

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).

Taunton Deane Borough Council

Standards Advisory Committee – 13 March 2018

Review of Local Government Ethical Standards

Initial thoughts 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.*
Not in all cases, especially the potentially serious cases or instances whereby a particular councillor keeps breaching the code as the sanctions have no teeth to act as a deterrent.
- b. *What, if any, are the most significant gaps in the current ethical standards regime for local government?*
Sanctions that would act as a deterrent. Very limited powers in respect of town and parish councils where the majority of issues arise. At present, there is no independent body that people can go to if they are unhappy with the treatment/service provided by a town/parish council (like the local government ombudsman for example) and this means a range of issues come to the Monitoring Officer which are either outside their remit completely and if they do relate to code of conduct issues, as mentioned above, there are no effective sanctions to adequately address the more serious issues.
- 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?*
Broadly yes at principal council level but not consistently across town and parish councils – it is very difficult to reach all such councillors – we have offered free training and have still only reached about a third of parish/town councillors in our area.
- 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.*
The main issue is that since 2011 the wording does not have to be consistent in relation to declarations of interests and it would be much clearer if all codes of conduct had precisely the same wording. Using the three classifications of disclosable pecuniary, prejudicial and personal interests works well at our principal council level but this is not mirrored by all town and parish councils which has caused confusion and inconsistency.

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?*

We do have good processes in place, but rarely use them due to the expense and time taken knowing that there is no significant sanction available at the end of the process to address serious issues; councils cannot afford to enter into potentially long and costly processes unless it is clearly in the public interest.

(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?*

The views of the Independent Person do provide a useful check and balance and a support to the Monitoring Officer. Members of the public do not always understand where/why they fit in (in relation to the council, Monitoring Officers, Standards Committees etc.).

(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?*

I would always use someone else to undertake any formal investigation but this will take extra resource internally (which we often do not have) so it can cost additional funding that is difficult to budget for – a further deterrent to going down the formal investigation route – so we always look to deal with matters by the way of an informal resolution.

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?*

For less serious matters where some training or an apology is a proportionate mitigation, then the current sanctions are adequate – but for cases that require a formal investigation, then, in my opinion, they do not offer a sufficient deterrent.

(ii) *Should local authorities be given the ability to use additional sanctions? If so, what should these be?*

For more serious cases, sanctions of up to and including suspension for six months would have the potential to have a real impact and make people think more about their behaviours. Even the making of certain breaches a criminal offence does not seem to have worked as such matters have to be referred to the Police who, from my experience, are not geared up to the local

government world and do not (understandably) see such matters as a high priority to them and matters can take a long time and often end being handed back to the council to deal with in any case.

- 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, not 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?

Broadly the arrangements work quite well. It is quite difficult from a Monitoring Officer perspective to get all register of interest forms completed by all parish and town councillors across our areas (can be hundreds of councillors) let alone keep them up to date.

(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 no, please say why.

A declarations of interest item is on the agenda near the beginning of all formal decision making meetings; induction training is given on the code of conduct and as long as the member concerned brings to the Monitoring Officer's attention any potential conflict of interest in good time, then discussions can usually be held to ensure that potential conflicts of interest are satisfactorily managed.

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

We have a Whistleblowing Policy which has proved to be satisfactory to date.

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

Provide more training especially to parish and town councillors.

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

Either give councils greater sanctions or remove the requirement to formally deal with complaints to give more freedom to focus or not locally. At present there is a statutory requirement to have to deal with complaints with nothing significant to back it up.

- k. *What is the nature, scale and extent of intimidation towards local councillors?*

There are some rare examples of tit for tat and/or persistent complaints about a particular parish/town council who rather than try to sort out their own issues, try to use the local Standard process to 'take sides' and sort things out for them. On occasion a particular councillor will be the subject of several complaints with other councillors ganging up on them.

I also have seen a lot of pressure put on councillors who sit on the planning committee. It does not feel appropriate that they have to sit and determine, say, a contentious large housing development, sat in front of sometimes hundreds of angry objectors who make it clear that they will not vote for them again etc. unless they object, even if there are no valid planning reasons for doing so.

(i) What measures could be put in place to prevent and address this intimidation?

Adequate sanctions especially for more serious examples of bullying (councillor to councillor may help).

Controversially, perhaps do away with a formal and ineffective complaints system and then at least it cannot be abused by people trying to bully or put pressure on councillors.

Also, perhaps controversially, whilst part of the planning committee is held in public when information from officers and representations are being made, to allow the committee to debate and determine the application in private to avoid the in the moment intimidation and almost 'circus of booing and clapping' that can happen – a public record of the decisions made can still be recorded and made available subsequently.

Allow independent persons to sit as full voting members of a Standards Committee to demonstrate that this process is not political as it used to be able to be. Since 2011, the role and status of Standards Committees has, from my experience, declined and I do not believe that is a good thing for local government ethics.