

STANDARDS COMMITTEE

1 November 2022

Commenced: 4.00pm

Terminated: 4.35pm

Present:

Mrs Lawton (Chair), Councillors McNally, Ricci and Lane

In Attendance:

Sandra Stewart

Head of Paid Service

Apologies for Absence:

Councillors Kitchen, Costello and S Homer
Parish Councillor Travis

1 DECLARATIONS OF INTEREST

There were no declarations of interest.

2 MINUTES

The minutes of the Standards Committee meeting on the 5 April 2022 were approved as a correct record.

3 LOCAL GOVERNMENT (DISQUALIFICATION) ACT 2022

Consideration was given to a report of the Chief Executive which sought to inform the Standards Committee of the new grounds for disqualification from being elected to, or being a member of, a local authority that had been introduced by the Local Government (Disqualification) Act 2022.

The Committee was advised that The Local Government (Disqualification) Act 2022 ("the 2022 Act"), which came into force on 28 June 2022, introduced new grounds on which a person was disqualified from being elected to, or holding, certain positions in local government in England, including the position of councillor.

This new disqualification related to individuals who were subject to certain notification requirements or orders relating to sexual offences. While there was already a disqualification that applied to individuals who within five years before the day of election, or since their election, had been convicted in the United Kingdom, the Channel Islands or the Isle of Man of any offence and had been sentenced to imprisonment (whether suspended or not) for a period of not less than three months without the option of a fine, that pre-existing disqualification would not necessarily apply to individuals subject to the aforementioned notification requirements or orders.

The Committee was advised that in 2017 the Government consulted on proposals to update the disqualification criteria for councillors, London Assembly members and elected mayors to bring them into line with both modern sentencing practice and the values and high standards of behaviours the electorate had a right to expect of the elected members that represent them. In October 2018 the government issued a summary of responses to that consultation and gave a commitment to seek to legislate to ensure that the disqualification criteria would be amended to also include individuals who are subject to either the notification requirements set out in the Sexual Offences Act 2003 (commonly known as 'being placed on the sex offenders register') or a Sexual Risk Order made under section 122A of the Sexual Offences Act 2003.

The 2022 Act expands the disqualification criteria beyond the offences consulted upon in 2017 to ensure that they were specific and comprehensive in disqualifying individuals subject to the relevant notification requirements or relevant orders imposed in respect of sexual offences, and included the territorial equivalents of such notification requirements and orders in the devolved nations (and the

Isle of Man and Channel Islands) in the event that someone subject to such territorial equivalents subsequently stands for elected office in England.

The disqualification introduced by the 2022 Act did not operate retrospectively. Therefore, it did not disqualify a person who became subject to any relevant notification requirements or a relevant order before the 2022 Act came into force on 28 June 2022.

Consequential changes to the rules for administering elections had also been made (either by the 2022 Act itself or under secondary legislation), including to the prescribed consent to nomination form. Candidates were now required to declare when standing that they were not disqualified under the newly inserted Section 81A of the Local Government Act 1972.

It should be noted that during any election or post-election period or during a term of office, any claim that a person was disqualified cannot be investigated by the Local Authority or the Returning Officer but was a matter for the police or an election court.

RESOLVED

That the report be noted.

4 ETHICAL STANDARDS UPDATE

Consideration was given to a report of the Chief Executive. The report was intended to brief members on developments and news on matters of local government ethics.

It was reported that to mark the 25th anniversary of the establishment of the Committee on Standards in Public life the Committee commissioned a piece of work on the standards landscape. The report provided an overview of the standards landscape effective in the central and local government and administration of the United Kingdom (UK). It provided a snapshot of the standards regime 25 years after the establishment of the Committee on Standards in Public Life in 1994 and offered a vantage point from which to view its changing shape and form. Attached at Appendix A was a standards matters summary.

The Minister of State for the Constitution and Devolution had written to Lord Evans submitting the government's evidence to the Committee's Standards Matter 2 review. Attached to the report at Appendix B was a precis of how the government believed standards cooperated.

The Chief Executive advised the committee that Watchdog urged Levelling Up Secretary to rethink position on local government standards, citing "clear frustration" within councils at limited powers to tackle poor behaviour. The Committee on Standards in Public Life (CSPL) had called on the Government to reconsider its position on the powers of local authorities to sanction councillors for poor behaviour.

In March this year the Government rejected a recommendation by the standards watchdog in its 2019 Local Government Ethical Standards report that local authorities should be able to suspend councillors without allowances for up to six months for breaches of the code of conduct. It was explained that the report had also recommended that councillors be given the right to appeal to the Local Government and Social Care Ombudsman if their local authority imposed a period of suspension. The Ombudsman would have been given the power to investigate the allegation and impose a binding decision on the council. It was further explained that the Government's formal response stated that there was no provision in current legislation for a sanction to suspend a councillor found to have breached the code of conduct.

The report set out the letter of the CSPL chair, Lord Evans to the Levelling up Secretary Simon Clarke and a letter of chair of Camden Councils Standards committee to the CSPL regarding the Government's decision.

The Committee was advised of a recent published decision, where a town council member had been found by Durham Council's Standards Committee to have brought Spennymoor Town Council into disrepute. The town council members was found to have brought the Town Council into disrepute by posting racist and Islamophobic material on social media, and in a separate complaint, was found to have bullied two town council officers in breach of the town council's Code of Conduct for members.

It was explained that there was question whether the member was acting, claiming to act or giving the impression he was acting as a representative of the town council when posts were shared between his two profiles, one which identified him as a councillor and one which he did not. It was further explained that the Member claimed he was expressing his personal opinions in a private capacity as an individual.

Discussion ensued between Members of the Committee on the outcome of this decision and situations where Members are considered to be acting as a Councillor and when views are considered private and in the capacity as an individual.

Members of the Committee were advised that a Maldon District Council member had been disqualified after being found guilty at Chelmsford Crown Court in February 2022 of breaching a non-molestation order. The member was given eight months in prison (suspended for 18 months). Section 80(1)(d) of the Local Government Act 1972 states that if a custodial sentence of three months or more was handed down, then the elected member was automatically disqualified.

The Committee was also advised of a planning meeting at Babergh and Mid Suffolk District Council, where the Monitoring Officer was forced to bring a planning committee to a halt mid-session after some councillors were seen to be passing a document to each other that was not part of the planning application papers before the committee.

The document was a feasibility plan showing an earlier alternative layout for a development site and dates from 2020. Once the issue was raised, the Council's Monitoring Officer immediately adjourned the meeting to investigate any procedural irregularities.

Each committee member was interviewed by the Monitoring Officer and there was no evidence that there had been any attempt to influence the committee members. During the investigation, one committee member revealed information that demonstrated that they "did not have the requisite skills and understanding of the planning process" and had been removed from the committee until further training on the planning process is provided. The Monitoring Officer concluded that the integrity of the planning process had not been undermined by the circulation of the old plan as members had not been influenced when the plan was shared. Members were instructed to disregard the document, however due to the planning committee not being able to reconvene in its original form, the application heard at the committee was struck through, and the process will start afresh, that is, the officer will repeat their presentation and the speakers will be invited to repeat their submissions to ensure the process is fair, transparent and legally sound.

RESOLVED

That the contents of the report be noted.

5 PROCEDURE UNDER STANDARDS FRAMEWORK

Consideration was given to a report of the Chief Executive. The Committee were asked to review the updated procedure for complaints, which particularly addressed anonymous complaints and also asked to consider a position when a standards complaint has not been concluded when a member ceases to be in office.

It was explained that a finding may not be made against a former member however there were some authorities that had decided that a complaint or investigation could be reinstated if the former member was re-elected within a certain period of time.

It was recommended therefore that the committee consider that when a member ceased to hold office the outstanding complaint, investigation or hearing did not continue unless the person was re-elected within a certain period of time after ceasing to hold office.

Members could determine the relevant period. If within that period, the person was either re-elected or co-opted to the Council, the complaint was reinstated and would be referred back to the Standards Committee for consideration. If the person was not re-elected or co-opted within that period, no further action was taken in the matter. It was noted that both the Council's complaints system and the Local Government Ombudsman did not consider complaints over 12 months except in exceptional circumstances.

In regards the Hearing Panel and its composition, Hearing Panel was a sub-committee of the Council's Standards Committee. It would comprise of at least one of the independent Members co-opted to the Standards Committee who would act as Chair and three elected Members of the Standards Committee of whom one should be a Member of the largest minority political group (if any). Where the complaint is about a Mossley Town Parish Council Member, the Hearing Panel would also include the Mossley Town Parish Council Member co-opted to the Standards Committee.

RESOLVED

- (i) That the revised procedure for a local hearing and the composition of the Hearing Panel be confirmed; and**
- (ii) That a time period of 12 months in which a complaint should be revived if a member ceased to hold office but became re-elected, except in exceptional circumstances, be confirmed.**

6 APPOINTMENT OF INDEPENDENT PERSON(S) TO THE AUDIT COMMITTEE

Consideration was given to a report of the Chief Executive, which sought approval to appoint an independent person to the Audit Committee.

It was reported that the Chartered Institute of Public Finance and Accountancy (CIPFA) had recently updated its position statement on audit committees in local authorities and police bodies in England and Wales, replacing the 2018 version. The 2022 statement, which had been endorsed by the Department for Levelling Up, Housing and Communities and the Home Office, set out the 'purpose, model, core functions and membership of the audit committee'.

It was explained that one notable change compared to the 2018 edition was the removal of suggestions that audit committees undertake a wider role in supporting authorities, such as by reviewing treasury management arrangements or supporting the work of other committees. This addressed concerns raised in Sir Tony Redmond's 2020 Independent Review into the Oversight of Local Audit and the Transparency of Local Authority Financial Reporting about the broad role of some local authority audit committees distracting them from their core financial oversight role and potentially created conflicts of interest.

The Redmond Review also recommended that local authorities appoint at least one independent member to audit committees to ensure they had the necessary expertise to carry out their role effectively. As a result, the Department instead asked CIPFA to develop strengthened guidance.

The revised position statement built on the previous statement, which suggested committees should have at least one independent member, to include an explicit statement that "CIPFA recommends that each authority audit committee should include at least two co-opted independent members".

Tameside needed its Audit committee to be a fundamental cornerstone of the Authority's corporate governance framework. CIPFA's updated audit committee position statement focuses the remit of the audit committee to ensure that their core role of oversight of governance and accountability was protected. It would also ensure that audit committees were able to access the expertise they

needed to carry out their role effectively through the introduction of the requirement to include at least two co-opted independent members who complement the knowledge and experience of existing members.

RESOLVED

That the appointment of two independent persons to the Audit committee for a period of two years be approved.

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

No items were raised during the discussion period.

8. REGISTER OF INTERESTS AND GIFTS AND HOSPITALITY

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

9. URGENT ITEMS

There were no urgent items.

CHAIR