
Report of:	Corporate Director
Head of Service/Director:	Corporate Director
Lead Member:	Corporate Governance
Number of Appendices:	One

Executive Summary:

This report updates the Committee on the Government's response to recommendations made to it by the Committee on Standards in Public Life following its review in 2018/19 of Local Government ethical standards.

Recommendation:

The Committee is asked to note the Government response to the recommendations from the Committee on Standards in Public Life following its review of Local Government ethical standards.

1.0 INTRODUCTION

- 1.1** On the 16 September 2019 the Committee considered the report on the review into 'Local Government Ethical Standards' published by the Committee on Standards in Public Life (CSPL). The report contained 26 recommendations and 15 best practice suggestions.
- 1.2** The first recommendation invited the Local Government Association (LGA) to create a model Code of Conduct. That work has been undertaken by the LGA and the Committee participated fully in consultation on the model Code. (Report and decision of the Committee on the 11 August 2020). The LGA has produced a model Code and the recommendation that the Council reviews its Code is the subject of a separate report to this Committee.
- 1.3** The Committee considered the best practice recommendations at its meeting on the 26 November 2020.
- 1.4** Of the 26 recommendations referred to in 1.1 above, 22 were recommendations to the Government and this report informs the Committee of the Government's response.

2.0 GOVERNMENT RESPONSE TO RECOMMENDATIONS OF CSPL

2.1 On the 18 March 2022, the Government issued its response to the recommendations which can be found at <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> and is attached at Appendix 1.

2.2 The government's response can be categorised into five headings as set out below:

1. Government to take action

Rec No:	Recommendation
R2	The government should ensure that candidates standing for or accepting public offices are not required publicly to disclose their home address. The Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012 should be amended to clarify that a councillor does not need to register their home address on an authority's register of interests.
R22	The Local Authorities (Standing Orders) (England) (Amendment) Regulations 2015 should be amended to provide that disciplinary protections for statutory officers extend to all disciplinary action, not just dismissal.

2. Further consideration/keeping under review

Rec No:	Recommendation
R4	Section 27(2) of the Localism Act 2011 should be amended to state that a local authority's code of conduct applies to a member when they claim to act, or give the impression they are acting, in their capacity as a member or as a representative of the local authority.
R5	The Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012 should be amended to include: unpaid directorships; trusteeships; management roles in a charity or a body of a public nature; and membership of any organisations that seek to influence opinion or public policy.
R7	Section 31 of the Localism Act 2011 should be repealed, and replaced with a requirement that councils include in their code of conduct that a councillor must not participate in a discussion or vote in a matter to be considered at a meeting if they have any interest, whether registered or not, "if a member of the public, with knowledge of the relevant facts, would reasonably regard the interest as so significant that it is likely to prejudice your consideration or decision-making in relation to the matter".
R17	The government should 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.
R21	Section 28 (11) of the Localism Act 2011 should be amended to state that any sanction imposed on a parish councillor following the finding of a breach is to be determined by the relevant principal authority.

3. Matter for local authority determination

Rec No:	Recommendation
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| R6 | Local authorities should be required to establish a register of gifts and hospitality, with councillors required to record gifts and hospitality received over a value of £50 or totalling £100 over a year from a single source. This requirement should be included in an updated model code of conduct. |
| R11 | Local authorities should provide legal indemnity to Independent Persons if their views or advice are disclosed. The government should require this through secondary legislation if needed. |
| R15 | The Local Government Transparency Code should be updated to require councils to publish annually: the number of code of conduct complaints they receive; what the complaints broadly relate to (e.g., bullying; conflict of interest); the outcome of those complaints, including if they are rejected as trivial or vexatious; and any sanctions applied. |
| R20 | Section 27(3) of the Localism Act 2011 should be amended to state that parish councils must adopt the code of conduct of their principal authority, with the necessary amendments, or the new model code. |

4. Further engagement with sector needed

Rec No:	Recommendation
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| R10 | A local authority should only be able to suspend a councillor where the authority's Independent Person agrees both with the finding or a breach and that suspending the councillor would be a proportionate sanction. |
| R12 | Local authorities should be given the discretionary power to establish a decision making standards committee with voting independent members and voting members from dependent parishes, to decide on allegations and impose sanctions. |
| R13 | Councillors should be given the right to appeal to the Local Government Ombudsman if their local authority imposes a period of suspension for breaching the code of conduct. |
| R14 | The Local Government Ombudsman should be given the power to investigate and decide upon an allegation of a code of conduct breach by a councillor, and the appropriate sanction, an appeal by a councillor who has had a suspension imposed. The Ombudsman's decision should be binding on the local authority. |
| R16 | Local authorities should be given the power to suspend councillors, without allowances, for up to six months. |
| R23 | The Local Government Transparency Code should be updated to provide that local authorities must ensure that their whistleblowing policy specifies a named contact for the external auditor alongside their contact details, which should be available on the authority's website. |
| R24 | Councillors should be listed as 'prescribed persons' for the purposes of the Public Interest Disclosure Act 1998 |

5. Taking no action/rejects recommendation

Rec No:	Recommendation
R3	Councillors should be presumed to be acting in an official capacity in their public conduct, including statements on publicly accessible social media. Section 27(2) of the Localism Act 2011 should be amended to permit local authorities to presume so when deciding upon code of conduct breaches.
R8	The Localism Act 2011 should be amended to require that Independent Persons are appointed for a fixed term of two years, renewable once.
R9	The Local Government Transparency Code should be updated to provide that the view of the Independent Person in relation to a decision on which they are consulted should be formally recorded in any decision notice or minutes.
R18	The criminal offences in the Localism Act 2011 relating to Disclosable Pecuniary Interests should be abolished.

Background Papers: None.

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Appendices: 1 - Government response to recommendations of CSPL.