

**LOCAL GOVERNMENT ETHICAL STANDARDS: STAKEHOLDER CONSULTATION**

**1.0 Purpose of Report**

- 1.1 To advise Members of Policy & Finance Committee of a consultation being undertaken by the Committee on Standards in Public Life to inform its review of local government standards.

**2.0 Background Information**

- 2.1 The Committee on Standards in Public Life is currently undertaking a review of local government ethical standards.

- 2.2 The terms of reference for the review are to:

- Examine the structures, processes and practices in local government for:
  - (i) maintaining codes of conduct for local councillors
  - (ii) investigating alleged breaches fairly and with due process
  - (iii) enforcing codes and imposing sanctions for misconduct
  - (iv) declaring interests and managing conflicts of interest
  - (v) whistleblowing
- Assess whether the existing structures, processes and practices are conducive to high standards of conduct in local government.
- Make any recommendations for how they can be improved.
- Note any evidence of intimidation of Councillors and make recommendations for any measures which could be put in place to prevent and address such intimidation.

- 2.3 The review will consider all levels of local government in England including town and parish councils, principal authorities, combined authorities (including Metro Mayors) and the Greater London Authority (including the Mayor of London).

**3.0 Introduction**

- 3.1 Anyone with an interest may respond to the consultation questions.

- 3.2 However, the consultation is aimed particularly at local authorities, Standards Committees, local authority members, local authority officials, independent persons appointed under Section 28(7) of the Localism Act 2011, think tanks with an interest or expertise in local government, academics with interest or expertise in local government and representative bodies or groups related to local government.

**4.0 Consultation Questions**

- 4.1 The Committee has invited responses to the following consultation questions:-

- (a) Are the existing structures, processes and practices in place working to ensure high standards of conduct by local councillors? If not please say why.

- (b) What, if any, are the most significant gaps in the current ethical standards regime for local government?
- (c) Are local authorities adopted codes of conduct for councillors clear and easily understood? Do the codes cover an appropriate range of behaviours? What examples of good practice, including induction processes, exist?
- (d) A local authority has a statutory duty to ensure that its adopted code of conduct for councillors is consistent with the seven principles of public life and that it includes appropriate provision (as decided by the local authority) for registering and declaring councillors interests. Are these requirements appropriate as they stand? If not, please say why.
- (e) Are allegations of councillor misconduct investigated and decided fairly and with due process?
  - (i) What processes do local authorities have in place for investigating and deciding upon allegations? Do these processes meet requirements for due process? Should any additional safeguards be put in place to ensure due process?
  - (ii) Are the current requirements that the views of the Independent Person are sought and taken into account before deciding on an allegation sufficient to ensure the objectivity and fairness of the decision process? Should this requirement be strengthened? If so, how?
  - (iii) Monitoring Officers are often involved in the process of investigating and deciding upon code breaches. Could Monitoring Officers be subject to conflicts of interest or undue pressure when doing so? How could Monitoring Officers be protected from this risk?
- (f) Are existing sanctions for councillors' misconduct sufficient?
  - (i) What sanctions do local authorities use when councillors have been found to have breached the code of conduct? Are these sanctions sufficient to deter breaches and where relevant, to enforce compliance?
  - (ii) Should local authorities be given the ability to use additional sanctions? If so what should these be?
- (g) Are existing arrangements to declare councillors interests and manage conflicts of interest satisfactory? If not please say why.
  - (i) A local councillor is under a legal duty to register any pecuniary interest (or those of their spouse or partner) and cannot participate in discussions and votes which engage a disclosable pecuniary interest, nor taking any further steps in relation to that matter, although local authorities can grant dispensations under certain circumstances. Are these statutory duties appropriate as they stand?
  - (ii) What arrangements do local authorities have in place to declare councillors interests and manage conflicts of interest which go beyond the statutory requirements? Are these satisfactory? If not please say why.
- (h) What arrangements are in place for whistleblowing by the public, councillors and officials? Are these satisfactory?
- (i) What steps could local authorities take to improve local government ethical standards?
- (j) What steps could central government take to improve local government ethical standards?

- (k) What is the nature, scale and extent of intimidation towards local councillors?
- (i) What measures could be put in place to prevent and address this intimidation?

4.2 The deadline for responses to the consultation is Friday 18 May 2018.

## **5.0 Comments**

- 5.1 Since Newark & Sherwood District Council adopted a more “light touch” regime following the introduction of the Localism Act 2011 the new arrangements have worked relatively satisfactorily in respect of district council members although there have been some issues in respect of parish councillors particularly where parish councils have not accepted the recommendations of the District Council as to appropriate sanctions. This is not something which is addressed in the consultation questions but it is considered that it is one which should be considered in the course of the review with a legislative change to provide that parish councils be required to implement the recommendations of the District Council in respect of appropriate sanctions where a code of conduct breach is found.
- 5.2 Regarding the content of codes of conduct it would be virtually impossible to specify all potential code breaches and our approach in dealing with broader principles rather than trying to detail specific examples has operated well and appears to be generally well understood.
- 5.3 Our procedures for determining complaints have also worked well and the requirement to consult with the Independent Person both on the initial filtering of complaints and prior to a hearing panel reaching a decision on a code of conduct breach have proved helpful and constructive.
- 5.4 We have not experienced any issues with conflict of interest by splitting the respective roles in the investigation and hearing processes between the Monitoring Officer and Deputy Monitoring Officer.
- 5.5 Regarding sanctions we have been fortunate not to have experienced any instances of serious code of conduct breaches although criminal sanctions do of course exist in certain instances.
- 5.6 Whilst the definition of a disclosable pecuniary interest is relatively narrow we have not experienced major difficulties in respect of conflicts of interest as members have also been mindful of the general administrative law requirements to declare interest in the case of bias or pre-determination.
- 5.7 Regarding whistleblowing, the Council has a whistleblowing policy which is included within the Council’s Constitution.
- 5.8 Regarding the potential to improve ethical standards, it is considered that adopting cultures and values within the organisation that promote ethical behaviours are more effective than a written code and written processes and procedures.

5.9 Regarding intimidation of councillors I am not aware of any current instances of this although we have experienced some instances of adverse comments being made against councillors by members of the public on social media. There is currently no effective remedy to prevent this.

## **6.0 RECOMMENDATION**

**That Members consider whether they wish to submit a response to the Committee on Standards in Public Life in connection with their review of local government ethical standards in the light of the comments set out above.**

### **Reason for Recommendation**

**To enable a response to be made to inform the Committee on Standards in Public Life review of local government standards.**

### **Background Papers**

None

For further information please contact Kirsty Cole on Extn. 5210.

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