
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 11 March 2022.

Recommendation(s)

- 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 As agreed by the Committee on 25 June 2021, as part of the Annual Work Programme, this is a standing agenda item with a quarterly update to the Committee.

Code of Complaints 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 news reports and general research where Councils publish details of their conduct hearings in public.

Handforth Town Council (March 2022)

- 6 The Audit and Governance Committee for Cheshire East Council, the principal authority for Handforth Town Council, reported that 21 formal complaints had been investigated between 2018 and November 2020. Due to the complexity and nature of the allegations these were referred to a single investigator. Additional complaints were included in the investigation arising from the meetings of December 2020 which were broadcast online in February 2021. Some of the complaints related to behaviours during a remote meeting of the Council, which was broadcast on YouTube. The Acting Clerk, Jackie Weaver from the National Association of Local Councils removed a Councillor from the meeting for disrupting the meeting. The recording subsequently “went viral” and highlighted some of the challenging behaviours that Town and Parish Clerks have to deal with.
- 7 The Investigating Officer produced six investigation reports which found three Councillors were potentially in breach of the Members Code of Conduct. Following the findings of the investigation, determination notices were issued by Cheshire East's Monitoring Officer for the Councillors to attend a hearing sub-committee meeting. However this was not possible to pursue following the resignation of all three Councillors.
- 8 In the report to the Committee it was highlighted that the investigation cost more than Handforth's annual budget of £85,000, which is raised through a precept on local residents. The report recorded that although the process is undoubtedly fair, it is arguable it is not proportionate in respect of cost against potential sanction. The principal authority, Cheshire East, has a statutory obligation to investigate and is unable to recover costs of investigations even where the poor behaviour complained of is found to have occurred.
- 9 Following the publication of the report, Ms Weaver said there should be the option of placing sanctions on councillors, such as removing them from all council duties.

Councillor Baines, Chirk Town Council, Wrexham County Borough (February 2022)

- 10 The Welsh Standards Regime operates slightly differently to that in England. In Wales, there is a power to suspend as well as a right of appeal to the Adjudication Panel Wales (APW). Notwithstanding the clear differences between the regimes, it is helpful for the Committee to have an awareness of issues arising in other jurisdictions.
- 11 Councillor Baines's conduct was considered by a Standards Committee, where it was found that he had breached the code of conduct by contacting a woman's employers after she raised a grievance against him. The Committee issued a three-month suspension and required him to undertake code of conduct training and write letters of apology.
- 12 The Councillor was reported to have accepted the findings but appealed to the APW that the suspension sanction imposed was "excessive".
- 13 The APW referred the matter back to the Standards Committee with a recommendation the period of suspension be reduced to two months. After revisiting the decision the Standards Committee upheld the earlier decision and maintained the decision to impose a three-month suspension.

Report of the Committee for Standards in Public Life on Ethical Standards

- 14 On 18 March 2022 the Government provided its response to the Committee for Standards in Public Life report into Local government ethical standards.
- 15 The Government is not minded to amend the legislation to require all Councils to adopt a model Code. It noted that the Local Government Association (LGA) had produced a model Code but that it is for individual Councils to determine whether or not to adopt it.
- 16 The Government considers that there is a boundary between an elected representative's public life and their private or personal life. Automatically presuming (irrespective of the context and circumstances) that any comment is in an official capacity, risks conflating the two. Therefore, it is not minded to amend the Localism Act 2022 to permit local authorities to presume a Councillor is acting in their official capacity when considering allegations of breaches of the Code of Conduct.
- 17 In response to the CSPLs recommendations on sanctions, the Government responded that it was a deliberate policy decision by the Government at the time to differentiate the current standards regime

from the Standards Board regime. They considered that the previous regime allowed politically motivated and vexatious complaints and impacted on free speech within local government.

- 18 The Government consider that it would be undesirable to have a “government quango to police free speech of councillors” or a “council body sitting in judgment on political speech”. It is considered that on the rare occasions that notable breaches of the Code have occurred sanctions are available (e.g. Councillors are barred from Cabinet/Committees or representative roles, public criticism). Elected members who are part of a political group are also subject to party/group discipline. All Councillors are accountable at the ballot box.
- 19 The Government have however indicated that it will engage with sector representative bodies of Councillors and Officers at all tiers of local government to seek views on options to strengthen sanctions to address breaches of the Code, which do not amount to criminal activity but involve serious incidents of bullying and harassment or disruptive behaviour.
- 20 The Government’s full response to all of the recommendations is attached at Appendix 2 to the report.
- 21 The response was welcomed by the LGA which reported:
- “We are pleased that the Government’s response to the Committee for Standards in Public Life report acknowledges the work the LGA has undertaken to address the issues outlined in the report through the development of a Model Councillor Code of Conduct and supportive guidance in consultation with the sector.”*
- “We agree that there is still more to do to, but that a locally-led standards and conduct system, supported by guidance, training and good practice is the best approach. In addition, it is positive to see that the Government agrees with the principle of safeguarding elected representatives in relation to the disclosure and publishing of councillors home addresses.”*
- 22 However, the CSPL are disappointed with the response. Lord Evans said:
- “while we note the government’s commitment to further work to support local government, the Committee is disappointed that many of its careful recommendations have not been accepted. It was clear from our evidence that the sector backed our call to strengthen the arrangements in place to support high ethical standards, whilst respecting the benefits of a localised approach.”

“We are pleased that many local authorities have already reviewed their approach as a result of this work and are adopting the best practice points from the report. Across all tiers of local government, decisions are taken about a wide range of local services using public funds, so it is important that there are robust governance arrangements that command public confidence”

- 23 The Standards Committee will recall that the Council reviewed its governance arrangements to ensure that it reflected all of the CSPL’s best practice recommendations.
- 23 The Monitoring Officer will continue to report on updates on work between Government and Local Councils arising from the response to the CSPL report on ethical standards which will look to determine the best mechanisms to support improvement in areas addressed in the report.

Background papers

- None

Other useful documents

- <https://handforthtowncouncil.gov.uk/>
- <https://www.bbc.co.uk/news/uk-wales-60213715>

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Appendix 1: Implications

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

Not applicable.

Consultation

Not applicable.

Equality and Diversity / Public Sector Equality Duty

Not applicable.

Climate Change

Not applicable.

Human Rights

Not applicable.

Crime and Disorder

Not applicable.

Staffing

Not applicable.

Accommodation

Not applicable.

Risk

Not applicable.

Procurement

Not applicable.