

## Standards Committee

9 December 2020

### National Picture - Standards Update



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## Report of Helen Lynch, Head of Legal and Democratic Services and Monitoring Officer

### Electoral division(s) affected:

None

### Purpose of the Report

- 1 To inform Members of the national picture on standards issues affecting Local Government.

### Executive summary

- 2 This report is for information to update the Committee on national developments, consultations and cases which relate to the work of the Committee since the last meeting on 13 March 2020.

### Recommendation

- 3 The Standards Committee is recommended to:
  - (a) note the report and request that Officers monitor the progress of the matters referred to and keep the Committee updated; and
  - (b) consider any recommendations it wishes to make arising out of the content of the report.

## **Background**

- 4 On 13 March 2020 the Standards Committee agreed as part of the annual Work Programme to continue to receive this report as a standing agenda item with a quarterly update to the Committee.

## **Code of Conduct Complaints and Reports**

- 5 Since the abolition of the Standards Board for England, national statistics and case reports are no longer collated. Any cases reported are taken from general research where councils publish details of their conduct hearings in public.

## **Bournemouth Christchurch and Poole Council – Councillor Lewis (January 2020)**

- 6 The Standards Committee considered an investigation into a complaint about a Councillor whose use of social media was alleged to have breached the Code of Conduct. The complaint related to a re-tweeted article in a local online magazine by the Councillor which the Complainants considered to constitute hate speech and was anti-Semitic. The Complainants believed that by re-tweeting the article the Councillor endorsed and promoted the sentiments in the article.
- 7 The report of the Investigating Officer recommended that no further action be taken against the Councillor. The Investigating Officer concluded that the Councillor had not been acting in her capacity as a Councillor when she re-tweeted the article. Whilst the account at the time included “Labour councillor” as one of the activities, the Councillor posted without using her council title and she did not use her account to deal with council business. The Investigating Officer made the observation that a constituent interested in the council activities of the Councillor would not be found on the account. Neither could they reasonably interpret her activities on Twitter as part of her council duties.
- 8 Whilst Committee were fully accepting the conclusions, consideration was given to the wider issues of how all Councillors made use of social media. The Chair of the Committee recommended that all Councillors undergo the training which highlights the need for Councillors to carefully consider the way in which they use social media and the implications of their social media activity.
- 9 This case shows how careful councillors need to be in their use of social media and how difficult it can be to distinguish between posts in a personal and in an official capacity. The Complainants perception was

that this account had been used by the Councillor in her capacity as a Councillor.

### **Wakefield Council - Councillor Kear (August 2020)**

- 10 In August 2020, Wakefield Council issued a statement following a Councillor admitted charges relating to trying to entice a child aged under 13 to engage in sexual activity and attempting to incite a child into pornography. The statement of the chief legal officer read:

*“Under local authority legislation, Alex Kear remains a councillor. Wakefield Council is powerless to remove him at this stage. Central government has essentially left local councils powerless to take action in these situations. We do not have any authority to remove elected members from their position, regardless of the severity of their alleged crimes, unless they receive a significant custodial sentence. Therefore unless Cllr Kear chooses to resign, he remains a councillor. This will be reviewed when he is sentenced.”*

- 11 On 20 August 2020 at Leeds Crown Court the Councillor was sentenced to four years in custody, followed by a further two years on licence, for child sex offences. The sentence imposed did automatically disqualify from the office of Councillor.
- 12 This example demonstrates the threshold for removal from office as well as sets out the limitations for removal. It was only upon sentencing that the disqualification of the Councillor took effect. There are currently limited circumstances where a Councillor can be disqualified. This is not a power of the Council but rests within the legal framework set out at section 80 of Local Government Act 1972.

### **Committee for Standards in Public Life – Ethical Standards**

- 13 The Chairman of the Committee on Standards in Public Life (CSPL), Lord Evans, wrote to the Secretary of State for Housing, Communities and Local Government, Robert Jenrick in July 2020 asking when the Committee will receive a formal government response to its January 2019 report on Local Government Ethical Standards (the report).
- 14 In the letter Lord Evans highlighted that the “current lack of robust sanctions damages public confidence in the standards system and leaves local authorities with no means of enforcing lower level sanctions, nor of addressing serious or repeated misconduct.” A copy of the letter is shown at Appendix 2.

- 15 A separate letter was sent by Lord Evans in July 2020 to local authority chief executives in England asking for updates on the progress against the 15 best practice recommendations contained in report. The request is shown at Appendix 3 with the response of Durham County Council shown at Appendix 4 which will be published by the Committee in early next 2021.
- 16 The response of Durham County Council confirms that 13 of the 15 best practice recommendations have been implemented with the two remaining to be anticipated to implemented following consideration by full Council in March 2021. The Secretariat have acknowledged the Council's response and Lord Evans is "grateful for a full and clear response."

### **Local Government Association (LGA) – Draft Model Code of Conduct**

- 17 It was a recommendation of the CSPL that an updated model code of conduct should be introduced in consultation with representative bodies of councillors and officers of all tiers of local government. During the summer authorities were invited to comment on the consultation on the LGA draft model Member Code of Conduct by 17 August 2020
- 18 On 21 July 2020 an informal meeting of the Standards Committee was convened to inform Members of and invite comment on the consultation on the LGA draft model Member Code of Conduct.
- 19 A copy of the revised model Code and consultation questionnaire is attached for information at Appendix 5 and 6. Following the feedback from the Members of the Standards Committee the response was submitted to the LGA on 14 August 2020, a copy of which is shown at Appendix 7.
- 20 At present there is no further update on the outcome of the consultation. An update will be presented to the Standards Committee as and when further information becomes available.

### **Background Papers**

- None

### **Other useful documents**

- <https://democracy.bcpccouncil.gov.uk/documents/s15808/Minutes%2014012020%20Standards%20Committee.pdf>

- <https://www.wakefield.gov.uk/Pages/News/PR-9535.aspx#:~:text=%E2%80%8BWakefield%20Council%20has%20confirmed,custody%2C%20followed%20by%20a%20further>

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## **Appendix 1: Implications**

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### **Legal Implications**

The Council has a duty under section 27 of the Localism Act 2011 to promote and maintain high standards of conduct by its members and to adopt a code of conduct that is consistent with the Nolan Principles. Ensuring that the Standards Committee is kept up to date with national Standards issues is expected to facilitate compliance with this duty.

### **Finance**

There are no financial implications arising out of the report.

### **Consultation**

None.

### **Equality and Diversity / Public Sector Equality Duty**

There are no equality and diversity implications arising out of the report.

### **Climate Change**

There are no climate change implications arising out of the report.

### **Human Rights**

None

### **Crime and Disorder**

There are no Crime and Disorder implications arising out of the report.

### **Staffing**

There are no staffing implications.

### **Accommodation**

There are no accommodation implications.

### **Risk**

None.

### **Procurement**

There are no procurement implications.