

## **MEMBER CONDUCT COMMITTEE – 17TH JUNE 2019**

### **Report of the Monitoring Officer**

#### **ITEM 6      REVIEW OF LOCAL GOVERNMENT ETHICAL STANDARDS BY THE COMMITTEE ON STANDARDS IN PUBLIC LIFE**

##### Purpose of Report

To update the Committee.

##### Recommendation

That the Committee be informed of the results of the consultation and the recommendations by the Committee on Standards in Public Life (CSPL) as summarised in the Appendix and continue to monitor the response by the Government.

##### Reason

To enable the Committee to understand the recommendations of the Committee on Standards in Public Life.

##### Policy Justification and Previous Decisions

At its meeting on 19th March 2018 the Committee considered a verbal update by the Monitoring Officer regarding the Committee on Standards in Public Life's review of local government ethical standards. It resolved to have the Monitoring Officer draft a collective response for submission to CSPL as part of the public consultation on behalf of the Member Conduct Committee and, once agreed by the Committee, forward to CSPL. The Committee wished to submit a response collectively to the public consultation and address several concerns, in particular, to add the option of suspension of a councillor up to six months to the range of sanctions available, to remove the word 'to ask' when a member undertakes training so it becomes mandatory, and to suggest the recharging of the costs of investigations of complex complaints when the cost goes above a certain limit but being mindful of the size of the Parish or Town Council in question.

At its meeting on 18th March 2019, the Committee resolved that a summary of the results of the public consultation of the review of local government ethical standards by the Committee on Standards in Public Life be scheduled for the first meeting of the Committee in 2019-20 Council Year, and that it could be beneficial for the new members of the Committee after they had been appointed to the Committee after the election.

##### Implementation Timetable including Future Decisions

It is recommended that the Committee note the information and monitors the response of the Government.

##### Report Implications

The following implications have been identified for this report.

*Financial Implications*

None

*Risk Management*

No risks have been identified with this decision.

Background Papers:       None

Appendix:                   Summary of Recommendations by CSPL

Link to CSPL:               <https://www.gov.uk/government/organisations/the-committee-on-standards-in-public-life>

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## COMMITTEE ON STANDARDS IN PUBLIC LIFE - REVIEW INTO LOCAL GOVERNMENT ETHICAL STANDARDS

### Background

The Committee on Standards in Public Life (CSPL) advises the Prime Minister on ethical standards across the whole of public life in England. It monitors and reports on issues relating to the standards of conduct of all public office holders and promotes the 7 principles of public life.

The Localism Act 2011 introduced significant changes to the way that conduct of elected councillors was handled. It abolished a national framework headed by a regulator and a national Code of Conduct and removed powers to suspend or disqualify councillors for serious breaches of the Code of Conduct. Instead it placed a duty on councils: to adopt their own local Code; to put local procedures in place to investigate allegations the Code may have been broken (with principal authorities carrying out that duty for parish councils; and to appoint at least one Independent Person (IP) whose views they had to take into account when considering matters under investigation. CSPL undertook to review the effectiveness of the arrangements once they had bedded in. They therefore undertook a detailed review during 2018 seeking evidence from all interested stakeholders and published their recommendations on 30 January 2019. [A copy of their full report can be found at CSPL](#). This note summarises the key areas of concern and recommendations.

### Issues and recommendations

CSPL looked at four specific areas of operation of the system – the Code of Conduct and arrangements for registration and declaration of interests; the available sanctions; the role of the IP, MO and standards committees; and support for parishes. In addition it looked more widely at how authorities could better promote high standards of conduct.

### Overall finding

CSPL found there was no appetite to return to a centrally-regulated system as local arrangements on the whole were most effective at handling the majority of cases and that on the whole standards were high. However there were issues with a small handful of serious or persistent offenders and with governance arrangements in some parish councils. There also needed to be a more consistent approach taken to standards and MOs and councils needed some more effective tools to allow them to handle those serious and persistent cases.

### Codes of Conduct

CSPL felt that there was too much variation among local Codes. This led to inconsistencies, with some members who sat on more than one authority being subject to different rules and the public being confused about what standards applied. These inconsistencies were particularly marked when it came to interests that needed to be

registered and declared. They were also critical of Codes that were based around models produced by LGA and CLG in 2012 and felt that Codes should be simpler and more 'rules-based'.

They also felt the scope of the Code should be widened so that it also captures statements made by members in public, particularly on social media, and circumstances where members are purporting to act as a member in order to advantage themselves or disadvantage others.

### *Recommendations*

- **There should not be a compulsory national Code but there should be a new model rules-based Code produced by the LGA which councils should generally follow but add local variations to if needed**
- **There should be the same Code across a geographical area with parishes being under a requirement to adopt the principal authority code**
- **There needed to be a more comprehensive system for registering and declaring interests which goes wider than the current statutory minimum**
- **The criminal offence for non-registration and non-declaration of Disclosable Pecuniary Interests should be abolished**
- **There should be a rebuttable presumption that any public action by a councillor is within the scope of the Code**
- **The Code should also cover circumstances where a member is purporting to act as a member**

### **Sanctions**

CSPL found councils needed greater sanctions available to deal with serious and persistent misconduct. They therefore recommend that councils should be given the power to suspend members for up to six months without allowances. However, safeguards would need to be built into the system to avoid it being used politically.

### *Recommendations*

- **Councils should have the power to suspend members for up to six months without allowances**
- **The IP would need to agree that there had been a breach of the Code and that a suspension was a proportionate outcome**
- **A suspended member could appeal to the Local Government Ombudsman against the outcome of the case**
- **The Government should make clear what other administrative sanctions are available to Councils**

### **The role of the IP, MO and standards committees**

If there are to be tougher sanctions, CSPL concluded there needs to be greater independence in the system so the role of the IP should be enhanced, and the MO should be better supported and protected so that they feel free to act without fear or favour. In addition the role of standards committees should be enhanced as the guardians of a council's duty to promote and maintain high standards

### *Recommendations*

- **The IP should be given a legal indemnity by Councils if they are to have a role in agreeing to suspension of members**
- **IPs should be appointed for a two-year term, renewable once, to ensure they are seen to be independent**
- **Any views expressed by an IP should be published as part of a decision notice**
- **Statutory protection for MOs should be extended to include any disciplinary action not just dismissal**
- **Councils should have a standards committee**
- **Standards committees should be able to co-opt independent members and parish representatives with voting rights if they so choose**

### **Parish councils**

While the majority of parish councils operate to the highest standards, CSPL found that a minority have significant problems and can absorb a lot of time and resources. There therefore needs to be a recognition that they need greater support and access to training and councils need to allow MOs sufficient resource to support them.

### *Recommendations*

- **Sanctions against a parish council should be imposed by the principal authority rather than referred back to the parish council**
- **Parish clerks should hold a suitable qualification**
- **There should be greater recognition of the role of the MO in supporting parishes and they should be resourced accordingly**

### **Promotion of high standards**

CSPL also made some wider recommendations about how councils should seek to put high standards at the heart of the organisation. It believes, for example, that political parties should make member training on standards a requirement of their model group rules, and that there needs to be a much greater recognition in all authorities of the importance of the role of the MO as part of corporate management arrangements, and standards should be seen as the responsibility of all not just the MO.

### **Next steps**

The Government will respond to the report in the coming months setting out whether or not it accepts some or all of the recommendations. Some of the recommendations – for example increased sanctions, or the abolition of the DPI criminal offence, would require primary legislation. However, many other recommendations are good practice.