

Committee: Standards Committee	Date: 3 May 2019
Subject: Review of Local Government Ethical Standards by the Committee on Standards in Public Life	Public
Report of: Comptroller & City Solicitor	For Decision
Report author: Edward Wood, Chief Solicitor	

Summary

The Committee on Standards in Public Life advises the Prime Minister on ethical standards across the whole of public life in England. They undertook a detailed review of the arrangements in place to promote and maintain high standards of conduct by public office holders in local government during 2018, seeking evidence from all interested stakeholders, and published their recommendations on 30 January 2019. Members are asked to review how well the City Corporation's current arrangements match these recommendations and consider any changes to existing processes that may be desirable.

Recommendations:

- (i) Members are asked to note the Review of Local Government Ethical Standards by the Committee on Standards in Public Life at Appendix 1;
- (ii) Members are asked to review the Recommendations at Appendix 2 and consider any changes to existing processes that may be desirable (in particular in relation to Recommendations 6, 8, 9, 11, 15 and 23);
- (iii) Members are asked to review the Best Practice Recommendations at Appendix 3 and consider any changes to existing processes that may be desirable (in particular in relation to Recommendations 1-4, 6, 9 and 13).

Main Report

Background

1. 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 seven principles of public life.

2. As your Committee will recall, the Localism Act 2011 introduced significant changes to the way that the conduct of Members was handled. It abolished a national framework headed by a regulator and a national Code of Conduct (“Code”) and removed powers to suspend or disqualify Members for serious breaches of the Code. 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; and to appoint at least one Independent Person (“IP”) whose views they had to take into account when considering matters under investigation.
3. The CSPL undertook to review the effectiveness of the arrangements once they had bedded in. They therefore carried out a detailed review during 2018 seeking evidence from all interested stakeholders and published their recommendations on 30 January 2019. A copy of the full review is included at Appendix 1. Members are encouraged to read the review in its entirety, as it is an interesting and accessible document, and contains a large amount of material over and above the specific recommendations.

Overall findings

4. The 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 Monitoring Officers (“MOs”) and councils needed some more effective tools to allow them to handle those serious and persistent cases.
5. The CSPL did not consider that there should be a return to a compulsory national Code but felt that there was too much variation among local Codes. This had 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 the Local Government Association (“LGA”) and the Department for Communities and Local Government in 2012 and felt that Codes should be simpler and more ‘rules-based’. The LGA should produce a new model Code, which councils should generally follow, but would be able to add local variations to if needed.

6. The CSPL felt that the scope of the Code should be widened, with a rebuttable presumption that a Member's behaviour in public, including on social media, is in an official capacity. The Code should also cover circumstances where a Member is purporting to act in an official capacity in order to advantage themselves or disadvantage others. There also needs to be a more comprehensive system for registering and declaring interests which goes wider than the current statutory minimum to include certain non-pecuniary interests and hospitality. However a Member should not be required to include their home address in their register of interests and the criminal offence for non-registration and non-declaration of Disclosable Pecuniary Interests should be abolished.
7. The CSPL found councils needed greater sanctions available to deal with serious and persistent misconduct. They therefore recommend that the Government should make clear what other administrative sanctions are available to local authorities, such as barring Members from council premises or withdrawing facilities, and 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 suspension being used politically. The IP would need to agree that this was a proportionate outcome and a suspended Member would be able to appeal to the Local Government Ombudsman.
8. If there are to be tougher sanctions, the CSPL concluded there needs to be greater independence in the system so the role of the IP should be enhanced. Any views expressed by an IP should be formally recorded in any decision notice or minutes, and they should be given a legal indemnity by councils. IPs should be appointed for a two-year term, renewable once, to ensure they are seen to be independent. The MO (and the other statutory officers) should also be better supported and protected against any disciplinary action, not just dismissal, 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, and they should be able to co-opt Members with voting rights if they so choose.
9. The 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. Councils should be required to publish annual details of the number of Code complaints received, what they broadly related to, the outcome and any sanctions applied.

CSPL Recommendations

10. The 26 recommendations made by the CSPL are set out in Appendix 2. Many of these recommendations would require new primary or secondary legislation to implement. The Government will respond to the report in the coming months setting out whether or not it accepts some or all of the recommendations. However, some of the recommendations can be adopted by individual local authorities at the present time.
11. The CSPL also made 15 best practice recommendations as part of the review which are set out in Appendix 3. The CSPL expects that any local authority can and should implement these recommendations under the current arrangements. They intend to review the implementation of these recommendations in 2020.
12. Members are therefore asked to review how well the City Corporation's current arrangements reflect these two sets of recommendations, and consider any changes to existing processes that may be desirable and could be implemented now. Against each recommendation we have included some commentary on implementation (where applicable) and the specific position relating to the City Corporation.
13. Where the City Corporation has the power to act unilaterally, existing arrangements are in most cases considered to be in line, or broadly in line, with the recommendations of the CSPL. However, where it is felt that Members may wish to consider some further action this has been indicated against particular recommendations.
14. Some of these recommendations could be implemented immediately. However, where changes would involve the redrafting of other documents, this may require a follow up report, or for authority to amend those documents to be delegated to officers. Some of the recommendations would need to be referred to another decision-making body within the City Corporation.
15. Members will know that the City Corporation's Member Code of Conduct, Guidance on the Code of Conduct and Complaints Procedure were approved by the Court of Common Council relatively recently, on 8 March 2018, following a lengthy review involving Leading Counsel and a Member Working Party. Where the implementation of particular CSPL recommendations would require changes to those documents, your Committee may therefore wish to defer any modifications until a later date. However this will obviously depend on the deemed importance and urgency of particular changes. It is also worth noting that one of the CSPL recommendations is that the Member Code of Conduct should be reviewed on an annual basis in any event.

Conclusion

16. Many of the recommendations in the Review of Local Government Ethical Standards must await the Government's response and would require legislative changes to implement. However, some of the recommendations can be adopted by individual local authorities already. In most cases the City Corporation's existing arrangements are already in line, or broadly in line, with the CSPL recommendations. Where there is some divergence this has been flagged up in the report for possible action, either now or in the future.

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