



**Report of Helen Bradley, Director 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 7 June 2024.

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 contents of the report.

Background

- 4 As agreed by the Committee on 07 June 2024, as part of the Annual Work Programme, this is a standing agenda item with a quarterly update to the Committee.

Chartered Institute of Public Finance and Accountancy issue series of recommendations to improve governance standards

- 5 On 25 March 2024, the Committee on Standards in Public Life (the Committee) issued an open consultation: ‘accountability within public bodies – acting on early warning signs’. On 12 June 2024, in response to this consultation, the Chartered Institute of Public Finance and Accountancy (CIPFA) published a series of recommendations aimed at improving governance standards and support mechanisms in the public sector.
- 6 CIPFA discussed the governance structure of local authorities in detail. It highlighted the “*dysfunctional relationships*” which may exist between senior officers and elected members, noting that some local authorities have experienced a “*breakdown in trust between key people at senior levels*”. In particular, CIPFA stated that key officers such as the monitoring officer or chief financial officer do not always have the seniority needed to make their voices heard.
- 7 They made heavy reference in their recommendations to previous guidance that has already been issued whether by themselves or another body. This included both 2016 guidance from CIPFA on delivering good governance in local government and 2019 report from the Committee.
- 8 CIPFA made a number of suggestions in relation to strengthening the culture of public bodies. They recommended senior officers and elected members are offered guidance and training in their roles, and they emphasised the importance of a “*robust standards regime [...] to reinforce the expectations in the Nolan principles and codes of conduct*”.

Investigation into comments by Warwickshire councillors on special educational needs finds no breach in code of conduct

- 9 On 13 June 2024, a code of conduct investigation into comments made by three Warwickshire County Council members regarding children with special educational needs concluded. The investigation found that there was no breach of the code of conduct in relation to the members’ comments.
- 10 Councillor Brian Hammersley made numerous comments during a scrutiny committee meeting of the Council, including asking, “*Where were they in the past when I was at school?*” and an assertion that schools should “*go back to some of those ways they dealt with them*”. Councillor

Jeff Morgan also questioned whether some children undergoing assessments were “*just really badly behaved*” and require “*some sort of strict correction*”.

- 11 The investigating officer found that Cllr Hammersley and Cllr Morgan’s comments were “*disrespectful*”, “*did not champion the needs of the parents and families of children with Special Educational Needs and Disabilities*”, and “*have caused reputational damage to the Councillor and the Council*”.
- 12 In both of these cases, however, the investigating officer noted the enhanced protection that Article 10 of the European Convention on Human Rights afforded to councillors’ speech. They therefore found that there was no breach of the code of conduct.
- 13 The monitoring officer also recommended in the two decision notices that the Chief Executive should consider how councillors can ensure that their language is respectful and sensitive to the matter concerned when engaging in debates at scrutiny and other committee meetings.
- 14 In relation to the third Councillor under investigation, it was noted that Councillor Clare Golby’s comments were of a milder tone than her fellow Councillors. The investigating officer took the view that Cllr Golby’s statements and questions were not disrespectful, did not evidence a failure to champion the needs of the whole community, and did not cause reputational damage. They could also find no evidence to demonstrate that Cllr Golby bullied, harassed, or unlawfully discriminated against anyone. The investigating officer added that even if their findings were different, then Cllr Golby would have also attracted protection under Article 10.

National Association for Local Councils critiques standards regime following consultation

- 15 On 17 June 2024, the National Association for Local Councils (NALC) submitted a response to the consultation ‘accountability within public bodies – acting on early warning signs’ by the Committee on Standards in Public Life. Their submission focused primarily on the current national standards regime and criticised it heavily.
- 16 NALC’s submission stated that “*the current standards regime not only lacks effective sanctions, but in many cases the 'regulators' (i.e. monitoring officers and standards committees) lack the organisational capacity to promote, monitor and maintain ethical standards. In short, the current regime needs more teeth.*”
- 17 It also emphasised the growing lack of confidence and frustration among councils regarding the effectiveness of the regime in terms of changing

the “*actions or attitudes*” of individuals including councillors, council officers, and members of the public.

- 18 In order to help solve these issues, NALC called for more training for both councillors and council officers on the standards regime and for the government to invest more in “*the improvement agenda at local council level*”, noting that the Civility and Respect Project does not receive any central government funding. It also stated that “*the opportunity should be found to achieve additional capacity and economies of scale in local standards regimes through the voluntary pooling of resources within county areas by principal authorities*”.
- 19 NALC also expressed its firm belief that the new government should implement all key recommendations found within the Committee’s 2019 report on Local Government Ethical Standards.

Tribunal rejects appeal over refusal by district council to disclose all information requested on Code of Conduct review panel hearing

- 20 On 18 June 2024, the First-Tier Tribunal rejected a claim by resident James Mooney against the Information Commissioner. Mr Mooney’s claim related to South Kesteven District Council’s refusal to fulfil part of his Freedom of Information (FOI) request regarding a code of conduct hearing.
- 21 While South Kesteven District Council partially fulfilled Mr Mooney’s FOI request, they withheld some of the information on the grounds of it being personal information of third parties. They relied on Section 40(2) of the Freedom of Information Act 2000 in order to justify their exemption.
- 22 Mr Mooney asked the Council to conduct an internal review of their decision, but this was refused. Mr Mooney therefore made a claim to the Information Commissioner and asked for them to overturn this decision. However, the Information Commissioner upheld the Council’s decision and noted that some of the withheld information related to the personal information of council staff such as their contact details and names.
- 23 Mr Mooney then appealed the Information Commissioner’s decision to the First-Tier Tribunal. Mr Mooney argued that he had a legitimate interest in the information being disclosed due to the Council’s decision to withhold “*placing the life and quality of life of UK citizens at risk which is a criminal offence in violation of safety legislation*”.
- 24 The Tribunal were not able to identify how Mr Mooney had come to this conclusion and found that this “*does not relate at all to the content of the requested information, which is about a complaint made against a Councillor of the council in relation to his conduct.*” The Tribunal found

that disclosure would not be necessary for Mr Mooney's identified legitimate interests and unanimously dismissed his appeal.

Cheshire West and Chester Council member convicted of threatening and abusive language in street towards another councillor

- 25 On 21 June 2024, Councillor Simon Boone of Cheshire West and Chester Council appeared in a magistrates' court facing charges of both assault by beating and use of threatening and abusive language with intent to cause distress. This arose due to an incident in May 2023 regarding a confrontation between Cllr Boone and Councillor Stuart Bingham in the street.
- 26 The incident took place ahead of the local elections in May 2023. Cllr Boone claimed that his fellow councillor was distributing leaflets designed to smear him. Cllr Boone admitted that while Cllr Bingham was out leafletting, Cllr Boone confronted him and used "*slang words*" to describe his opinion of his fellow Councillor. Cllr Bingham also accused the other councillor of assaulting him by shoving him.
- 27 While Cllr Boone was found guilty of using threatening and abusive language with intent to cause distress, he was found not guilty of assault.
- 28 Cllr Boone was ordered to pay a £415 fine plus costs.

Local government professional groups publish Code of Practice for statutory officers

- 29 A Code of Practice for statutory local authority officers has been produced by Lawyers in Local Government (LLG), CIPFA, and Solace. It was published on 16 July 2024 following the draft Code's release in March 2024. Members may recall that a draft Code of Practice was reported on to the Standards Committee in June 2024.
- 30 The Code of Practice provides guidance on best practice and sets expectations for the Head of Paid Service, the Chief Finance Officer, and the Monitoring Officer. These roles are referred to in the Code of Practice as the 'golden triangle'.
- 31 The Code of Practice emphasises the importance of these 'golden triangle' roles and states that when these roles are performed well, the "*postholders can leave an authority with a lasting, inspiring legacy*". However, it also asserts that if the 'golden triangle' does not "*operate effectively as a team [...] governance and decision making suffers and the consequences for the local community can be severe*".

32 The Code of Practice has created ‘seven standards of the golden triangle’ for postholders to follow and given detailed, direct guidance on how postholders might follow each individual standard.

33 A copy of the Code can be found at Appendix 2.

Background papers

[Accountability within Public Bodies Open Consultation - GOV.UK \(www.gov.uk\)](http://www.gov.uk)

[Boost local government accountability through governance, ethical, and risk management improvements: CIPFA \(localgovernmentlawyer.co.uk\)](http://localgovernmentlawyer.co.uk)

[Accountability within public bodies – acting on early warning signs \(CIPFA\)](http://localgovernmentlawyer.co.uk)

[Investigation into comments by Warwickshire councillors on special educational needs finds no breach in code of conduct \(localgovernmentlawyer.co.uk\)](http://localgovernmentlawyer.co.uk)

[Warwickshire County Council Decision Notice for Brian Hammersley](http://localgovernmentlawyer.co.uk)

[Warwickshire County Council Decision Notice for Jeff Morgan](http://localgovernmentlawyer.co.uk)

[Warwickshire County Council Decision Notice for Clare Golby](http://localgovernmentlawyer.co.uk)

[Standards regime needs more “teeth”, town and parish councils say \(localgovernmentlawyer.co.uk\)](http://localgovernmentlawyer.co.uk)

[NALC Response to Committee Consultation \(nalc.gov.uk\)](http://nalc.gov.uk)

[Tribunal rejects appeal over refusal by district council to disclose all information requested on Code of Conduct review panel hearing \(localgovernmentlawyer.co.uk\)](http://localgovernmentlawyer.co.uk)

[Councillor convicted of threatening and abusive language in street towards another councillor \(localgovernmentlawyer.co.uk\)](http://localgovernmentlawyer.co.uk)

[Local government professional groups publish Code of Practice for statutory officers \(localgovernmentlawyer.co.uk\)](http://localgovernmentlawyer.co.uk)

[Code of Practice on Good Governance for Local Authority Statutory Officers \(CIPFA, LLG, Solace\)](http://localgovernmentlawyer.co.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.

Appendix 2: Code of Practice on Good Governance for Local Authority Statutory Officers

The Code of Practice can be found via the link below:

<https://llg.org.uk/media/p0wfryk2/code-of-practice-on-good-governance-for-local-authority-statutory-officers.pdf>