

## **COUNCILLOR CONDUCT COMMITTEE**

**21 MARCH 2018**

### **COMMITTEE ON STANDARDS IN PUBLIC LIFE - CONSULTATION**

Report from: Perry Holmes, Chief Legal Officer

Author: Jan Guyler, Head of Legal Services

#### **Summary**

The Committee on Standards in Public Life is currently undertaking a review of local government ethical standards and it is recommended that the Council submits a response to this review.

#### **1. Budget and Policy Framework**

1.1 This is a matter for the Councillor Conduct Committee. One of the Committee's terms of reference is to promote and maintain high standards of conduct by Councillors and voting and non-voting co-opted members.

#### **2. Background**

2.1 The Committee on Standards in Public Life (CSPL) is an advisory non-departmental public body, sponsored by the Cabinet Office. The CSPL is responsible for:

- advising the Prime Minister on ethical issues relating to standards in public life
- conducting broad inquiries into standards of conduct
- making recommendations as to changes in present arrangements
- promoting the 7 principles of public life.

2.2 Further information on the work of the CSPL can be found on its website: <https://www.gov.uk/government/organisations/the-committee-on-standards-in-public-life/about>

2.3 The CSPL has recently launched a review of local government ethical standards. The CSPL has stated that robust standards arrangements are needed to safeguard local democracy, maintain high standards of conduct, and to protect ethical practice in local government.

2.4 The terms of reference for the review are to:

- examine the structures, processes and practices in local government in England for:
  - maintaining codes of conduct for local councillors;
  - investigating alleged breaches fairly and with due process;
  - enforcing codes and imposing sanctions for misconduct;
  - declaring interests and managing conflicts of interest;
  - whistleblowing.
- assess whether the existing structures, processes and practices are conducive to high standards of conduct in local government.
- make any recommendations for how they can be improved.
- 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.

2.5 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).

2.6 The consultation document is attached at Appendix 1 to the report. The deadline for responses to the consultation is 5pm, 18 May 2018.

2.7 With regards to the standards regime in Medway, the Council complies with the duty to promote and maintain high standards of conduct by Members of the Council as required by the Localism Act 2011. The Member Code of Conduct was originally adopted by the Council on 26 July 2012 and a revised version of the Code, which was agreed by the Council on 12 October 2017, took effect from 1 January 2018.

### **3. Advice and analysis**

3.1 It is recommended that the Chief Legal Officer submit a response to the consultation, taking into account comments from the Committee. This review provides Medway with an opportunity for its voice to be heard on these matters. In addition, the Council is well placed to respond to the consultation having reviewed its own Members' Code of Conduct in 2017.

3.2 The Committee may wish to consider issues such as, for example, the availability of sanctions in dealing with Councillor conduct matters, the role of the Independent Person in the process and whether there should be a national code of conduct covering all local authorities (as in Scotland and Wales) which deals with non DPI interests, as this would ensure a consistent approach across England.

3.3 The proposed response will be shared with the Committee prior to formal submission to the CSPL.

#### **4. Financial, legal and risk management implications**

- 4.1 There are no direct financial, legal and risk management implications at this stage. However, should any changes arise from the outcome of the review, the Council will undertake a review of its own arrangements including the Members' Code of Conduct.

#### **5. Recommendations**

- 5.1 The Committee is asked to provide any comments on the Committee on Standards in Public Life review of local government ethical standards, as set out in Appendix 1 to the report
- 5.2 The Committee is asked to delegate authority to the Chief Legal Officer to prepare a response to the review and to share the proposed response with the Committee prior to formal submission to the Committee on Standards in Public Life.

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#### **Appendices:**

Appendix 1 - Review of Local Government Ethical Standards: Stakeholder Consultation document

#### **Background papers:**

None



## **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);
- Independent Persons appointed under section 28(7) of the Localism Act 2011;
- 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](mailto: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  
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If you have any questions, please contact the Committee's Secretariat by email ([public@public-standards.gov.uk](mailto:public@public-standards.gov.uk)) or phone (0207 271 2948).