



REPORT TO:	STANDARDS COMMITTEE
DATE:	17 November 2020
REPORT OF:	Sandra Stewart – Executive Director Governance & Resources (Monitoring Officer)
SUBJECT MATTER:	STANDARDS: RECOMMENDATIONS FOR RIGOROUS CHANGE
REPORT SUMMARY:	The Committee on Standards in Public Life completed an in-depth review of ethical Standards within local authorities in 2018 (Appendix A). The review focused upon how Local Authorities had responded to the changes made by the Localism Act 2011. The final report was published in January 2019 and contained 15 areas of best practice which Local Authorities are to implement. This report provides an update to the Committee on the Council's progress in implementing the 15 areas of best practices as shown in Appendix B .
RECOMMENDATION(S)	The Standards Committee are asked to: a) note the report b) note the current position regarding the best practice.
FINANCIAL IMPLICATIONS: (Authorised by Borough Treasurer)	There are no significant financial issues arising from this Report.
LEGAL IMPLICATIONS: (Authorised by Borough Solicitor)	The promotion and maintenance of high standards of conduct by councillors is an important part of maintaining public confidence in both the council and its members. Failure to do so could have significant reputational implications.
RISK MANAGEMENT:	Standards Committees should be aware of the National position in order that consistency of approach is taken in respect of setting and advising on local ethical and standard issues.
LINKS TO COMMUNITY PLAN:	Support the current arrangements for ethical and corporate governance of the Authority to ensure that the public can have confidence in local government.
ACCESS TO INFORMATION	NON-CONFIDENTIAL This report does not contain information which warrants its consideration in the absence of the Press or members of the public
REFERENCE DOCUMENTS:	The background papers relating to this report can be inspected by contacting the report writer, Sandra Stewart, the Council's Borough Solicitor and statutory Monitoring Officer by:  Telephone: 0161 342 3028  e-mail: Sandra.Stewart@tameside.gov.uk

INTRODUCTION

In early 2018 the Committee on Standards in Public Life announced its first examination of local government standards since the complete transfer of responsibility for standards to local authorities in 2011. The review has taken place at a time of rapid change in local relationships, when councils are under significant budget constraints, and councillors' public role is being changed through the impact of social media. It makes a number of recommendations and identifies best practice to improve ethical standards in local government.

The report, *Local Government Ethical Standards*, published in January 2019, (**Appendix A**) focuses on principle councils and parish councils, and excludes combined and mayoral authorities. The Committee's remit is for England, but it has explored more widely, and includes learning from Northern Ireland, Scotland and Wales as well as from the councils contributing to the review. Aspects of the current system are not working, requiring changes in the law and best practice. The implementation of best practice – now a benchmark – will be reviewed in 2020.

Key changes in the law include:

- 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.

Key best practice proposals are for:

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
6. A reports on relationships with separate bodies as part of the annual governance statement

Later sections of the report look at the governance challenges of poor standards for officers, lead members, and the culture of the council as a whole, and deserve particular attention.

While intimidation of councillors and candidates can be severe, and is likely to affect high-profile women in local government, evidence suggests that it is less widespread than intimidation of parliamentary candidates. Existing recommendations, published in 2017, should help to address intimidation of local councillors.

COMMITTEE ON STANDARDS IN PUBLIC LIFE

The Committee on Standards in Public Life [CSPL] is the guardian of local government standards, and, coupled with the efforts of local government peers in the House of Lords, put up a defence for councils retaining a proactive role in setting and managing their own standards during the passage of the Localism Act 2011. The CSPL is responsible for promoting the Seven Principles of Public Life, based on the Nolan principles [report page 5]. It now reports on the effectiveness of the current arrangements for local government standards in the light of the changes made by the 2011 Act.

A full list of recommendations including proposed changes in the law can be found on pages 14-17, the list of best practice recommendations on pages 18-19. The intention is that this best practice should be considered a benchmark of good ethical practice, which it is expected all local authorities can and should implement. Implementation will be reviewed in 2020.

COUNCILS' CODES OF CONDUCT

Since 2011, councils have been responsible for setting and managing their own codes of conduct. In practice not all do have a full code of conduct: this is one of the issues looked at in the review.

- Breaches of codes are dealt with by the council. In outline:
- Allegations of misconduct are usually first considered by the Monitoring Officer, who may decide that a formal investigation is necessary: this will be undertaken by the Monitoring Officer, a deputy, or by an external investigator.
- Where a complaint is formally investigated, the views of an Independent Person must be taken into account before a decision is made.
- A decision can be made by the Monitoring Officer, but many councils maintain a standards committee to make decisions on allegations or to review decisions taken by the Monitoring Officer.
- The authority may impose a sanction – which cannot include suspension or disqualification – but may be an apology, training, censure, or withdrawal of certain facilities or access to council buildings. There are, however, no means of enforcing sanctions which require positive action by the councillor, for example, an apology or training.

Councils do have discretion to develop their own standards arrangements within this framework, so that while there are features in common, in practice standards arrangements are being implemented very differently. Some authorities give greater emphasis to the role of Independent Persons and to standards committees including a range of activities upholding standards; others take different approaches and make more use of party discipline to resolve issues informally.

THE REVIEW

The terms of reference were to:

1. Examine the structures, processes and practices in local government in England for:
 - Maintaining codes of conduct for local councillors
 - Investigating alleged breaches fairly and with due process
 - Enforcing codes and imposing sanctions for misconduct
 - Declaring interests and managing conflicts of interest
 - Whistleblowing
2. Assess whether the existing structures, processes and practices are conducive to high standards of conduct in local government
3. Make any recommendations for how they can be improved
4. Note any evidence of intimidation of councillors, and make recommendations for any measures that could be put in place to prevent and address such intimidation

MAIN ELEMENTS OF THE REVIEW

Overview

The report looks closely at the standards regime, and goes on to consider the significance of maintaining standards for the better governance of the authority and council as a whole.

While there is no widespread standards problem in local government, there is clear evidence of misconduct – such as bullying and harassment – by some councillors, and some cases of persistent misconduct, which the current system is failing to address. There is a high volume of complaints from parish councils, which present difficulties for principal councils.

Decision-making is getting tougher and more complex as councils now work with partners from a variety of sectors. Systems are less transparent and less accountable, putting governance under strain. The emergence of independent members and groups and expanding use of social media present challenges. Procedures intended to protect decision-making or the fair handling of complaints can be seen as cumbersome and bureaucratic rather than helpful.

Overall, there is a need for greater consistency in codes of conduct and for greater enforceable sanctions for serious and repeated breaches. Current arrangements need to be clarified and strengthened to ensure a robust, effective and comprehensive system.

But responsibility for standards should remain local, based on 'lay justice', where the requirements and processes are sufficiently clear and straightforward so that no councillor subject to an investigation would be disadvantaged by lacking formal legal representation.

To keep this ethos, the Localism Act 2011 needs to be updated and clarified, and a greater role given to the Local Government Ombudsman, allowing councillors to appeal a sanction of suspension without having to resort to the civil courts.

The focus should remain on individual local authorities maintaining high standards in their own councils. Councils need not be tied up with long-running standards investigations but they should put in place strong filtering mechanisms to make sure that only allegations with real merit begin a formal process of investigation. Use of the most serious sanctions should remain rare. For those subject to an investigation or sanctions process, councils should also provide clear, plain English guidance on how the process works and councillors' responsibilities within it.

Later sections of the report look at the governance challenges of poor standards for officers, lead members, and the culture of the council as a whole, and deserve particular attention. The CSPL report reinforces the significant findings and recommendations of the National Audit Office [NAO], which has raised questions about whether the local governance system remains effective and has challenged complacency on the part of the Ministry of Housing, Communities and Local Government.

The CSPL's proposals for changes in the legal framework and immediate good practice recommendations seek to solve some immediate and practical issues for local authorities with modest but effective changes. It is indeed necessary that changes be manageable for local authorities strapped for cash. The NAO cites a real terms decrease of 34.2% in spending on corporate and democratic support services by local authorities from 2010-11 to 2017-18.

Codes of conduct and interests

Reviewing a sample of 20 principal authority codes of conduct, and considering evidence gathered through consultation and visits the CSPL found that:

- The considerable variation in length, breadth, clarity and detail between codes is problematic. It creates confusion for councillors and members of the public over what is required in different areas and tiers of government, and inconsistencies in rigour in the way in which standards are enforced.
- A model code would create consistency across England and reflect common expectations. All local authorities need to take account of issues such as social media use and bullying and harassment: a model code would ensure that they do so
- A national model code that can be adapted by individual authorities is required. A mandatory statutory code would be difficult to change and would lack local ownership
- The new model code should be drafted by the LGA in consultation with representative bodies of councillors and officers, with the work resourced by Ministry of Housing, Communities & Local Government [the Department].

Bullying and harassment

Bullying – which can have a significant impact on the ability of individuals to act in the public interest – needs to be dealt with effectively and should be covered specifically in codes: reliance on

'respect' provisions is insufficient. Illustrations of the type of behaviour are required. An example of a bullying provision, definitions provided by Acas and set out by the Equality Act 2010 are provided at pages 32-35. There is also a value in providing a separate protocol on councillor-officer relations.

Intimidation of councillors

Evidence suggests that intimidation of councillors is less widespread than intimidation of parliamentary candidates, but that it does occur, is equally severe and distressing, and is particularly likely to affect high-profile women in local government.

The 2017 recommendations – already outlined in an LGiU policy briefing on the CSPL report intimidation in public life – where implemented should help to address the intimidation of local councillors. One aspect that is distinct is in relation to home addresses, and that the nature of local democracy means that those likely to engage in intimidation live nearby. The government is already committed to secondary legislation to remove the requirement for candidates to have their home addresses published on the ballot paper.

The 'sensitive interest' provisions do permit non-disclosure of details in the register of interests where the member and MO agree that their disclosure could lead to violence or intimidation, but are in some cases only being invoked after the experience. Some authorities have a blanket policy that home addresses will be recorded on the register of interests but omitted from the published version (report 36-37). But for the avoidance of any risk, the rules should be amended to make clear that an interest in land does not require a councillor to register their home address.

Scope of the code of conduct

Currently, a breach of conduct will arise only when an individual is acting in their capacity of councillor. As a result, it is difficult to deal with some instances of poor behaviour by councillors in public, particularly in relation to social media use. While councillors need to have their right to free speech and expression protected and not unduly restricted, at the same time public interest requires that they meet certain responsibilities in that role.

The proposal is therefore to widen the scope of the rule, so that there would be a presumption that a councillor's behaviour in public is in an official capacity. An individual's behaviour in private, in a personal capacity, would remain outside the scope of the code, but the issue would be decided as one element of the disciplinary process. A change in the 2011 Act will be required for this to come into effect.

The code of conduct would also apply 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.

Other code recommendations

Other best practice recommendations include requiring councillors to comply with a formal standards investigation and prohibiting trivial or malicious allegations by councillors.

In addition,

Codes should be reviewed each year

Be subject to consultation locally

State clearly what is required of councillors (rather than being a simple values statement) with supporting guidance on social media or on officer-member relations in a separate document

Should be enforceable

Be readily accessible in a prominent position on the council website.

Councillors' interests

The current Disclosable Pecuniary Interests [DPI] arrangements are not working. The requirements are narrow, unclear, and do not require the registration of important interests such as unpaid directorships and gifts and hospitality.

A system for managing conflicts of interest should distinguish between requirements for registering interests and declaring or managing interests. The CSPL recommends repeal of the criminal offences created in the 2011 Act. In its place, it recommends a scheme to make transparent those interests and relationships which would be most likely to lead to a conflict of interest. In this:

The current list of pecuniary interests required is satisfactory

Two additional categories of interests and relationships should be required in a local authority's register of interests:

- (a) relevant commercial interests of a councillor and their spouse or partner which may be unpaid – for example, an unpaid directorship (even if nonexecutive)
- (b) relevant non-pecuniary interests of a councillor and their spouse or partner such as trusteeships or membership of organisations that seek to influence opinion or public policy

Having an interest should be separate from having to withdraw from a discussion or vote: a councillor would not have to withdraw unless there was a conflict of interest based on an objective test (illustrated by the devolved codes in Scotland, Wales and Northern Ireland).

A register of gifts and hospitality should be required and updated at least quarterly, with councillors recording any gifts and hospitality over a value of £50 or totalling £100 over a year from a single source.

Councillors involved in planning decisions should be particularly cautious in accepting gifts or hospitality

A more demanding test for declaring and managing interests separately to registration requirements would include clarifying the law on when a decision to withdraw is necessary, and clarification of the disclosure of the interests of partners, family, and close associates.

A councillor should not have to withdraw from a discussion or vote solely because they have previously expressed a view on the matter in question.

INVESTIGATIONS AND SAFEGUARDS

The report usefully sets out an outline of the current investigation process, and explains what is involved in an investigation being proportionate and fair (report 52 onward).

Independent persons

Recommendations, which learn from evidence and practice elsewhere, include:

- Councils publishing a clear and straightforward public interest test against which allegations are filtered
- Local authorities should have access to at least two Independent Persons [IPs] who can be consulted at key points in the process
- An IP should be appointed for a fixed term of 2 years with the possibility of one term renewal
- The views of IPs should be formally recorded in any decision notice or minutes Should recommendations on suspension be accepted, then any suspension would be dependent on the IP agreeing with the finding of a breach and that suspending the councillor would be a proportionate sanction.
- The advice of IPs should be made public where it would be in the public interest to do so (in line with recent First Tier Tribunal cases) and that IPs should be provided with legal indemnity.

Standards committees

Although councils are not required to have standards committees, a large number do. All local authorities should as a matter of good practice have standards committees that adjudicate and decide upon sanctions, and monitor and report back to full council on standards issues. It should be made possible for councils to establish a decision-making standards committee with voting independent members (other than the IPs), and voting members from parish councils.

Appeals and escalation

There are no appeals in standards decisions, and none is recommended for current sanctions. Should sanctions be increased to include suspension, then a system of appeal could include the Local Government Ombudsman, who already has a role in reviewing complaints about the process

of a standards investigation and is open to taking this responsibility. Appeal would not be against the finding, but on the grounds of maladministration, that the decision was in some way flawed

Additional recommendations

Additional recommendations based on the Nolan principles of openness include:

- Councils should be recording allegations and complaints they receive, even if they do not result in an investigation, and should certainly publish decisions on formal investigations.
- 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 (e.g. bullying; conflict of interest); the outcome of those complaints, including if they are rejected as trivial or vexatious; and any sanctions applied.
- Information about how to make a complaint should be available on the council's website.

Sanctions

When a councillor is found to have broken the code of conduct there is no requirement to comply with remedial action. This is a significant weakness in the system, as is the lack of more punitive sanctions to address more serious breaches or repeated breaches of the code. Removing the ability to suspend or disqualify councillors has had disciplinary and reputational consequences [page 66 onward]. Party disciplinary processes frequently fill the gap, but have a number of drawbacks. Ultimately, public confidence will only be maintained if sanctions are sufficient to deter and prevent further wrongdoing, and are seen to be imposed fairly and in a timely way.

The sanctions available to the devolved standards bodies in Wales, Scotland and Northern Ireland, which were also available to the Adjudication Panel in England before its abolition, are suspension for up to one year and disqualification for up to five years. The CSPL argues that in England:

- There is a need for stronger sanctions
- There is no compelling evidence to introduce a power of disqualification
- There are strong reasons to introduce a power of suspension without allowances for up to six months for significant breaches, such as serious cases of bullying and harassment, or significant breaches of the rules on declaring financial interests; or else in the case of repeated breaches or repeated noncompliance with lower level sanctions.
- There is a need to clarify if councils may lawfully impose other sanctions, such as barring councillors from council premises or withdrawing facilities.

It reasons that introducing more disqualification or suspension for longer than six months would necessitate the reintroduction of a central standards body, and in any event expects the power to suspend to be used rarely. Non-attendance at council meetings during the period of suspension would not count towards disqualification for failure to attend council meetings for six consecutive months.

Criminal offences and disqualification

Criminal offences relating to non-disclosure of pecuniary interests are inappropriate and disproportionate, and should be abolished. Individuals can be disqualified from being councillors in a number of circumstances [report 74]. It is intended to add to the existing criteria being listed on the sexual offences register, receiving a criminal behaviour order, and receiving a civil injunction under the Anti-social Behaviour, Crime and Policing Act 2014. The commitment was made by government in September 2017, so this move is overdue.

Parish councils

Evidence suggests a high volume of complaints arising from a small number of town and parish councils. As principal authorities are responsible for standards in parish councils within their boundaries, these can take up a great deal of time. It is not intended in this briefing to go into detail on this section of the report, but councillors in principal authorities may also be parish councillors, and want to know more. An overview of the issues can be found on p22, and a full chapter with recommendations in Chapter 5, page 88.

- Best practice recommendations include:
- Parish council clerks should hold an appropriate qualification
- Formal complaints about behaviour towards a clerk should normally be made by the chair or parish council as a whole
- MO roles should be provided with adequate training, corporate support and resources to undertake to deal with the standards issues raised by the parish councils within their remit.

In addition, changes in the legal framework are needed to require parish councils to adopt either the code of their principal authority or a new model code; any sanction should be determined by the principal authority.

Support for officers

The Monitoring Officer [MO], one of three statutory officers, has the key responsibility in promoting and maintaining standards, and has to be effective in an increasingly complex role. A survey by Local Government Lawyer found that, of those responding, 38% believed the role to have become significantly more risky; 48% said it was moderately riskier than in the past. The CSPL has concluded that the role is manageable, given some forethought and attention to the standing of MOs.

The MO may simultaneously be acting as an advisor, assessing the preliminary stage in a complaint, seeking advice from the Independent Person, and overseeing and managing investigations. This becomes more complicated when the MO is overseeing an investigation into a senior member of a local authority, particularly a cabinet member, when the professional relationship also involves advising cabinet. In instances such as this, the MO needs the support of the chief executive, and may call in an MO from a different authority, or pass the investigation to a deputy on an arm's-length basis.

The status, or standing, of statutory officers is critically important. The MO must be able to give objective advice without being hampered by undue pressure or, in extremis, being forced to resign. Disciplinary protections reduced in 2015 should be restored. A decision to dismiss a statutory officer must be taken by full council, following a hearing by a panel that must include at least two Independent Persons. This protection should be enhanced to include all disciplinary actions (such as suspension or formal warnings), not just dismissal.

It is noteworthy that the National Audit Office when reviewing governance of the role of the section 151 officer drew attention to the importance of those holding that statutory role having sufficient status within the authority to fulfil their responsibilities effectively.

Training of officers

There is a danger in necessary processes and procedures being seen as arbitrary or bureaucratic by officers or elected members. Councillors can exert pressure to bend the rules; officers can treat governance processes as a rubber stamp. Training on governance and process should include an explanation of the rationale for the processes in place. Training and support in the governance and corporate aspects of the statutory officer roles is particularly important: this is apparently not a standard offer for senior officer roles.

Whistleblowing

The transparency code should be updated to require that a whistleblowing policy specifies a named contact for the external auditor, alongside their contact details, and that this information should be available on the council's website. Councillors should be listed as 'prescribed persons' for the purposes of the Public Interest Disclosure Act 1998. These measures will make it simpler to report a concern.

Councils' corporate arrangements

Compliance with standards and maintaining ethical governance become more challenging as we move into the arena of Local Economic Partnerships [LEPs], joint ventures, and the various forms

of partnership and outsourcing arrangements in which councils are involved. In addition to statutory requirements, significant changes in the way councils are funded have led to changes in the way services are delivered, even where outsourcing may not be a council's preferred option.

In these structures, elected members and officers can play complex and differing roles where the council has similarly complex and differing interests. There are considerable challenges in maintaining scrutiny, accountability, and high ethical standards in these contexts.

Reports in 2018 and 2019 from the National Audit Office [NAO] draw attention to the current environment of financial uncertainty for councils, and highlight the lack of governmental comprehension of the implications for councils, their ability to achieve financial sustainability and maintain good governance. At this point, the appearance of the CSPL report widens the context in which the NAO reports are being considered, and emphasises their importance.

"Authorities have faced significant challenges since 2010-11 as funding has reduced while demand for key services has grown. Not only are the risks from poor governance greater in the current context as the stakes are higher, but the process of governance itself is more challenging and complex. Governance arrangements have to be effective in a riskier, more time-pressured and less well-resourced context." NAO 2019

Governance challenges

Ethical standards apply to how decisions are made, as much as to an individual's day to day conduct:

- (a) Complexity makes it difficult to identify who is accountable for particular decisions or outcomes, making it difficult to hold councils and other sectoral bodies to account.
- (b) Complexity can create conflicts of interest. Councillors and officers as directors² of external limited companies will have fiduciary interests potentially at odds with the interests of the council, and these conflicts may arise the other way round, when the council has to make decisions about a company in which it has an interest.
- (c) Investment vehicles, joint ventures, and LEPs can result in less transparency³ over decision-making: the new bodies are not subject to the same requirements as the authority itself. A need for proportionate commercial confidentiality may also come into play.

How to respond?

The illusion of accountability can be avoided by addressing governance at three key stages:

1. At the earliest stage, make decisions about:
 - what the relationship will be between the body and the local authority
 - what role the statutory officers will have in overseeing its activities and providing assurance on its governance
 - how and when the body will report to full council
 - what the relationship will be between the body and individual councillors
 - how councillors will scrutinise the activities of the body, in particular if it will fall within the remit of the audit or scrutiny committee, and if not, how else scrutiny will happen.
2. Councillors or officers to be involved as formal observers or as board directors¹ should be briefed on their governance responsibilities, in particular their legal responsibility to discharge any fiduciary duties to the new body. And the authority needs to consider how to manage a conflict of interest if and when decisions are made about the body.
3. When the body is functioning, regularly review governance procedures to² ensure that they are still appropriate. Both the body and local authority need to practice ongoing assurance, oversight, and transparency.

The report usefully considers the advantages and potential disadvantages of councils' nominees as board directors or trustees, and outlines advice from Audit Scotland on councils' use of arm's-

length external organisations and the code of conduct for councillors in Scotland [report 88-89]. This last involves a provision exempting councillors where they have an interest from the requirement to withdraw from a discussion in certain circumstances: this may be useful for English authorities.

Local Enterprise Partnerships

Evidence showed a lack of transparency around LEPs, and gaps in processes to manage potential conflicts of interest. A 2017 internal government review had found that governance policies varied widely, and that understanding of the position of public sector members on LEP boards was underdeveloped. The Department has made a commitment to implement the recommendations of that review, and further, in a review of governance and transparency of LEPs, to improve scrutiny and peer review among LEPs.

Ethical standards and corporate failure

The CSPL has found a strong link between failings in ethical standards and corporate failure. Allowing low level breaches to go unaddressed allows more significant wrong-doing to take place, although in the cases of serious corporate governance failings, several factors are present. High profile cases of failure at Tower Hamlets, Doncaster, and Northamptonshire County Council suggest three common threads, all of which are linked to failures in upholding the Seven Principles of Public Life [report 91-94].

1. An unbalanced relationship between members and officers, with a risk that decisions are not made in the public interest
2. A lack of understanding and appreciation of governance processes and scrutiny
3. A culture of fear or bullying – fundamentally a failure of leadership.

Left unchecked, standards risks can be realised and become instances of corporate failure.

“The danger of corporate failure points to a need for councils to identify when standards and governance are at risk, and develop and maintain an ethical culture, to protect against those risks in their own authority.”

Leadership and culture

How to maintain high standards and an ethical culture? The CSPL divides responsibility for leadership on the issues in a number of ways [report 95-101].

1. The Standards Committee: in addition to dealing with alleged breaches of the code of conduct, standards committees should continuously review ethical standards in the council, and hold the authority to account on standards issues.
2. The Chief Executive: models a high standard of conduct, particularly on political impartiality and objectivity; empowers senior and statutory officers, and is guardian of the demarcation between officer and member decision-making.
3. Leaders of political groups: set the tone for new councillors and expectations on the conduct of group members; are quick to address poor behaviour; mentor and advise councillors; use party discipline where necessary; appoint experience members to standards committees.
4. Leaders of councils: as the most visible group leader, be a model for the highest standards and address any poor behaviour by portfolio-holders.
5. Chair of the council: a role in setting the tone of full council meetings and ensuring that councillors are aware of expectations on how they engage with each other and officers.

Turning round poor culture

The CSPL has concluded there are four measures needed to turn round an unhealthy culture:

1. Modelling expected behaviours on the part of senior leadership, in the early days of a new council, or in the case of corporate renewal.
2. Taking a zero-tolerance approach even to small breaches.
3. When there has been a breach of the rules, distinguishing where there are opportunities for development from those occasions when discipline is necessary.

4. Avoiding over-extended interim arrangements so that new leaders can be responsible for embedding change.

A role for political groups

Rather than run parallel disciplinary processes to those being followed by the council, the informal mentoring and training organised by political groups is better complemented by the formal training offered by the council and by advice from officers. Similarly, with respect to disciplinary processes, officers can offer assistance with informal resolution: in the event of a formal complaint or a serious issue, the formal standards processes should be followed [report 97-8]. There is a need for officers to provide greater support and a full induction process for councillors who lack the support of an established political group.

Building an ethical culture

A system that investigates complaints is important, but more so is a system which enables good behaviour: a civil tone in conducting business, clear standards of behaviour modelled by senior leaders and reinforced by early stage induction and training programmes; an impartial monitoring officer who has the confidence of members and senior officers, and an open and public approach to decision-making.

Councillors should be required to attend formal induction training by their political groups, and national parties should add such a requirement to their model group rules. Information should be withheld from councillors and the public only when stringently justifiable. Scrutiny should be effective, and officers should have a general obligation to provide information to councillors and to account for decisions to councillors.

Press accountability is disappearing with local newspapers in many parts of the country: local authorities must have systems in place that enable external scrutiny of behaviour and decisions. The effectiveness of these systems should be tested by peer review: the CSPL recommends that the LGA incorporate a local authority's processes for maintaining ethical standards as part of peer reviews.

Comment

If accepted, the proposals for changes to the Localism Act 2011 can be expected to wait, but the good practice recommendations can be taken up straight away.

There is clearly a range in current practice, from councils that simply have a short statement of intent acknowledging the Nolan Principles, towards others having effective codes in place, with worked out examples making it clear that bullying and harassment are unacceptable. Illustrations are provided in the report, and there can be no obstacle to councils that are behind on the curve catching up with the best. It will need resources, but the LGA should be putting pressure on the Department to support the creation of a model code of conduct. It does appear that the material is out there, and it must be the case that representative bodies and councillors and officers of all tiers of local government would be willing to take part in a well-structured consultation exercise. The LGA should also be incorporating consideration of a local authority's processes for maintaining ethical standards in its peer reviews.

Government should not be allowed to park changes to the law until 'a legislative opportunity is presented'. Pressure should be brought to bear on the Department to amend the Localism Act 2011 as recommended [report 14-17], to make changes to the way in which pecuniary and non-pecuniary interests are recorded and managed, to reflect the impact of using social media on councillors' public standing and responsibilities, to introduce an effective enforcement system that makes it possible for councils to tackle bullying and harassment including protections for councillors, and to manage an increasingly complex decision-making future.