

Standards Committee

7 June 2018

Standards Update



Report of Helen Lynch, Head of Legal and Democratic Services and Monitoring Officer

Purpose of the Report

1. To inform Members of the 'national picture' on Standards issues affecting Local Government.

Background

2. This report is for information, to update the Committee on national developments, consultations and court cases which relate to the work of the Committee. As agreed by the Committee in December 2017, in the annual work programme this will be a standing agenda item with a quarterly update to the Committee.

Consultations and Reports

Committee on Standards in Public Life: Private Sector Providers of Public Services

3. This is not an existing consultation, but the CSPL has called for a consultation on improving ethical standards in third party providers of public services, including extending the Freedom of Information regime to them.
4. The CSPL report, *The Continuing Importance of Ethical Standards for Public Service Providers*, refers to a previous report in 2014 and the Committee says that disappointingly little progress has been made. In the light of, especially, the Carillion collapse, the Committee have called for the Government to confirm their expectations of ethical standards among those who deliver services with public money.
5. The report may be accessed at:

<https://www.gov.uk/government/publications/the-continuing-importance-of-ethical-standards-for-public-service-providers>

Committee on Standards in Public Life: Review of Local Government Ethical Standards

6. The CSPL's consultation exercise was reported to the last meeting of the Standards Committee and the Council's proposed response subsequently circulated to the Committee. That response was despatched on 18 May 2018 and is appended to this report at **Appendix 2**. The outcome of the consultation will be reported to the Committee in due course.

Communities and Local Government Committee: Effectiveness of Local Authority Overview and Scrutiny Committees: Government Response

7. The Select Committee Report was reported to the last meeting of this Committee. The Government has now responded, disagreeing with many of the Select Committee's recommendations and particularly its call for a statutory scrutiny officer. It does say that new guidance on scrutiny committees will be published later this year.
8. The Government Response may be accessed at:

<https://www.gov.uk/government/publications/local-authority-overview-and-scrutiny-government-response-to-select-committee-report>

Case Reports

Sandwell Metropolitan Borough Council

9. Councillor Mahboob Hussain (reports *passim*) has been ordered to pay Sandwell MBC's £140,000 costs of defending his unsuccessful judicial review action against it.

Ledbury Town Council

10. In *Harvey v Ledbury Town Council* 2018 EWHC 1151 (Admin), Cllr. Harvey sought judicial review of a number of restrictions placed upon her by the Town Council following a complaint about her conduct by officers of the Town Council. Her case was essentially that, because Code of Conduct matters were within the remit of the Monitoring Officer of the principal Council (Herefordshire County Council), the Town Council had no authority to place such restrictions on her.

11. The behaviour of Cllr. Harvey was dealt with in 2 forums. First, by a Grievance Panel of the Town Council, which considered allegations of bullying by the clerk and deputy clerk, found that those allegations were made out, and decided to impose restrictions upon Cllr. Harvey, mainly in the form of prohibiting her from sitting on any of the Town Council's committees or representing them on outside bodies. Secondly, by the County Council's Monitoring Officer under the Code of Conduct provisions, who eventually decided that no breach of the Code had occurred.

12. Essentially Cllr. Harvey's case was that the Town Council's Grievance Procedure and the County Council's Code Procedure covered the same ground. One could not cherry pick a particular process, or duplicate proceedings on the same issues. She also said that the Town Council did not have the power to impose the sanctions that it did. The Town Council's case was that the two Procedures served different roles and functions. One was concerned with employee protection. The other was concerned with standards in public life. Both sides cited the *Hussain* case in support.

13. The judge found for Cllr. Harvey. She also found that the decisions of the Grievance Panel had been both substantively and procedurally unfair.

Thanet District Council

14. The Information Commissioner is prosecuting a councillor under section 77 of the Freedom of Information Act 2000, which concerns the offence of altering records with intent to prevent disclosure. The case is due to be heard in September.

Recommendation

15. Members are asked to note the report and request that Officers monitor the progress of the matters referred to and keep the Committee updated.

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Appendix 1: Implications

Finance - None

Staffing - None

Risk - None

Equality and Diversity / Public Sector Equality Duty - None

Accommodation - None

Crime and Disorder - None

Human Rights - None

Consultation - None

Procurement - None

Disability Issues - None

Legal Implications - The Council has a duty under s. 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. Keeping Members aware of the national picture on Standards issues is expected to facilitate compliance with this duty.