

NEWCASTLE-UNDER-LYME BOROUGH COUNCIL**EXECUTIVE MANAGEMENT TEAM'S****INFORMAL CABINET 22 October 2019****REPORT TO AUDIT & STANDARDS COMMITTEE****11 November 2019**

1. **Report Title** Local Government Ethical Standards – Review By Committee On Standards In Public Life
- Submitted by:** Interim Head of Legal Services & Monitoring Officer
- Portfolios:** Corporate and Service Improvement, People & Partnerships
- Ward(s) affected:** All

Purpose of the Report

To update Members on the recent report from the Committee on Standards in Public Life on ethical standards in local government. A number of the recommendations within the report will require legislative change, but the Committee also identifies “best practice” for local authorities in the expectation that these can and should be implemented. The intention is that there will be a review of implementation in 2020.

Recommendation

That Members:

- a. Note the list of recommendations from the Committee on Standards in Public Life at Appendix A to the report.
- b. Agree to adopt the list of Best Practice recommendations at Appendix B to the report and approve the draft action plan.
- c. Note the intention to bring a revised Code of Conduct to the next meeting of the Committee together with an updated Action Plan.

Reasons

The Committee on Standards in Public Life has undertaken a review of ethical standards in local government and concluded more robust safeguards are needed to strengthen the current system. A number of their recommendations require legislative changes, however there is also a list of “best practice” which all Councils are expected to adopt and put into practice as soon as reasonably practicable.

1. **Background**

- 1.1 The twentieth report from the Committee on Standards in Public Life re-visits standards in local government to review whether the current local framework is sufficient to promote and maintain the high standards of conduct which are considered necessary to protect the integrity

of decision making, maintain public confidence and safeguard local democracy. The report found that the vast majority of councillors and officers want to see high standards of conduct within their own authorities, although unfortunately a small minority of councillors engage in bullying or harassment, or other disruptive behaviour and a small number of parish councils generate a disproportionate number of complaints of poor behaviour. The challenge is therefore to maintain a system which is robust enough to address the problem of the small minority of councillors who display unacceptable behaviour but which maintains and supports an ethical culture and ethical practice across the organisation as a whole.

1.2 The Committee concludes that there are clear benefits for local authorities having responsibility for ethical standards at a local level and the current locally devolved arrangements should be retained. This means they do not recommend a return to a centralised body, such as the Standards Board, with responsibility for overseeing standards in local government. However, the Committee did find that there was a need to introduce new measures to improve consistency and independence and also found that the current lack of robust sanctions available to local authorities damaged public confidence in the standards system and leaves Councils with no means of enforcing lower level sanctions or of addressing serious or repeated misconduct.

1.3 A number of the recommendations will require the government to implement new legislation and so, if accepted, will require Parliamentary timetabling. In the meantime, the Committee also identified a number of changes which it considers to be “best practice” as a benchmark for ethical standards and which it expects all local authorities to adopt. This report advises the Committee on the 15 best practice requirements and assesses what the Council will need to do to comply with the proposals.

2. Issues

2.1 There are 26 formal recommendations which the Committee have made following their review. The majority are for the Government to implement and will require legislative changes, although a very small number are the responsibility of the LGA or for political groups to implement. **A summary of the recommendations together with the Committee’s reasoning are set out at Appendix A.**

2.2 Briefly the recommendations cover the following areas:

- There should be a new national model Code of Conduct to be drafted by the LGA & available for all local authorities to adopt
- Councillors should not be required to publicly disclose their home address
- The Code of Conduct will apply whenever members claim to act, or give the impression that they are acting, as an elected member
- The list of Disclosable Pecuniary Interests (DPI) should be extended but the current criminal offence to fail to comply with the all the requirements around disclosure should be abolished
- Councils will be required to keep a register of gifts & hospitality & to record gifts over £50 (or £100 a year from a single source)
- Councils must adopt a new definition which clarifies when a Councillor must declare an interest and withdraw

- Independent Persons must be appointed for a fixed term of 2 years (renewable once) & their role extended with the option to allow them to vote at Standards Committees
 - Councillors may be suspended for up to 6 months for breach of the Code but will have a right of appeal to the Local Government Ombudsman
 - Councils must publish annually details of all complaints received under the Code & the outcome
 - Specific recommendations relate to the special requirements of Parish Councils
 - Disciplinary Protection for Statutory Officers should be extended to all disciplinary action
 - Whistleblowing Codes should be updated to provide a named contact in External Audit & permit disclosure to Elected Members
 - Councillors will be required to attend formal induction training by their political groups with National Parties adding the requirement to their model group rules
 - LGA Corporate Peer Reviews should also include consideration of processes for maintaining ethical standards
- 2.3 Taken as a whole the recommendations are a package of reforms intended to strengthen and clarify the current local devolved arrangements by encouraging consistency with the re-introduction of a model code of conduct, clarifying rules around declaring interests and gifts and hospitality, strengthening the role of Independent Persons and introducing stronger sanctions for breaches of the Code.
- 2.4 In addition to their formal recommendations the Committee also identified a list of 15 areas of best practice which are considered to be a benchmark which all local authorities can and should implement. The Committee will review the implementation in 2020.
- 2.5 **Appendix B sets out the Best Practice requirements** and assesses what the Council will need to do to comply.
- 2.6 The Best Practice Proposals deal with the following issues:
- Prevention of Bullying & Harassment should be included in all Codes of Conduct together with a definition & examples
 - The Code of Conduct must require Councillors to comply with any formal standards investigation & prohibit trivial or malicious allegations by Councillors
 - Codes should be reviewed annually and consulted upon
 - Gifts & Hospitality Registers should be updated at least once a quarter & published in an accessible format

- Councils must adopt a clear and straight forward Public Interest Test against which allegations are filtered
- Councils must appoint at least 2 Independent Persons who must be consulted with before certain action is taken
- Decision Notices must be published as soon as possible on Council websites after a formal investigation & a misconduct finding
- All Councils should publish clear guidance on how to make a complaint & the process to be followed
- MOs should be given training & resources to support Parish Council complaints
- Councils should have processes in place to prevent conflicts of interest in undertaking an investigation
- Councils should report on separate bodies which they have set up or own as part of the Annual Governance Statement
- Senior Officers should meet regularly with political group leaders or group whips to discuss standard issues

2.7 If the Council is to address the Best Practice proposals then there is a need to review current practice and ensure that an effective Action Plan is in place to delivery any necessary improvements. Appendix B sets out a draft Action Plan and members views are sought. The intention is to bring a revised Code of Conduct and updated Action Plan to the next meeting of the Committee.

2.8 There is a link to the full text of the Report “Local Government Ethical Standards – A Review by the Committee on Standards in Public Life” at paragraph 13.1 of this report.

3 **Reasons for Proposed Solution**

3.1 The aim of the standards system is to build an ethical culture and to embed high standards throughout the authority so that it becomes an integral part of both how the organisation works as a whole and also how each individual undertakes their role. The report concludes that a system which provides for the effective investigation of complaints and is punitive where necessary is important, but what is more important is a system which enables good behaviour.

3.2 Chapter 8 of the Report deals with “Leadership and Culture” stressing that Leadership is an essential element in embedding an ethical culture and must be demonstrated by a range of senior individuals who must set the correct tone when it comes to ethics and standards.

3.3 The following are identified as having a key role:

- **Audit & Standards Committee** – by dealing with breaches of the Code, setting expectations of behaviour & continually reviewing & holding the authority to account on Standards issues

- **Chief Executive** – by modelling high standards of conduct particularly political impartiality & objectivity, guarding the demarcation between officer & member roles & supporting senior officers to undertake their roles
- **Leaders of Political Groups** – by setting the tone for how councillors engage with each other & with officers & by modelling high standards themselves & addressing inappropriate behaviour using party discipline if necessary
- **Leader of the Council** – by modelling the highest standards of conduct as the most visible Group Leader & addressing any inappropriate behaviour by Portfolio holders
- **Mayor** – by setting the tone at full Council & ensuring all councillors are aware of the expectations for how they engage with each other & officers
- **Political Groups** – by mentoring new councillors & supporting existing councillors, with senior officers regularly engaging with leaders & group members to understand training needs & setting expectations for how councillors act in the Council chamber, on committees, with officers & on outside bodies

3.4 The report concludes that ultimately responsibility for ethical standards rests with local authorities and that senior councillors and officers must show leadership in order to build and maintain an ethical culture in their own authority.

3.5 The Committee on Standards in Public Life will be reviewing progress and implementation in 2020 and the Council's Peer Review, also due to take place in 2020, are likely to be considering ethical matters as part of their overall assessment of the culture and effectiveness of the authority.

4. **Options Considered**

4.1 Although compliance with the best practice recommendations is not mandatory the Committee on Standards in Public Life has set out their very clear expectation that all local authorities can and should implement them. Accordingly any decision not to do so should be clearly articulated and justified.

5. **Legal and Statutory Implications**

5.1 Section 27 of the Localism Act 2011 requires each local authority to adopt a code of conduct which must reflect the Seven Principles of Public Life. The Act also sets out the processes to followed upon receipt of an allegation of breach of the Code and also the role of the Independent Person.

5.2 The majority of the formal recommendations by the Committee on Standards in Public Life would require legislation to amend the Localism Act or to amend relevant Statutory Instruments and so even if all the recommendations were accepted by the Government this may take some little time. In the meantime the Best Practice recommendations can be implemented quickly as no legislative changes are required.

6. **Equality Impact Assessment**

6.1 No direct implications.

7. **Financial and Resource Implications**

7.1 There are no significant resource implications in complying with the Best Practice proposals.

8. **Major Risks**

8.1 The Council is expected to comply with the best practice proposals and failure to do so may result in reputational risk to the Council particularly in view of the proposed review by the Committee and forthcoming Peer Review.

9. **Sustainability and Climate Change Implications**

9.1 No direct implications.

10. **Key Decision Information**

10.1 N/A

11. **Earlier Cabinet/ Committee Resolutions**

11.1 N/A

12. **List of Appendices**

12.1 Appendix A – List of Recommendations by the Committee on Standards in Public Life
Appendix B - List of Best Practice Proposals by the Committee on Standards in Public Life & Draft Action Plan

13. **Background Papers**

13.1 Report “Local Government Ethical Standards – A Review by the Committee on Standards in Public Life”