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Jim McMahon OBE MP
Minister of State for Local Government and
English Devolution

Committee
on
Standards in
Public Life

Sent by email

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**‘STRENGTHENING THE STANDARDS AND CONDUCT FRAMEWORK FOR LOCAL
AUTHORITIES IN ENGLAND’: MINISTRY OF HOUSING, COMMUNITIES AND LOCAL
GOVERNMENT’S OPEN CONSULTATION**

Dear Minister,

The Committee on Standards in Public Life welcomes and is pleased to contribute to the government’s important consultation on strengthening the standards and conduct framework for local authorities in England. I am grateful too for being part of your roundtable held on 12 February. As you will be aware, the Committee on Standards in Public Life (CSPL) is an independent, non-departmental public body, sponsored by the Cabinet Office, that advises the Prime Minister on the arrangements for upholding standards across public life in England. CSPL is not a regulator and does not have investigative powers or consider individual cases.¹

The Committee has a long standing interest in local government standards which it first explored in its third report published in July 1997 ‘Standards of Conduct of Local Government in England, Scotland and Wales’,² and most recently in its 2019 report, which made 26 recommendations, and identified a further 15 best practice recommendations, ‘that all local authorities should implement to drive high ethical standards in local government’³. CSPL’s key recommendations included the introduction of a non-mandatory code of conduct (since

¹<https://www.gov.uk/government/organisations/the-committee-on-standards-in-public-life/about/terms-of-reference>

²<https://www.gov.uk/government/publications/standards-of-conduct-of-local-government-in-england-scotland-and-wales>

³https://assets.publishing.service.gov.uk/media/5c5c3f68e5274a3184bac66f/6.4896_CO_CSPL_Command_Paper_on_Local_Government_Standards_v4_WEB.PDF

provided by the Local Government Association); appropriate mechanisms for local authorities to deal with problems when they arise; greater transparency in decision making processes; and clearer rules on conflicts of interest. We are pleased that the government's consultation is exploring some of the recommendations presented in that report.

On Thursday 20th February 2025, the Committee held a seminar with a range of local government experts and practitioners with a wide range of views and experiences to inform CSPL's submission to this government consultation. A number of attendees had surveyed their members in advance of the seminar, and this provided added weight and insight to the discussion. We are grateful to all who participated in the seminar. A non-attributed note of the session will be published on our website shortly.

For ease of review we have summarised our submission into sections as set out in your consultation document.

Mandatory minimum prescribed code of conduct

The Committee said in its 2019 report, that there were benefits to local authorities being able to amend and have ownership of their own codes of conduct, hence the recommendation then was for an updated non-mandatory model code of conduct that should be voluntary and be able to be adapted by local authorities. In view of recent evidence, the Committee does now consider that there should be a mandatory minimum code of conduct. Establishing a core mandatory code would provide a strengthened and more consistent standards framework which is a key issue of public confidence.

Some practitioners told us that the ability to *add* to the code in a locality, to take account of particular issues, could be helpful but, notwithstanding the fact that the ability to amend the code could give local councillors local 'ownership', *amending* the code may well undermine the spirit behind the proposal of having a mandatory code. We agree and consider that a core mandatory code, along with standardised training, would also enable any future appeals body to deal more easily with complaints.

We would recommend that accompanying guidance supported any published code of conduct to provide greater clarity on the issues or behaviour expected. For example, describing what type of behaviours constitute bullying under the code, would leave people in no doubt about the standard of personal behaviour required. The code should also include a requirement for members to cooperate with investigations into code breaches.

One suggestion, which received wide support, was whether there was scope to broaden the councillor's declaration of acceptance to underline the expectation that members should behave decently at all times. Combining the declaration of acceptance with the code of conduct would emphasise its importance.

The question of whether councillors were acting in their public or private capacity, particularly when engaging on social media, required greater clarity as people had different perceptions of how councillors should behave and what constituted acceptable behaviour, both in-person and online.

The Committee suggests exploring what works well in the Devolved Administrations which have established mandatory codes.

Standards Committees and Independent Person/s

CSPL recommended in 2019 that local authorities should be given discretionary power to establish decision-making standards committees, with voting independent members and members from dependent parishes, to decide on allegations and impose sanctions.

Given recent evidence, we would now recommend that all principal authorities should be required to form a standards committee which needs to be properly constituted. We would recommend that standards committees are not combined with other committees, given the diverse skillsets required of different committees. There could be merit in the Independent Person chairing the standards committee, although it was important to define carefully the role description of an Independent Person. Consideration might also be given to lay members chairing standards committees. Both the Independent Person and lay members should have voting rights.

The idea of consistency between councils was felt to be important, while allowing for local nuances, and the process of corporate peer challenge should be encouraged. The question of who monitors the Monitoring Officers was also raised.

Publishing investigation outcomes

CSPL's 2019 best practice recommendation 9 states: 'where a local authority makes a decision on an allegation of misconduct following a formal investigation, a decision notice should be published as soon as possible on its website, including a brief statement of facts, the provisions of the code engaged by the allegations, the view of the Independent Person, the reasoning of the decision-maker, and any sanction applied'.

The Committee continues to believe that transparency is fundamentally important and that the publication of results of complaints as soon as possible, is the right thing to do. If results were not published, or not published in a timely manner, it is likely that local social media would fill the void. However, investigations needed to be proportionate to ensure good use of public money.

Being transparent and publishing vexatious complaints might also guide future complainants about the type of matters that would and would not be investigated. The only exception to substantive publication should be if there was a risk that a complaint could not be anonymised sufficiently.

We would recommend that, even if a member should resign during an investigation, the investigation should be pursued to its conclusion and the results published (where possible) because there was nothing to stop the member standing for election in a neighbouring constituency in the future.

Introducing the power of suspension with related safeguards

CSPL's 2019 recommendations proposed that local authorities should be given the power to suspend councillors, without allowances, for up to six months and that legislative clarification was required in respect of barring councillors and withdrawing facilities. In addition, a local authority should only be able to suspend a councillor where the authority's Independent Person agrees both with the finding of a breach and that suspending the councillor would be a proportionate sanction.

The Committee noted potential issues around suspension of councillors. Some investigations could take years to reach their conclusion if the police and Crown Prosecution Service became involved, which could result in a democratic deficit. In addition, councillors were office holders, but experts raised the issue of whether councillors effectively moved towards being regarded as employees in HR terms if suspension were to be implemented. This was a potentially complex area and clear rules and guidance would be required for the effective operation of suspension.

Notwithstanding the above issues, the Committee continues to recommend suspension for egregious breaches of behaviour and during the period of an investigation. CSPL agrees with the point made to it at the seminar that there should, in fact, be a ladder scale of sanctions starting with mere censure and leading up to suspension and disqualification.

Suspension reinforces the expectation of high standards of behaviour among councillors, ensuring that they act professionally and in the best interests of their constituents, and helps to maintain public trust. It can act as a deterrent against future instances and arguably serves to protect democratic processes by ensuring that elected officials cannot abuse their position without consequences.

The question of who had the power to suspend was considered by participants at the seminar; should this be the standards committee or others? It was felt that there was not currently sufficient enough legal coverage for Monitoring Officers to undertake this aspect of the role.

Disqualification

The disqualification of a democratically elected individual is a serious step that prevents them representing their constituents and is a decision, we feel, that should not be taken lightly. CSPL previously reported that stronger sanctions should be made available to local authorities but that we had not seen compelling evidence for introducing a power of disqualification.

In light of recent evidence, CSPL is now of the view that disqualification may now be necessary in extreme cases, and criminal cases, where there was a clear question mark as to whether the member remained a fit and proper person to hold public office. The Committee noted, however, caution expressed by our seminar participants particularly around the democratic issue raised by disqualification of an elected person being removed by an unelected individual.

Those who gave evidence to our seminar felt that the current criteria for disqualification under criminal law - contained within schedule 9 of the Elections Act 2022 - could be reviewed and amended. If a councillor was judged to be guilty by a court, then disqualification could be appropriate, but if it fell to an officer of the council to adjudge on behaviour, this was far more difficult democratically.

The Committee heard evidence that decisions about disqualification were not always straightforward. For the most serious cases of code of conduct breaches, such as repeated poor behaviour, or if a councillor had defrauded council finances, disqualification should be considered. However, in some cases of poor behaviour, or errors on the part of councillors,

the decision as to whether to disqualify, was a finely balanced argument, and involved weighing up the code breaches with the impact of disqualifying an elected member.

We understand that the government considers that it may be beneficial to introduce disqualification for a period of 5 years for those members for whom the sanction of suspension is invoked on more than one occasion within a 5-year period. However, participants considered that this could lead to ‘two strikes and you are out’ and expressed widespread and strong dislike for this proposal, as more nuanced judgement is required.

Appeals and the provision of a national body

The Committee’s 2019 recommendations said that councillors should be given the right to appeal to the Local Government Ombudsman (LGO) if their local authority imposes a period of suspension for breaching the code of conduct, and that the LGO should be given the power to investigate and decide upon allegations and sanctions which the then LGO was content with.⁴

The Committee continues to believe that councillors should be given the right of appeal. A means of appeal is an important aspect of natural justice. Our recent evidence suggests that any appeal needed to be “timely, sharp and focussed”, “light touch and proportionate”, and “bring closure” to the complaint, in effect “be the end of the line”. However, it was widely thought that mandating that an appeal should be invoked within 5 working days of the notification of suspension may not be workable, and an initial period of 10 days was suggested because advice from other sources might be needed. The government would need to consider, where the sanction is not imposed by a judicial body, whether suspension or disqualification might require an unfettered right of appeal to an independent judicial body under Article 6 of the European Convention of Human Rights.

The Committee would not be averse to the establishment of a national body which some feel would arguably enable a level of expertise and consistency although it was important to remember lessons from the former Standards Body for England; complaints’ rights should be sufficient and proportionate.

Another option suggested by seminar participants, was a regional approach which mirrored magistrates complaints arrangements, with an independent chair. It was felt appropriate for councillors to hear cases concerning other councillors, and the arrangement could act as a tribunal in terms of powers. The Committee is of the view, however, that any appeals process, as a safeguard for councillors and complainants, needed to operate fairly and impartially.

Learning and feedback to generate improvement was important as was future-proofing, as far as possible, whatever arrangements were settled upon. Arrangement for legal representation needed to be considered, as an accused may not have resources and may need legal support. Equally, indemnification for officials was required. It was felt likely that costs would fall to a council.

⁴ The LGO changed its name to the Local Government and Social Care Ombudsman to reflect the full scope of their jurisdiction.

One view thought that principal councils needed a discretionary power to recover costs from parish councils in hearing appeals, in an effort to balance the books but also to curb poor behaviour within local government; others felt not.

Other Matters

The seminar noted that the following recommendations from the CSPL 2019 report have not been explicitly covered within the consultation, and the Committee urges the government, and relevant other stakeholders (e.g. the Local Government Association in respect of recommendation 26 below) to look again at these areas:

1. Recommendations 5, 6 & 7 relating to gifts, hospitality and disclosure of interests, including a requirement to establish a register of gifts and hospitality with councillors required to record anything over a value of £50 or totalling over £100 over a year from a single source; and s31 of Localism Act 2011 should be repealed and replaced with requirement that councils include in their code of conduct that a councillor must not participate in a discussion or vote on a matter to be considered at a meeting if they have any interest, whether registered or not, if a member of the public with knowledge of the relevant facts, would reasonably regard the interest as so significant that it is likely to prejudice consideration or decision making in that matter.
2. Recommendations 8, 9, 10 & 11 relating to specific arrangements concerning Independent Persons (IP), including amending the Localism Act to require IPs to be appointed for fixed term of 2 years; and providing legal indemnity to IPs if their views are disclosed.
3. Recommendation 15 relating to the publication of complaints - a requirement that the Local Government Transparency Code should be updated to require councils to publish annually the number of code of conduct complaints they receive, what the complaints broadly relate to, and the outcome of complaints.
4. Recommendations 19, 20 & 21 relating to parish councils, including the requirement that parish council clerks hold an appropriate qualification; parish councils should adopt the code of conduct of their principal authority; and any sanction imposed on a parish councillor should be determined by the principal authority.
5. Recommendation 22, amending secondary legislation so that disciplinary protections for statutory officers be extended to all disciplinary action, not just dismissal.
6. Recommendations 23 & 24 relating to whistleblowing - updating the Local Government Transparency Code so that local authorities must ensure their whistleblowing policy specifies a named contact for the external auditor alongside their contact details which should be available on the local authority's website; and that councillors should be listed as 'prescribed persons' for the purposes of the Public Interest Disclosure Act 1998.
7. Recommendation 25 - councillors should be required to attend formal induction training by their political groups. National parties should add such a requirement to their model group rules.

8. Recommendation 26 - Local Government Association corporate peer reviews should also include consideration of a local authority's processes for maintaining ethical standards.

Conclusion

The implementation and enforcement of robust local government standards is crucial for fostering a culture of integrity, accountability, and transparency and as such the Committee welcomes the government's consultation, based largely on the recommendations contained within CSPL's 2019 report.

We had a wide ranging discussion with those who kindly attended our seminar on 20 February, but some themes stood out - a core mandatory code of conduct but for local people to manage local affairs wherever possible; for complaints to be resolved at the lowest possible level with a sliding scale of consequences; and consistency of approach, proportionality, and safeguards for councillors and complainants.

As the government moves forward with its plans for local government, it is essential that standards are prioritised and new arrangements are future-proofed, enhancing transparency and public confidence in standards within local authorities.

I look forward to reading the results of your consultation.

Yours sincerely



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