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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 and cases which relate to the work of the Committee since the last meeting on 17 March 2023.

**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 10 June 2022, as part of the Annual Work Programme, this is a standing agenda item with a quarterly update to the Committee.

## **Investigation finds Councillor breached code of conduct through their actions at a planning committee meeting**

- 5 An investigation has concluded that a Councillor at West Northamptonshire breached the code of conduct through his forceful intervention at a meeting of the Council's planning committee and had predetermined his view prior to the meeting.
- 6 The investigation report found the Councillor had failed to treat the Senior Planning Officer with respect during the meeting and used his position to disadvantage the applicant applying for permission to build 45 houses within a local village by speaking and voting against the decision. The Senior planning officer had told the investigators that the councillor had implied that the officer and the planning department 'had tried to lie to members.'
- 7 A solicitor from the Council told the investigation that the Councillor's criticism of the application and department 'did not sit well with the member/officer protocol', and the Councillor should have instead raised concerns with officers prior to the planning committee meeting or requested to attend the chair's briefing prior to the committee meeting. The Solicitor added however that they considered that the report and presentation were 'deficient', which contributed to the 'stand-off between members and planning officers.'
- 8 The Councillor had come to the meeting with a prepared speech, which made it clear that he disagreed with the officer recommendation, which made representatives from the Planning Advisory Service concerned that the Councillor had come to the meeting with a predetermined view of the application. This was significant as the application was denied after the decision was made by a casting vote of the chair, and had the Councillor not taken part in the vote the application would have been granted.
- 9 The Councillor is not a member of the Planning Committee, nor a registered substitute, but the chair permitted him to act as a substitute member because the Councillor had received the necessary training to act as a substitute in relation to his roles on other committees.

- 10 The investigation report noted that there are likely lessons to be learned on both sides. Based on the evidence they had seen, the Investigators were of the view that the Councillor was not genuinely seeking to understand the reasons behind the senior planning officer's recommendations. Instead, they considered that he was grandstanding to those in the public gallery while challenging the officer in a manner that he knew would call his competence into question so as to denigrate his report.

### **Review calls for changes and additional resources at council over length of time taken to address code of conduct complaints**

- 11 At its meeting in September 2022, the Committee received information in relation to a section 114 notice and the outcome of an independent governance review at Northumberland County Council. Since then, the LGA has commissioned a review into the length of time taken by the Council to deal with Code of Conduct Complaints.
- 12 The review found that the length of time taken to complete assessments of complaints or investigations was longer than what would be considered best practice. However, the report acknowledged that there were factors mitigating the delay in carry out the investigations including cultural issues, changes in the Monitoring Officer and Deputy Monitoring Officer roles, and the complexity of some complaints.
- 13 The report also highlighted that there has been a notable improvement in the time that the Council is taking to handle code of conduct complaints. The report noted that at the time of writing, the Council had only received 1 complaint in 2023, compared to the total of 40 received in 2022. The average number of days to conclude cases has dropped from 274 (as recorded in 2020), to 132 last year. The average days since the start of ongoing complaints has also dropped from 840 to 367.
- 14 It is recommended that the Council review the resources made available to the Monitoring Officer to allow code of conduct complaints to be dealt with, and that the deputy monitoring officers should be provided with training on the assessment and investigation of complaints.
- 15 Additionally, it is recommended that an annual report of the code of conduct complaints should be presented to the Standards Committee.

## **Councils call for voters to show "respect and civility" towards candidates and officers at upcoming local elections**

- 16 Prior to the local elections held throughout England on the 4 May 2023, the LGA worked with the Jo Cox Foundation to call for the public to show respect and Civility to the candidates standing for election, and the Officers working at the polling stations.
- 17 The 2023 Local Elections are the first to implement the Voter ID requirements, and the LGA has issued a reminder to voters to be "patient with hardworking local polling station staff as they implement the new changes."
- 18 The Vice-Chair of the LGA said: "These upcoming elections are incredibly important in setting the future direction of our local communities.
- 19 "The tens of thousands of people who are standing as candidates in them are doing a great public service."
- 20 The Vice-Chair added "Candidates and councillors want to engage with as many voters as possible during this election campaign. However, they should not have to experience abuse, threats, or any kind of harmful behaviour simply because of who they are, what they look like or their background. We want all voters to treat candidates with respect and to engage in positive, constructive conversations and debates and make local democracy a welcoming environment for all."

## **Local Government Association calls for measures in Online Safety Bill to tackle low level abuse of councillors**

- 21 The Local Government Association (LGA) has called for the Government to amend the Online Safety Bill, which is currently passing through the House of Lords, to include stronger provisions that will protect Councillors from abuse and encourage more members of the public to stand for election.
- 22 The Online Safety Bill, which was published in March 2022 seeks to establish a regime to address illegal and harmful content online. The Office of Communications (OFCOM) will act as the "Online Safety Regulator" under the Bill as it will confer new powers to the organisation. The Bill will introduce new threatening and false communications offences.
- 23 The LGA have said that stronger provisions are needed due to an increase in online harassment. The LGA has recommended that there are provisions incorporated into the Bill which will help to manage online

abuse towards Councillors which is not serious enough to be considered a criminal offence.

- 24 The LGA has noted in its support that it is seeing an increase in incidents of abuse, harassment and intimidation online which is directed at Councillors. Such incidents “can prevent elected members from representing the communities they serve and undermine public trust in democratic processes. We hope this Bill will go some way in addressing the concerns we have heard from our membership”
- 25 "However, we regret the removal of the harm-based communications offence by the government at committee stage in the Commons, which could have been an important tool in tackling this intimidation, harassment and abuse."

**Department for Levelling Up, Housing and Communities” issues proposal to intervene at Croydon, appoints commissioners at Woking, and expands intervention at Thurrock, and**

- 26 A letter has been sent by the Department for Levelling up, Housing and Communities (DLUHC) to The London Borough of Croydon Council to inform them of the Secretary of State’s intentions to intervene following a progress report suggesting that Croydon Council is not meeting its Best Value Duty due to financial troubles.
- 27 The proposal of the intervention from the Secretary of State has come as a result of recent findings by Croydon's Improvement and Assurance Panel and due to the section 114 notice which was issued in November 2022.
- 28 The Council issued their first Section 114 notice in 2020, and DLUHC has expressed concerns that there has been a delay in the council taking an "effective grip of the key issues it has faced since 2020."
- 29 DLUHC notes there is evidence of poor record keeping and budget management, alongside an overall "lack of strong grip on financial management". The letter adds that at present, the Council have £161.1m of historic accounts errors which require corrections, which is putting the financial pressure on the Council.
- 30 In addition, the Council has debts of £1.6 billion, meaning its general revenue budget will be unable to meet resident’s needs without Government support. Croydon Council has benefitted from £145m of capitalisation financial support from the Government since 2020.

- 31 DLUHC set out a proposed intervention package in light of these issues, which would see directions issued requiring Croydon to follow the Panel's instructions as a necessary and expedient action to secure compliance with their Best Value Duty if the Panel are not satisfied with the progress being made.
- 32 In addition, DLUHC proposed that the improvement panel have access to any premises of the council and any document relating to the council or any employee or member of the council.
- 33 Progress reports will be made to the Secretary of State every six months under the proposals.
- 34 In March, Croydon Council released a redacted version of the independent report into the circumstances leading to the issuing on the first Section 114 notice being issued. The report detailed “organisational dysfunction at the most senior level” and recommended the council consider pursuing formal action against senior members and officers.
- 35 Further letters were sent by DLUHC to Thurrock Council, Sandwell Metropolitan Borough Council and Slough Borough Council, all of whom have issued s114 notices, effectively declaring bankruptcy.
- 36 The letter sent by DLUHC to Thurrock Council informed that the commissioners at Essex County Council (appointed in September 2022) will be given more powers in their intervention at the Council.
- 37 The expanded intervention comes following a December 2022 report from the Council’s commissioners which reported a £470 million in-year funding hole in the Council’s finances.
- 38 The additional powers include:
- i. Functions associated with governance, scrutiny, and transparency of strategic decision-making;
  - ii. Functions associated with the operating model and redesign of council services to achieve value for money and financial sustainability;
  - iii. All functions associated with appointment and dismissal of persons to positions of the holders, which are to be designated as statutory officer, and the designation of those persons as statutory officers;
  - iv. All functions to define the officer structure for senior positions, determine recruitment processes and recruit staff to those positions; and

- v. All functions associated with the development, oversight and operation of an enhanced performance management framework for officers holding senior positions.
- 39 The Secretary of State for DLUHC has also sent commissioners in to Woking Borough Council after an external assurance review report was not satisfactory in assuring DLUHC that the pace or scale of the Council's response was sufficient to handle the issues it faces.
- 40 Three commissioners have been appointed and will exercise all functions relating to the financial governance, the scrutiny of financial decision-making, and strategic financial management of the Council.
- 41 The Council must follow the directions which have been set out by DLUHC within an intervention package. Within six months, the Council is required to prepare and agree an improvement and recovery plan which will explain how the Council will achieve financial stability and close the gap in its budget.
- 42 As of December 2022, Woking Borough Council has a debt of around £1.9bn in borrowing, which makes it the most indebted local authority, relative to size, in the UK.

### **Other useful documents**

- Local Government Act 1999

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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**

None

### **Consultation**

None

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

None

### **Climate Change**

None

### **Human Rights**

None

### **Crime and Disorder**

None

### **Staffing**

None

### **Accommodation**

None

### **Risk**

None

### **Procurement**

None