

NORTH YORKSHIRE COUNTY COUNCIL

STANDARDS COMMITTEE

2 March 2018

Local Ethical Framework Developments**1.0 PURPOSE OF REPORT**

- 1.1 To update Members on the development of the ethical framework under the Localism Act 2011.

2.0 BACKGROUND

- 2.1 Members receive a report at each Standards Committee meeting setting out any recent developments in the ethical framework.

3.0 REVIEW OF LOCAL GOVERNMENT STANDARDS

- 3.1 The Committee was informed at its last meeting that the Committee on Standards in Public Life (CSPL) intended to consult in early 2018 on its review of local government standards, with a view to making findings and publishing recommendations later in 2018.

- 3.2 The CSPL maintains a watching brief on the local government standards regime. In its 2013 report "Standards Matter" the CSPL outlined its concerns regarding possible issues re the local government standards framework under the Localism Act of 2011:

'The new, slimmed down arrangements have yet to prove themselves sufficient for their purpose. We have considerable doubt that they will succeed in doing so and intend to monitor the situation closely.'

- 3.3 The CSPL has now commenced its review. As part of it, the CSPL is holding a public stakeholder consultation which opened on 29 January 2018 and closes at 17:00 on Friday 18 May 2018. A copy of the consultation document is attached at **Appendix 1** and is published online:

<https://www.gov.uk/government/consultations/local-government-ethical-standards-stakeholder-consultation>

- 3.4 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.
- 3.5 The consultation is open to all to respond but is particularly aimed at certain stakeholders including local authorities and their standards committees. Submissions can relate to as many or few of the consultation questions as stakeholders wish to address.
- 3.6 Members may in particular wish to consider:
 - a) Whether they feel a departure from a model code of conduct for members and model complaint procedures was helpful or whether the current variances between local codes and standards processes is unhelpful for dual or triple hatted Members;
 - b) Whether the range of sanctions currently available for breaches of the Code of Conduct is sufficient and effective.
- 3.7 **The Committee is requested to consider the consultation questions set out in Appendix 1 and determine the nature of any responses to the consultation it would wish the Monitoring Officer to make on its behalf.**

4.0 CSPL REVIEW OF INTIMIDATION OF PARLIAMENTARY CANDIDATES

- 4.1 At its last meeting, the Committee was informed that the Government has asked the CSPL to conduct a short review of intimidation of Parliamentary candidates and the broader implications of this for other public office holders.
- 4.2 The CSPL's seventeenth report, 'Intimidation in public life: A Review by the Committee on Standards in Public Life', was published in December 2017:
<https://www.gov.uk/government/publications/intimidation-in-public-life-a-review-by-the-committee-on-standards-in-public-life>
- 4.3 It has also published the notes from its meetings with social media companies:
<https://www.gov.uk/government/publications/intimidation-of-parliamentary-candidates-evidence-from-facebook-google-and-twitter>
- 4.4 The CSPL has made recommendations for action to the Government, social media companies, political parties, the police, broadcast and print media, and MPs and Parliamentary candidates themselves, calling for the Government to bring forward legislation to 'shift the liability of illegal content online towards social media companies.'
- 4.5 Key findings from the report include:
 - a) While intimidation in public life is nothing new, the scale and intensity of intimidation is now shaping public life in ways which are a serious issue.
 - b) Those in public life must ... take steps to ensure that their behaviour does not open the door for intimidation and work to build public trust in public life. They should uphold high ethical standards, and should never themselves engage in, incite or encourage derogatory or dehumanising political debate,

- c) The widespread use of social media has been the most significant factor accelerating and enabling intimidatory behaviour in recent years. Although social media helps to promote widespread access to ideas and engagement in debate, it also creates an intensely hostile online environment.
- d) Government should bring forward legislation to shift the liability of illegal content online towards social media companies.
- e) Social media companies must develop and implement automated techniques to identify intimidatory content posted on their platforms. They should use this technology to ensure intimidatory content is taken down as soon as possible.
- f) Those in positions of leadership within political parties must set an appropriate tone during election campaigns, and make clear that any intimidatory behaviour is unacceptable. They should challenge poor behaviour wherever it occurs.
- g) Political parties should set clear expectations about the behaviour expected of their members, both offline and online through a code of conduct for members which specifically prohibits any intimidatory behaviour. Parties should ensure that members are familiar with the code. The consequences of any breach of the code should be clear and unambiguous.
- h) Political parties must offer more support and training to candidates on their use of social media. This training should include: managing social media profiles, block and mute features, reporting content, and recognising when behaviour should be reported directly to the police.
- i) The government should bring forward legislation to remove the requirement for candidates standing as local councillors to have their home addresses published on the ballot paper. Returning Officers should not disclose the home addresses of those attending an election count.
- j) Local Authority Monitoring Officers should ensure that members required to declare pecuniary interests are aware of the sensitive interests provisions in the Localism Act 2011.
- k) The National Police Chiefs Council should ensure that local police forces have sufficient training to enable them to effectively investigate offences committed through social media. Local police forces should be able to access advice and guidance on the context in which MPs and Parliamentary candidates work.
- l) Those in public life should seek to uphold high standards of conduct, adhering to the Seven Principles of Public Life, and help prevent a decline in public trust in political institutions through their own conduct.
- m) Those in public life should not engage in highly personalised attacks, nor portray policy disagreements or questions of professional competence as breaches of ethical standards.

4.6 In light of these recommendations from the CSPL, the Government issued a press release on 6 February 2018 announcing it will consult on plans to remove the requirement for candidates standing as councillors in local elections to have their addresses published on ballot papers, in time for local elections in May 2019; and a new electoral law offence of intimidating parliamentary candidates and their

campaigners (the current offence of electoral intimidation relates to undue influence on voters).

<https://www.gov.uk/government/news/new-electoral-laws-proposed-to-combat-intimidation-in-public-life>

4.7 Members will be kept informed of developments.

5.0 CONSULTATION ON COUNCILLOR DISQUALIFICATION REFORM

5.1 Members were previously briefed about the DCLG consultation document regarding proposals for updating the disqualification criteria for councillors and mayors, to strengthen the rules to prevent anyone found guilty of serious crimes from serving on local councils:

<https://www.gov.uk/government/consultations/disqualification-criteria-for-councillors-and-mayors>

the aim being to ensure those who represent their communities are held to the highest possible standards.

5.2 The current disqualification criteria are set out in section 80 of the Local Government Act 1972. One of the provisions prevents individuals standing, or holding office, as a local authority member, London Assembly member or directly-elected mayor if they have, within five years of the day of the election, or since their election, been convicted in the UK, Channel Islands or Isle of Man of any offence and have received a sentence of imprisonment, suspended or not, for a period of not less than three months without the option of a fine.

5.3 The Government sought views on its proposals to update the disqualifying criteria, to reflect modern sentencing practices, so that individuals are disqualified if they are subject to:

- The notification requirements set out in the Sexual Offences Act 2003, commonly referred to as "being on the sex offenders register".
- A civil injunction granted under section 1 of the Anti-social Behaviour, Crime and Policing Act 2014 (ABCPA 2014) (Anti Social Behaviour Injunction).
- A Criminal Behaviour Order made under section 22 of the ABCPA 2014.

The proposals in this consultation would not apply retrospectively.

5.4 The proposals would mean that anyone convicted of a serious crime, regardless of whether it carries a custodial sentence, would not be able to hold office as a councillor. The changes would also better reflect rules governing standards of MPs, where members face suspension from the House for anything that contravenes the parliamentary code of conduct.

5.5 The consultation closed on 8 December 2017. Members will be kept informed of developments.

6.0 NEW MINISTERIAL CODE

6.1 In January 2018 the Cabinet Office issued a new Ministerial Code, setting out the standards of conduct expected of ministers, to sit alongside Ministers' overarching duty

to comply with the law, protect the integrity of public life and comply with the Seven Principles of Public Life:

<https://www.gov.uk/government/publications/ministerial-code>

- 6.2 On comparing the Ministerial Code with the Council's Code of Conduct for Members, it can be seen that there are similar provisions covering areas such as:
- a) General conduct provisions eg maintaining high standards of behaviour and upholding the highest standards of propriety, being professional and treating others with respect, with no harassing, bullying or other inappropriate or discriminating behaviour;
 - b) Ministers must ensure that no conflict arises, or appears to arise, between their public duties and their private interests.
 - c) Ministers should not accept any gift or hospitality which might, or might reasonably appear to, compromise their judgement or place them under an improper obligation.
 - d) Ministers must not use government resources for Party political purposes.
 - e) Ministers must uphold the political impartiality of the Civil Service.
- 6.3 Members will be kept informed of all developments in the national ethical framework.

7.0 RECOMMENDATIONS

7.1 That the Committee notes the contents of this report.

7.2 That the Committee determines the nature of the response to the Committee on Standards in Public Life's consultation on local government standards that it would like the Monitoring Officer to make on its behalf.

BARRY KHAN

Assistant Chief Executive (Legal and Democratic Services) and Monitoring Officer

Background Papers:

None

County Hall
NORTHALLERTON

21 February 2018

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.

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).