

North East Derbyshire District Council

Standards Committee

11 March 2019

Parliamentary Committee on Standards in Public life – Review into Local Government Ethical Standards

Report of the Joint Head of Corporate Governance and Monitoring Officer

This report is public

Purpose of the Report

- To report to Members on the findings and recommendations of Parliamentary Committee on Standards in Public Life review in to Local Government Ethical Standards.

1 Report Details

BACKGROUND

- 1.1 The Parliamentary 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.
- 1.2 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.
- 1.3 CSPL undertook to review the effectiveness of the arrangements once they had bedded in. In May 2018, the North East Derbyshire District Council Standards Committee gave consideration to the terms of reference for this review. The review sought evidence from all interested stakeholders and the recommendations were published on 30 January 2019. A copy of their full report has not been appended to this report due to its length, however it is available on request.
- 1.4 This report summarises the key findings of the review and recommendations that have been made.

ISSUES AND RECOMMENDATIONS

1.5 CSPL looked at four specific areas of operation of the system:

- the Code of Conduct and arrangements for declarations of Interest;
- the available sanctions;
- the role of the IP, MO (Monitoring Officer) and Standards Committee; and
- support for parishes.

In addition it looked more widely at how authorities could better promote high standards of conduct.

OVERALL FINDINGS

1.6 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 standards were high. However, there were issues with a small handful of serious or persistent offenders and with governance arrangements in some Parish Councils.

1.7 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 cases.

CODES OF CONDUCT

1.8 CSPL felt 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.

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

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

1.11 Below are the CSPL recommendations in relation to the Code of Conduct:

- 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

1.12 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.

1.13 Below are the CSPL recommendations in relation to Sanctions:

- 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

1.14 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.

1.15 Below are the CSPL recommendations in relation to IPs, MOs and Standards Committees:

- 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

1.16 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.

1.17 Below are the CSPL recommendations in relation to Parish Councils:

- 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

1.18 CSPL also made some wider recommendations about how Councils should seek to put high standards at the heart of the organisation. It believed, 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

1.19 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.

1.20 However, many other recommendations are good practice which Councils can just implement or adopt.

1.21 It is therefore suggested, in light of the findings of the review, that the recommendations made are considered in line with a review of the Standards Committees Terms of Reference. This could be built in to the review of the Constitution for the 2019/2020 municipal year.

2 Conclusions and Reasons for Recommendation

2.1 This report is to inform Members of the review into Local Government Ethical Standards. The recommendations that are summarised within may inform a planned review of the terms of reference for the committee.

3 Consultation and Equality Impact

3.1 There are no equalities issues arising from this report.

3.2 Standards are informed of this review in line with their responsibilities contained within their terms of reference.

4 Alternative Options and Reasons for Rejection

4.1 None.

5 Implications

5.1 Finance and Risk Implications

5.1.1 None arising from this report.

5.2 Legal Implications including Data Protection

5.2.1 None arising from this report.

5.3 Human Resources Implications

5.3.1 None arising from this report.

6 Recommendations

6.1 That Standards Committee

- a) note the findings of the review and the recommendations of the Parliamentary Committee on Standards in Public Life – Review in to Local Government Ethical Standards; and
- b) request for the findings and recommendations of the review be considered in line with a review of the Committee’s Terms of Reference, to be presented to a future meeting of the Standards Committee.

7 Decision Information

Is the decision a Key Decision? A Key Decision is an executive decision which has a significant impact on two or more District wards or which results in income or expenditure to the Council above the following thresholds: <i>BDC: Revenue - £75,000</i> <input type="checkbox"/> <i>Capital - £150,000</i> <input type="checkbox"/> <i>NEDDC: Revenue - £100,000</i> <input type="checkbox"/> <i>Capital - £250,000</i> <input type="checkbox"/> <input checked="" type="checkbox"/> <i>Please indicate which threshold applies</i>	No
Is the decision subject to Call-In? (Only Key Decisions are subject to Call-In)	No
Has the relevant Portfolio Holder been informed?	Yes
District Wards Affected	All
Links to Corporate Plan priorities or Policy Framework	All

8 Document Information

Appendix No	Title
None	
<p>Background Papers (These are unpublished works which have been relied on to a material extent when preparing the report. They must be listed in the section below. If the report is going to Cabinet (NEDDC) or Executive (BDC) you must provide copies of the background papers)</p>	
<p>CSPL – Review Report in to Local Government Ethical Standards</p>	
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