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**Report of Helen Bradley, 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 September 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 the recommendations it wishes to make arising out of the contents 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.

## **Chair of the Committee on Standards in Public Life**

- 5 On the 17<sup>th</sup> October 2023, to mark the end of his term as Chair of the Committee on Standards in Public Life, Lord Evans delivered a speech at the Institute for Government.
- 6 This speech made reference to the Committee on Standards in Public Life's previous report on Local Government Ethical Standards in 2019. It also made reference to the government's response to the report and is attached at Appendix 2 for information. The Committee will be updated as to the appointment of the new Chair to the Committee at a future meeting.

## **Bristol City Council reviewing complaints procedure following lack of upheld complaints**

- 7 A group of Bristol residents issued a letter of complaint to the Values and Ethics Sub-Committee of Bristol City Council regarding its procedure for councillor complaints.
- 8 According to the letter, which was presented to the Values and Ethics Sub-Committee on the 9<sup>th</sup> October 2023, no complaint against a councillor made within the last six years has been upheld. The residents believed that Bristol City Council's code of conduct complaints process was a "*systemic failure*".
- 9 The letter contained many other accusations, allegations, and concerns, set out in brief below:
  - (a) The residents were concerned about the amount of power vested in the Monitoring Officer within this particular process – the lack of transparency created a "*closed system*".
  - (b) There was no information given regarding how Independent Persons are appointed, or how much information these people are given to facilitate their understanding of particular complaints.
  - (c) A revised complaints procedure was proposed by the Council, but this procedure contained what the letter calls a "*gagging order*" for complainants, preventing them from going to the press with details of their complaints.

- (d) A “*culture of covertness*” had arisen around the complaints procedure, with “*apparent obfuscation*” employed.
  - (e) Complaints data was not published, meaning that the Values and Ethics Subcommittee – in the complainants’ opinions – did not have “*sufficient information to make judgments, question process, and scrutinise decisions.*”
- 10 Complainants felt they were made to feel like “*a problem and a pain*” following their complaint, with “*little or no empathy shown or credibility given to our complaints*”. Resulting from this, they were unsure of “*how the public are meant to have trust in those that govern and run our city*”.
- 11 The Bristol City Council constitution currently provides that:
- (a) A13.03(c) “*The Monitoring Officer will contribute to the promotion and maintenance of high standards of conduct through provision of support to the Audit Committee and the Audit Value and Ethics sub-committee in delivering its responsibilities for standards.*”
  - (b) A13.03(e) “*The Monitoring Officer will conduct investigations or take other action as he sees fit into alleged breaches of the Members’ Code of Conduct.*”
- 12 The Council adopted a complaints procedure in 2012, which provides that the Monitoring Officer will “*receive all complaints*” and decide how each complaint should be resolved (whether through taking no further action, taking other action, or making a referral for investigation).
- 13 The complaints procedure also states that the Monitoring Officer shall “*report back to the Audit Committee quarterly regarding complaints (anonymised) and their resolution/decision*”. These quarterly reports are received by the Ethics and Values Subcommittee. The reports examine each complaint briefly and include, with no other relevant information:
- (a) A one-sentence description of the complaint.
  - (b) The date of the complaint
  - (c) A brief description of the resolution method.
- 14 In response to the letter, the Council’s Values and Ethics Sub-Committee decided to set up a one-meeting working group of Councillors supported by the Monitoring Officer and Legal and Democratic Services to review the procedure and bring a revised procedure to a future meeting of the sub-committee.

## **Birmingham City Council issues two S. 114 Notices – External Audit details “*strained*” Member-Officer relations**

- 15 On the 5<sup>th</sup> September 2023, Birmingham City Council issued a Section 114 notice following – primarily – the accrual of substantial equal pay liabilities. All other potential options were, according to the report, exhausted in the lead-up to this.
- 16 A Section 114 notice is issued by the Chief Financial Officer of a Council. It 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."*
- 17 A second Section 114 notice, alongside a Section 5 notice, was issued on the 21<sup>st</sup> of September 2023. According to the Monitoring Officer, this occurred following Birmingham City Council’s failure to *"secure a decision relating to the implementation of a job evaluation programme"*.
- 18 A Section 5 notice, under the Local Government and Housing Act 1989, is a report made by the Monitoring Officer when the Monitoring Officer believes that a Council is about to engage in maladministration or otherwise contravene the law.
- 19 At a meeting on the 12<sup>th</sup> October, Birmingham City Council (following statutory recommendations from external auditors Grant Thornton LLP) agreed to commission an independent review of how it considers legal advice and whether its Monitoring Officer’s legal advice is appropriately considered.
- 20 This agreement followed an initial report on the 29<sup>th</sup> September 2023 by the external auditors Grant Thornton LLP. They stated, among other things, that *"there is evidence of a growing mistrust between certain officers and members"*, with relationships between senior officers and key members becoming *"strained"*.
- 21 Senior officers have indicated that they *"have not always felt supported by senior politicians."* Senior politicians have also asked for statutory officers to be subject to investigation *"for providing a record of some meetings to external auditors"* despite the fact that the officers were legally obliged to do so.
- 22 In one particular incident, the Monitoring Officer was placed under investigation in relation to the *"provision of legal advice"* despite the fact that – as far as the auditors are aware - the Members who ordered the investigation had no credible basis to believe that the legal advice that the Monitoring Officer gave was incorrect.

- 23 The report by Grant Thornton LLP stated that it is *“essential that the Council has appropriate governance arrangements in place to ensure that officers are able to fulfil their functions without concern as to their position. The Council has confirmed to us that it has appropriate processes in place to safeguard its staff”*.
- 24 While the report did not make any particular recommendations in relation to officers, Grant Thornton LLP will *“continue to monitor whether officers are treated fairly.”*

### **Second commissioners’ report issued on Thurrock Council**

- 25 Thurrock Council, in December 2022, issued a Section 114 notice. On the 5<sup>th</sup> October 2023, commissioners currently monitoring the Council stated that there are *“tough choices ahead”* which officers and members must be ready to face. Despite this, the commissioners believe they have *“cause for cautious optimism”*.
- 26 This followed a ‘Best Value Inspection’ by Essex County Council into Thurrock Council (elaborated on in the September report to this Standards Committee) which spoke of a *“dereliction in political and managerial leadership”*.
- 27 A particular area of concern was Thurrock Council’s *“poor organisational culture [...] where challenge, transparency, openness and collaboration were not routinely welcomed”*. This was combined with a culture of poor internal and external communication. In the Inspectors’ report, they note a *“marked improvement”* in internal communications.
- 28 External communications *“remain weak and underdeveloped”*, though Thurrock Council recognises this and is making active attempts to improve it. However, one specific area of concern for the Commissioners is the *“severely damaged”* trust between Thurrock Council and the local residents – more work must be done to rebuild that trust.
- 29 Another issue was Thurrock Council’s *“embryonic”* approach to cultural change, which they suggested could be improved by the creation of a corporate plan involving *“a statement of its values and supporting behaviours supported by employee satisfaction surveys, residential engagement, and individual and organisational performance and accountability”*.
- 30 Overall, while this may be a good start, *“more progress is required to ensure that governance, scrutiny, performance management, and audit functions operate as we would expect”*.

## Research on Monitoring Officers published by Local Government Information Unit

- 31 The Local Government Information Unit, a charity that conducts research into the functions of local government across the world, have completed and published research into the role of the monitoring officer, which they call an *“essential position for ensuring high-quality legal governance of councils and for ensuring compliance with codes of conduct”*.
- 32 The research involved interviews with ten with ten monitoring officers across the UK and a number of workshops and roundtable events. The report sets out the challenges faced by monitoring officers in relation to their status/position within their authorities and resource constraints. Of particular relevance to the committee are the findings in relation to the Standards regime:
- (a) A *“combination of reduced resources and limited powers to enforce compliance with codes of conduct”* has led to *“a sense that there is a growing degradation in behaviour and respect for institutional governance in politics more generally”*.
  - (b) If not supported by a *“robust standards and sanctions regime, monitoring officers often find themselves in difficult situations whereby they are exposed to personal intimidation or other forms of unprofessional behaviour [...] Many report stress and absence from work while some have even left the sector altogether as a consequence of poor behaviour that has gone unchecked”*.
  - (c) *“monitoring officers feel that the lack of clout in the available sanctions has fed a culture of disrespect and contempt for the rules and institutional frameworks [...] some councillors see it as a badge of honour to have been through a grievance process [...] it also undermines trust among the public, especially those who have made complaints”*
- 33 The report makes a series of recommendations including one stating that the government should *“review and strengthen the standards regime and powers of sanction so that statutory officers can address bad behaviour.”*
- 34 The research concluded that good governance must be a *“central component of local government, which is defended, respected, and, crucially, given the resources to be carried out effectively”*.

## Background papers

- [Upholding standards in public life: keynote speech by Lord Evans - GOV.UK \(www.gov.uk\)](#)
- [Bristol City Council – Values and Ethics Subcommittee – Letter from Residents on Pages 39 and 40. Bristol City Council - Complaints Procedure \[2012\]](#)
- [Bristol City Council - Proposed Revised Complaints Procedure \[2023\]](#)
- [Councillor complaints procedure at Bristol City Council to be reviewed - BBC News](#)
- [Section 114 notice | Birmingham City Council](#)
- [Supplementary section 114 notice | Birmingham City Council](#)
- [External Audit 2020-21 to 2023-24 | Birmingham City Council](#)
- [Office for Local Government: Understanding and supporting local government performance - GOV.UK \(www.gov.uk\)](#)
- [Office for Local Government: next steps and new draft metrics \(publishing.service.gov.uk\)](#)
- [Thurrock Council: Commissioners' second report - GOV.UK \(www.gov.uk\)](#)
- [The-Changing-Role-of-the-Monitoring-Officer.pdf \(lgiu.org\)](#)

## Other useful documents

None.

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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.



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**Appendix 2: Upholding standards in public life: keynote speech  
by Lord Evans**

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