

STANDARDS COMMITTEE

5 April 2022

Commenced: 4.00pm

Terminated: 4.35pm

Present: Mrs Bracken (Chair)

Councillors Boyle, Dickinson, McNally, Ricci, M Smith and Parish
Councillor Travis

In Attendance: Sandra Stewart Director of Governance and Pensions
(Monitoring Officer)

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

12. DECLARATIONS OF INTEREST

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

13. MINUTES

The minutes of the Standards Committee meeting on the 14 December 2021 were approved as a correct record.

The Director of Governance and Pensions (Monitoring Officer) gave an update in respect of the Member Code of Conduct, which was recommended for adoption at the last meeting.

Members were informed that on 18 March 2022, The Department for Levelling Up, Housing and Communities has finally responded – more than two years after its publication – to the Committee on Standards in Public Life’s report on *Local Government Ethical Standards*.

The headline of the response was: don’t expect any changes to the legislation but there are a number of examples of best practice for local authorities to adopt. The CSPL published its 20th report on the subject of ethical standards in local government in January 2019. In the report, the CSPL made 26 recommendations, which included various amendments to primary and secondary legislation. Members were reminded that they had previously considered a report, which identified a number of examples of best practice which it considered local authorities could implement without the need for changes to legislation.

In the meantime, the Local Government Association followed up on the CSPL’s first recommendation – the adoption of a model code of conduct – which was published in December 2020 and subsequently amended a few times each of which had been adopted by the Council.

On Friday 18 March 2022, in a letter from Kemi Badenoch MP, Minister for Equalities and Levelling Up Communities, the government issued its response to the CSPL report.

The Monitoring Officer reported that among the more important aspects of that response are:

On the issue of “official capacity”, local authorities should not apply an automatic presumption that any comment made by a councillor – regardless of the context – is subject to the code of conduct. The boundary between an elected representative’s private and public life should be acknowledged.

Recommendation 3 of the report was that there should be a “rebuttable presumption” that a

councillor's behaviour in public is done in their official capacity. The CSPL did *not* suggest that "any comment" made by a councillor "irrespective of the context and circumstances" should be "automatically presumed" to be subject to the Code.

It was noted that it was disappointing that the government did not take the opportunity to provide greater clarity or guidance on this important and frequently contested issue.

In the meantime, it was noted that chapter 2 of the CSPL report provides guidance on how to define "official capacity" which can be applied without the need for amendments either to the legislation or local codes of conduct. In particular: what counts as "relevant public behaviour" should be "drawn more broadly" for councillors; and comments on publicly-accessible social media sites are likely to be considered as done in public and therefore in an official capacity.

- **On disclosable pecuniary interests, there are no plans to add to the list of DPIs or to abolish the criminal offences relating to DPIs.**

The government's view is that the fairly narrow approach taken by the Localism Act 2011 to the registration and declaration of councillors' "disclosable pecuniary interests" – underpinned by the threat of criminal sanctions – remains a "necessary and proportionate safeguard and deterrent against corruption".

There have been only a small handful of successful prosecutions for DPI-related offences. Prosecutions tend not to be brought because it will rarely be in the public interest to do so: breaches are often inadvertent and usually not done with any intent for personal gain. Criminalisation of DPI breaches often results in unacceptable delays in progressing otherwise straightforward code of conduct complaints because a referral to the police needs to be made.

- **On sanctions for breaches of the code of conduct, the government does not intend to give local authorities greater powers to punish councillors.**

The government points out that the removal of the power of suspension or disqualification of councillors was a deliberate policy decision. Reinstating that power would "effectively reinstate [the] flawed [Standards Board] regime" which was in force prior to the Localism Act 2011.

There is certainly merit in the government's position that "councillors are ultimately held to account via the ballot box". However, to some extent, that assumes a level of public engagement with local politics, which is unrealistic, especially in many parts of the country which do not have a thriving local press to hold councillors to account.

Admittedly, there is no easy solution, but a system, which cannot impose meaningful sanctions on councillors who refuse to play by the rules – especially independent councillors not subject to party discipline – risks undermining confidence in local government standards particularly for the majority of those who do.

14. UPDATE ON RECRUITMENT OF INDEPENDENT PERSONS

The Director of Governance and Pensions (Monitoring Officer) explained that, following notice of the retirement of Ms Valerie Bracken and Ms Jacqueline Barnes, an advertisement had been placed on Tameside's website for Independent Persons to replace them in the roles of Chair and Deputy Chair of the Standards Committee. The closing date was imminent and following this, any applications could be considered and interviews arranged. She added that there was an expectation that appointments would be reported to the meeting of Annual Council on 24 May 2022.

15. TRAINING RESOURCE PACK: LGA COUNCILLORS MODEL CODE OF CONDUCT

The Director of Governance and Pensions (Monitoring Officer) made reference to the Training Resource Pack circulated with the agenda, which had been produced by the LGA in respect of the

Councillors Model Code of Conduct.

The Director sought Members views with regard to utilising the pack for a Member training session for all Members. This could be particularly useful soon after the forthcoming Local Elections, to capture any newly elected Councillors.

Committee Members expressed their support for the training session as outlined by the Director, highlighting Declarations of Interest and Social Media as particular areas for attention. They commented specifically on the complex nature of Declarations of Interest in respect of the Planning process and for Members of the Speakers' Panel (Planning).

RESOLVED

That the content of the Training Resource Pack: LGA Councillors Model Code of Conduct be noted and that this be utilised to deliver a Member Training session for all Members following the forthcoming Local Elections on 5 May 2022 and annual Council on the 24 April 202

16. REGISTER OF INTERESTS AND REGISTER OF GIFTS AND HOSPITALITY

Members were advised that the Register of Interests and Register of Gifts and Hospitality were available online for inspection.

17. DISCUSSION PERIOD FOR MEMBERS TO RAISE ISSUES (IF ANY)

No items were raised during the discussion period.

18. URGENT ITEMS

There were no urgent items for consideration.

19. DATE OF NEXT MEETING

It was noted that the date of the next scheduled meeting of the Standards Committee was 6 September 2022.

20. PRESENTATION TO THE RETIRING CHAIR, MRS VALERIE BRACKEN

The Chair, Mrs Valerie Bracken, was presented with a bouquet of flowers as a token of appreciation and in recognition of her tenure with the Standards Committee with a similar bouquet being sent to Jacqueline Barnes who was also standing down after a decade of supporting the Council.

CHAIR