

STANDARDS COMMITTEE

17 November 2020

Commenced: 14:00

Terminated: 15:20

Present: Mrs Bracken (Chair)
Councillors McNally, L Boyle, Dickinson, Ricci and M Smith

In Attendance: Sandra Stewart Director of Governance and Pensions

Apologies for Absence: Councillors Kitchen, and S Homer
Mrs Barnes

1 DECLARATIONS OF INTEREST

There were no declarations of interest submitted by Members of the Standards Committee.

2 STANDARDS: RECOMMENDATIONS FOR RIGOROUS CHANGE

Consideration was given to a report of the Director of Governance and Pensions, which provided an update to the Committee on the Council's progress in implementing the 15 areas of best practices detailed in **Appendix B** to the report.

Members of the Committee heard that in early 2018 the Committee on Standards in Public Life (CSPL) had announced its first examination of local government standards since the complete transfer of responsibility for standards to local authorities in 2011.

Members were reminded that since 2011, councils had been responsible for setting and managing their own codes of conduct. In practice not all Local Authorities had a full code of conduct, this was one of the issues looked at in the review.

The report, Local Government Ethical Standards, published in January 2019, focused on principle councils and parish councils, and excluded combined and mayoral authorities. The Committee's remit was for England, but it had explored more widely, and included learning from Northern Ireland, Scotland and Wales as well as from the councils contributing to the review. Aspects of the current system were not working, requiring changes in the law and best practice.

The Director of Governance and Pensions highlighted the key changes in law:

- Councillors to be presumed to be acting in an official capacity in their public conduct, including in statements on publicly-accessible social media
- Disclosable pecuniary interests to include a number of unpaid roles coupled with repeal of criminal sanctions
- A public interest test for participating in a discussion or voting if councillors have an interest in an issue
- Increased powers and protections for Independent Persons
- Local authorities to have the power to suspend councillors without allowances for up to six months
- Councillors to have the right to appeal to the Local Government Ombudsman in the event of suspension
- Disciplinary protections for statutory officers to be extended to all disciplinary action, not just dismissal.

The Director reminded the Committee that these were recommendations and were yet to be brought into legislation. Nevertheless, the recommendations that had arisen from the CSPL translated into the following key best practice proposals:

1. The adoption of an updated model code of conduct, prepared by the LGA;
2. Including prohibitions on bullying and harassment in codes of conduct;
3. Requiring councillors to comply with formal standards investigations;
4. Strengthening aspects of the investigation of breaches of codes of conduct;
5. Publicly available information on how to make a complaint; and
6. A reports on relationships with separate bodies as part of the annual governance statement.

Additionally, the Local Government Transparency Code should be updated to require councils to publish annually: the number of code of conduct complaints they had received; what the complaints broadly related to; the outcome of those complaints, including if they were rejected as trivial or vexatious; and any sanctions applied. Councils should be recording allegations and complaints they had received, even if they did not result in an investigation, and should certainly publish decisions on formal investigations. Information about how to make a complaint should be available on the council's website. Further, Council's should consult locally on what should be included in the code of conduct.

It was further explained that with regards to independent persons on the Standards Committee it was recommended that an independent person should be appointed for a fixed term of 2 years with the possibility of a 1 term renewal.

Members discussed different activities and engagements online that would be considered acting in an official capacity in their public conduct.

RESOLVED

That the report be noted and for the current position regards the best practice be noted and approved.

3 UPDATE RE: LOCAL GOVERNMENT ASSOCIATION MODEL MEMBER CODE OF CONDUCT

Consideration was given to a report of the Director of Governance and Pensions, which looked at the draft Model Code of Conduct for Members in comparison to Tameside's current Code of Conduct for Members and highlighted the main differences between them.

It was explained that the purpose of this Code of Conduct was to assist councillors in modelling the behaviour that was expected of them, to provide personal checks and balances, and to set out the type of conduct against which appropriate action may be taken. It was also to protect councillors, the public, fellow councillors, council officers and the reputation of local government. It set out the conduct expected of all members and a minimum set of obligations relating to conduct. The overarching aim was to create and maintain public confidence in the role of member and local government.

The Director of Governance and Pensions outlined the model Member conduct as set out in **Appendix A** 'Local Government Association Model Member Code of Conduct':

- Act with integrity and honesty
- Act lawfully
- Treat all persons with civility; and
- Lead by example and act in a way that secures public confidence in the office of councillor

Further, Councillors would make a commitment to:

- Impartially exercise their role in the interest of the local community
- Not improperly seek to confer an advantage, or disadvantage, on any person
- Avoid conflicts of interest

- Exercise reasonable care and diligence; and
- Ensure that public resources were used prudently and in the public interest.

It was highlighted that the Committee on Standards in Public Life (CSPL) recommend that Section 27(2) of the Localism Act 2011 should be amended to state that a local authority's code of conduct applied to a member when they claim to act, or give the impression they are acting, in their capacity as a member or as a representative of the local authority. Further, CSPL recommended that councillors should be presumed to be acting in an official capacity in their public conduct, including statements on publicly accessible social media and Section 27(2) of the Localism Act 2011 should be amended to permit local authorities to presume so when deciding upon code of conduct breaches.

RESOLVED

That the Standards Committee note the changes and RECOMMEND TO COUNCIL to adopt the final version of the Local Government Association Model Code of Conduct for Members once published (and appended to these minutes) to take effect for the New Municipal Year and the Monitoring Officer undertake the necessary training to effectively implement the revised Code.

4 GENERAL DISPENSATION FOR MEMBERS

Consideration was given to a report of the Director of Governance and Pensions, which invited the Committee to readopt the existing, range of standard dispensations available to Members in discharging Council functions in accordance with the Localism Act 2011 and the Members' Code of Conduct.

It was explained that Members were required to declare under the Localism Act 2011 ('the Act') and Members' Code of Conduct ('the Code') their disclosable pecuniary interests in relation to matters discussed at formal Council meetings.

This report sought the agreement of the Standards Committee to grant in principle a dispensation to all Members for the same categories of otherwise disclosable pecuniary interests for a further four-year period. Such dispensations did not relieve the Member of the obligation to declare and register such interests, although on those occasions where something impacts on a majority of Members, the Borough Solicitor would usually make that declaration on behalf of all those affected Members.

It was explained that in 2013, the Government issued guidance on whether a Member had a pecuniary interest in respect of setting the Council Tax or a precept. While therefore it was not necessary to apply for the dispensation in order for Members to discuss and vote upon Council Tax, as there was ambiguity in the legislation which necessitated the Government guidance, it was considered advisable to continue to include the setting of Council Tax or any precept as one of the dispensation categories for the avoidance of doubt.

The Director of Governance and Pensions stated that the only dispensations in the last 8 years that had been awarded were for setting Council tax using the form at **Appendix A** on an annual basis.

RESOLVED

That the Standards Committee:

- (i) Delegate authority to the Borough Solicitor to, upon application by Members, grant a dispensation for four years from the date of this Committee, for Members to participate and vote in the following matters, irrespective of them otherwise having a pecuniary interest:**
 - (a) school meals or school transport and travelling expenses, where the Member is a parent or guardian of a child in full time education, or are a parent governor of a school, unless the matter relates particularly to the school, which the child attends;**

- (b) statutory sick pay under Part XI of the Social Security Contributions and Benefits Act 1992, where the Member is in receipt of, or is entitled to the receipt of, such pay;
 - (c) an allowance, payment or indemnity given to Members;
 - (d) any ceremonial honours given to Members; and
 - (e) setting council tax or a precept under the Local Government Finance Act 1992.
- (ii) Note that such dispensation does not relieve the Member of the obligation to declare the interest or have such interest registered in accordance with the Members' Code of Conduct and the expectation is it will be produced in the form at Appendix A and declared at the meeting.

5 CIVILITY IN PUBLIC LIFE

Consideration was given to a report of the Director of Governance and Pensions, which detailed the programme undertaken by the LGA working with the WLGA, COSLA and NILGA on 'Civility in public life'.

It was reported that the LGA recognised the growing need among councillors for support related to intimidation, and have jointly developed a resource following advice from both councils, councillors, other council representative organisations, as well as national organisations such as the Suzy Lamplugh Trust and National Counter Terrorism Security Organisation.

The Councillors' guide to handling intimidation (**Appendix A** to the report) covered topics such as how to handle abuse, both face-to-face, letters or online, and the legal and practical remedies, including the nature of the criminal offences involved and would be continuously updated with the latest advice and information available.

It was explained that the Lawyers in Local Government recognised that the growing use of social media placed additional pressure on Monitoring Officers to advise officers, councillors and their authority on a range of legal implications based on wide-ranging posts, tweets and commentary published in the public domain.

On 26 August 2020 Lawyers in Local Government published the Social Media Toolkit (**Appendix B** to the report) that would support Monitoring Officers in providing advice to their officers and members covering defamation, abuse, standards, employment law, data protection, indemnities and guidance for councillors, it provided a comprehensive useful guide to an increasingly complex area.

RESOLVED

That the LGA Councillors' guide to handling intimidation (Appendix A) and the Lawyers in Local Government published their social media toolkit (Appendix B) be shared with all elected councillors to support them in their roles.

6 ETHICAL STANDARDS UPDATE

Consideration was given to a report of the Director of Governance and Pensions, which briefed Members on any developments and news on matters of local government ethics. The report looked at news items and any relevant case law, as well as any recent published decisions from other local authorities or any of the existing standards boards. It also provided an update on the work of the Committee on Standards in Public Life (CSPL) that followed on from their report "Ethical Standards in Local Government".

It was reported that in July 2020 Wakefield Council had to explain to residents that there were no powers to remove a councillor who had been convicted of sexual offences involving children, but was then yet to be sentenced. The Director of Governance and Pensions explained that under the current

laws a Councillor could not be disqualified as a Councillor until such time as they had been sentenced for a criminal offence and received a sentence for more than 3 months.

Members heard that in June 2020, Richard Harwood QC reported a case in which the High Court had considered the issues around lobbying. This followed the London Borough of Hackney advising planning committee members to not read correspondence sent to them concerning applications. The High Court found that such communications were an important part of the local democratic process.

It was stated in June 2020, the LLG website published a report about NALC calling for there to be a power of suspension and asking the government to take urgent action to introduce such a power.

Further, in June 2020, it was reported that a community councillor in Wales had failed to secure an injunction to prevent the Public Service Ombudsman for Wales investigating complaints about him.

RESOLVED

That the report be noted.

7 REGISTER OF INTERESTS AND GIFTS AND HOSPITALITY

The Register of Interests and Register of Gifts and Hospitality were available online for inspection.

It was reported there had only been one gift declared in the last 6 months, which was flowers of the value of £25 given to a Councillor.

8 URGENT ITEMS (IF ANY)

There were no urgent items.

9 DATE OF NEXT MEETING

The date of the next meeting was scheduled for the 6 April 2021.

10 DISCUSSION PERIOD FOR MEMBERS TO RAISE ISSUES (IF ANY)

The following items were raised during the discussion period:

Application of the Model Member Code of Conduct

In response to a question from a Member regarding how the Member code of Conduct would apply to social media pages, the Director of Governance and Pensions explained that it was not to prevent Councillors sharing their views. However, it was expected that when sharing views and opinions it would be done in a professional manner.

Conduct of Election Candidates

Members enquired on the conduct of election candidates. The Director of Governance and Pensions explained that there were codes of conducts relating to the conducts of political parties. Further, people could complain to the party offices of any political parties who had published complaints systems.