

Standards Committee

8th September 2023

National Picture



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 8 June 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.

Former Mayor of Middlesbrough has charges dropped for non-disclosure of pecuniary interests.

- 5 The former Mayor of Middlesbrough, Mr Andy Preston who was Mayor from 2019 to May 2023 was charged with four counts of non-disclosure of pecuniary interests in Executive meetings in contravention of the Localism Act 2011.
- 6 The charges alleged that Mr Preston breached sections 30(4) and 34(1)(b) and (3) of the Localism Act.
- 7 In relation to the charges, Mr Preston said that the allegations stem from complaints made against him by five Councillors in 2021 claiming he had failed to disclose interests properly at some meetings.
- 8 Mr Preston said that the allegations were untrue, and that three of the five Councillors withdrew their complaints. It is understood that Middlesbrough Council had considered the allegations in accordance with its arrangements under the Localism Act 2011, but no action had been taken.
- 9 Mr Preston was due to appear at Teesside Magistrates Court on 21 August 2023, but it was announced that the charges against the former mayor were to be dropped following a further review of the evidence.

Councillor handed suspension over “misleading information” during legal crowd funding campaign

- 10 The Bridgend County Borough Standards Committee has suspended a Member for three months following an investigation undertaken by the Welsh Ombudsman into misleading information given to residents during the process of raising funds for a legal challenge against a planning application.
- 11 The investigation by the Ombudsman found that the Member had provided residents with misleading information during his fundraising efforts to oppose plans by the Ministry of Justice to consider using a local hotel to house Wales’s Residential Women’s Centre. The Ombudsman notes that there was no actual planning application submitted and therefore there was no application to be challenged.
- 12 The Welsh Ombudsman concluded that "although the Member's intentions may have been well-meaning, he provided misleading information to residents when they were asked to donate money to a fund which was not

necessary, and from which they could not retrieve their money if the anticipated legal action did not take place".

- 13 The Ombudsman noted that the Councillor "Ought to have known better" and considered the conduct may amount to a breach of the Paragraph 6(1)(a) of the Bridgend County Council Code of Conduct:

6.— (1) You must —

a) not conduct yourself in a manner which could reasonably be regarded as bringing your office or authority into disrepute;

- 14 Following the Ombudsman's finding, the Bridgend Standards Committee found that the Member was in breach of Paragraph 6(1)(a) of the code of conduct and decided that the Member should be suspended for three months. The Committee will be aware that in England there is no power to suspend a Councillor in relation to a breach of the Member Code of Conduct. However, the Committee in Standards in Public Life has recommended that the Government review its position on sanctions. This case provides an example as to the circumstances in which suspension may be appropriate.

Local Government Association Code of Conduct Survey

- 15 In June 2023, the Local Government Association (LGA) conducted a survey to gauge the impact of the LGA Model Councillor Code of Conduct by measuring the number of councils which had adopted the model code, and the impacts of the code on councils which had.
- 16 The survey was sent all Monitoring Officers in all principal councils in England and the LGA receiving responses from 110 Councils. Durham County Council's Monitoring Officer responded to the survey confirming that the Council had considered the LGA Model Code of Conduct and decided to amend its existing Code to ensure it reflected the Model Code rather than adopt an entirely new Code.
- 17 The Key findings about the impact and utility of the Model Councillor Code of Conduct.
- All respondents to the survey were aware of the Model code.
 - Eighty-two per cent of respondents said they had adopted the LGA model code of conduct to at least some extent, with 25 per cent adopting it in full and 40 per cent adopting the Model code with some additions or minor amendments.
 - Almost all respondents had reviewed their councillor code of conduct since the Model code was launched in December 2020, with 85 per cent conducting a formal review and 10 per cent an informal review.

- Of the councils which reviewed their code of conduct, 97 per cent used the Model code to inform their review.
- Among councils which used the Model code to inform their review, 73 per cent reported it being 'Very useful' and 25 per cent stated it was 'Fairly useful'.
- A light touch review of the constitutions of councils that did not respond to the survey indicated that 54 per cent of non-respondent councils had adopted the Model code in full or in part.
- In total across England, 63 per cent of councils have adopted the Model code either completely or partially and 37 per cent have not.

Commissioners set to “step back” from Sandwell after seeing improvements in member-officer relationships and finances.

- 18 A report to the Secretary of State for Levelling up, Housing and Communities by the lead Commissioner assigned to Sandwell Metropolitan Borough Council has outlined the Commissioners plan to wind down their involvement at the Council following “significant progress” at the authority.”
- 19 The report which was issued in June was the third since Commissioners were appointed to intervene at the Council following a report by Grant Thornton which suggested that the Council had failed to comply with its best value duty.
- 20 The report details the “significant progress” made at the authority, with progress against the “12 proxies of success” including governance structures, the customer journey and member-officer relationships showing improvements.
- 21 Additionally, the Commissioners note that the Local Authority is showing signs of having greater political stability, with improvements seen to the scrutiny arrangements and Council Decision making functions. The report also notes in relation to Scrutiny Arrangements “Scrutiny committees are well managed, and we have observed focused meetings with appropriate work plans.”
- 22 The previous report detailed a priority for developing "an organisational culture, at all levels, where staff are enabled and empowered to constructively challenge and improve ways of working”, which the Commissioners have seen improvements against.
- 23 In response to the priority to improve organisational culture, Sandwell Metropolitan Borough Council launched the “One Team Framework” which sets out new organisational values and behaviours aimed at improving

Member-Officer relations, at present there are no causes of member/officer or member/member grievances or conduct cases.

- 24 The Commissioners have also seen an improvement in the Council's responsiveness to both Freedom of Information requests and Subject Access Requests.
- 25 Whilst the Commissioners Report details their plan to "step back" from the Council over the next 6 months, they note that a focus on developing the strategic capacity of the Council and further work on culture and values amongst other things is still necessary.
- 26 There will be a further report which will make definitive recommendation for the end of intervention, giving reasons and evidence as to why the public can be expected to have confidence in the Council's ability to sustain its best value duty.

Independent Panel appointed on Teesworks "corruption" allegations.

- 27 The Secretary of State for Levelling Up, Housing and Communities has appointed a three-person panel to conduct an independent review of the Tees Valley Combined Authority's oversight of the South Tees Development Corporation (STDC) and Teesworks Joint Venture.
- 28 The Panel consists of Quentin Baker who is currently Hertfordshire Council's Director of Law and Governance who was a former president of the LLG and Richard Paver who was who was previously the first Treasurer of the Greater Manchester Combined Authority, with Angie Ridgewell, Chief Executive of Lancashire County Council and previously a Director General at the Department for Business, Energy and Industrial Strategy being appointed as Lead Reviewer. The panel is expected to provide a report detailing their findings in the summer.
- 29 The Secretary of State has ordered the independent review into allegations of corruption, illegality, and wrongdoing in response to a request from the Tees Valley Mayor following media reports and debates in Parliament that questioned a land slide made by the STDC, which is chaired by the Mayor who denies any wrongdoing. The allegations relate to one of the largest projects of the STDC, which is the regeneration of the Teeswork site. The outcomes of the review will be reported to the Committee as and when they are published.

Woking Borough Council issues section 114 notice in face of £1.2bn budget deficit

- 30 Woking Borough Council issued a section 114 notice following a budget deficit of £1bn and a debt of £1.8bn.

- 31 The Council is reported to be the most indebted authority relative to size in the UK, as the section 114 notice explains the Council has a deficit of £1.2bn and just £16m in core funding available for the 2023/24 financial year.
- 32 A Section 114 notice is required under the Local Government Finance Act 1988 if " expenditure of the authority incurred (including expenditure it proposes to incur) in a financial year is likely to exceed the resources (including sums borrowed) available to it to meet that expenditure."
- 33 The issued notice comes following the appointment of Commissioners to the Council as part of an intervention package, however within the notice Working Council have said that the actions envisioned within the emergency intervention and recovery plan will not "will not by themselves resolve the Council's financial exigency".
- 34 The Council has explained that the financial position has come as a result of an investment strategy "that has resulted in unaffordable borrowing, inadequate steps to repay that borrowing and high values of irrecoverable loans". Two large commercial projects schemes within the Council's portfolio account for a majority of the £1.8bn debt according to Government documents.

Best Value Inspection Report published in relation to Thurrock Council published.

- 35 Previous reports to the Committee have referred to the appointment of Essex County Council, to undertake a best value inspection at Thurrock Council. The best value inspection report has now been published which has concluded that a "dereliction in political and managerial leadership" and inadequate governance arrangements allowed the council to embark on a risky investment strategy that subsequently led to the Council amassing a debt of more than £1 billion.
- 36 The report, which was published in June has said that:
- "The Council's lack of openness and transparency has given rise to a culture of insularity and complacency. Internal challenge has been discouraged, and external criticism and challenge have been routinely dismissed."
- "It has placed the Council in a state of 'unconscious incompetence' and has undermined its ability to secure continuous improvement," it later added.
- 37 The Council's investment strategy began in 2016, following the delegated authority to make investments was given to the s151 Officer. The amount that the s151 Officer had the delegated authority to invest was increased

from £200m to £550m in 2017, when the cash limit for any one external fund manager also increased from £75m to £425m.

- 38 The report found "This is an extraordinary expansion in the delegated authority of officers,"

"It was made without consideration of the experience and skills that would be needed: experience and skills that officers have since recognised did not exist within the Council."

- 39 The expansion of this delegated authority saw the s151 officer make £500m worth of investments "without meaningful reference to elected members," With Essex also concluding that there was no documentation containing information that the s151 Officer considered when making the investment, or a risk assessment or rationale for agreeing to make a particular investment.

- 40 The report states that due to the lack of key documentation, the expenditure decisions were made in breach of both the law, and the Council's constitution. The report explains that the investments over £500,000 being made without any forward plan "triggered a requirement for the s151 officer and the Monitoring Officer to raise a statutory report," but no such reports were made.

- 41 By the end of the 2017/2018 financial year, the investments made by the Council totalled £446m, and were made possible through borrowing large amounts of money, predominately from other local authorities. The total investment cost rose to £847m by the end of 2018/2019 and approached £1bn by early 2020.

- 42 The report stated that there was "limited engagement with the risks" of its investment programme. In one instance, it was judged to be a tolerable loss when a business the council invested £14 million in went into administration. The report says that such loss should have triggered a review, but "this opportunity was missed, as many members of the Council – having never been made aware of the existence of this investment – were neither told of its loss".

- 43 The investment strategy was paused in 2020 following the agreement of Councillors. The Council's financial situation worsened in 2020 as the Council were no longer able to repay previous short-term borrowing after the Treasury Management Adviser to local authorities, advised its clients not to lend to Thurrock Council. As a result, The Chief Executive was forced to seek emergency Public Works Loan Board advances, which had to be escalated via the Department for Levelling Up, Housing and Communities.

- 44 The report concluded that the Council's financial situation is a result, in part of such poor governance arrangements. These shortcomings "seriously

impaired" the council's ability to make "good, well-evidenced, reasonable and lawful decisions subject to the proper scrutiny," and a comprehensive review of the council's governance arrangements is "urgently required," the report said.

- 45 Essex finds that the reports given to members significantly lacked information, and there was evidence to suggest that the lack of information and clarity provided in reports "reflects – at least in some cases – a conscious choice by senior officers".

"In most authorities the treasury management strategy is a routine document, but within Thurrock Council it has been the document which gave the s151 Officer unprecedented freedom to place hundreds of millions of pounds of investments without meaningful oversight."

- 46 This arrangement is "highly unusual" among local authorities – a point that should have been made clear to members from the outset, but which was not, the report adds.

- 47 Essex County Council have made a total of nine recommendations, including to expand the County Council's powers to allow it to make appointment and dismissals of senior positions.

- 48 The report also recommends that the Secretary of state guidance to "strengthen the role of the three statutory officers, requiring them to work together, and in an integrated way, to maintain the integrity of the governance arrangements and the control environment of their authority". Additionally, it called on the Government to consider making legislation to "strengthen and clarify the role of the Monitoring Officer and the head of the paid service".

Background Papers:

- Report to all Elected Members of Woking Borough Council under Section 114 (3) of the Local Government Finance Act 1988 [S114 Notice Final 070623 .pdf \(woking.gov.uk\)](#)
- Local Government Association Model Councillor Code of Conduct Survey 2023 [Model Councillor Code of Conduct Survey 2023 | Local Government Association](#)
- Sandwell Commissioners Report June 2023 [Sandwell Metropolitan Borough Council: Commissioners' third report - GOV.UK \(www.gov.uk\)](#)
- Thurrock Council: Best Value Inspection report [Thurrock Council: Best Value Inspection report - GOV.UK \(www.gov.uk\)](#)

Other useful documents

None

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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

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