

Report to: Standards Committee

Date of meeting: 24 April 2018

By: Assistant Chief Executive

Title: Consultation on the Committee on Standards in Public Life Local Government Ethical Standards

Purpose: To consider the proposed response to the Committee on Standards in Public Life Local Government stakeholder consultation

RECOMMENDATIONS

The Standards Committee is recommended to approve the County Council's response to the Committee on Standards in Public Life consultation on Local Government Ethical Standards.

1 Background Information

1.1 The Committee on Standards in Public Life has launched a review of local government ethical standards as it considers that "robust standards arrangements are needed to safeguard local democracy, maintain high standards of conduct, and to protect ethical practice in local government."

1.2 As part of this review, the Committee is holding a public stakeholder consultation which closes on Friday 18 May 2018. It has invited views from all levels of local government and other stakeholders. The terms of reference for the review are to:

- a) examine the structures, processes and practices in local government in England for:
 - maintaining codes of conduct for local Councillors;
 - investigating alleged breaches fairly and with due process;
 - enforcing codes and imposing sanctions for misconduct;
 - declaring interests and managing conflicts of interest;
 - whistleblowing
- b) assess whether the existing structures, processes and practices are conducive to high standards of conduct in local Government;
- c) make any recommendations for how they can be improved; and
- d) note any evidence of intimidation of Councillors, and make recommendations for any measures that could be put in place to prevent and address such intimidation.

2 East Sussex County Council response

2.1 The proposed response to the consultation questions are as follows.

a) Are the existing structures, processes and practices in place working to ensure high standards of conduct by local councillors?

Proposed response: Yes. The table below shows the number of complaints considered by the Assessment Sub Committee over the past 7 years. It is considered that the standards of conduct among Members and co-opted members of the Council remain high and maintaining good standards is taken seriously.

Year	No. of complaints considered
2017/18	0
2016/17	1
2015/16	1
2014/15	3
2013/14	1
2012/13	1
2011/12	1

b) What, if any, are the most significant gaps in the current ethical standards regime for local government?

Proposed response: The current arrangements are understood and generally adhered to by county councillors. No gaps have been identified in the current ethical standards.

Codes of conduct

c) Are local authority adopted codes of conduct for councillors clear and easily understood? Do the codes cover an appropriate range of behaviours? What examples of good practice, including induction processes, exist?

Proposed response: The current Code of Conduct for councillors is understood by councillors and covers the appropriate areas. Following the last county Council elections in May 2017, training was given to members on the Code of Conduct, including register of interests, personal interests, disclosable pecuniary interests and gifts and hospitality at the Induction Day. All councillors have signed a declaration undertaking to comply with the County Council's Code of Conduct for Members and have been provided with/have access to the Code.

d) A local authority has a statutory duty to ensure that its adopted code of conduct for councillors is consistent with the Seven Principles of Public Life and that it includes appropriate provision (as decided by the local authority) for registering and declaring councillors' interests. Are these requirements appropriate as they stand? If not, please say why.

Proposed response: The Council's Code of Conduct is based on the seven principles of public life and the principles are attached as an appendix to the Code. It is considered that current arrangements for registering and declaring interests are appropriate. Having completed the register of interests form following election, councillors are regularly reminded of the need to update their form when necessary. In addition, there is an item on each meeting agenda under which councillors are asked to declare any interest they have on any matters on the agenda.

Investigations and decisions on allegations

e) Are allegations of councillor misconduct investigated and decided fairly and with due process?

i) What processes do local authorities have in place for investigating and deciding upon allegations? Do these processes meet requirements for due process? Should any additional safeguards be put in place to ensure due process?

Proposed response: The current arrangements are considered to work well and those who have been subject of an allegation that they may have breached the Code have not had cause to complain about the fairness of the process. The process we follow is described here and it is considered that no additional safeguards are required:

An Assessment Sub-Committee, formed of three members of the Standards Committee, conducts an initial assessment of any written allegation that a councillor has breached the Code of Conduct. The Sub-Committee may then either a) refer the allegation to the Monitoring Officer for investigation; or b) refer the allegation to the Monitoring Officer for other action; or c) decide that no action should be taken in respect of the allegation. If the matter is referred to the Monitoring Officer for investigation then an investigator would be appointed to undertake the investigation and submit a report back to the Monitoring Officer and the Standards Committee with their findings.

ii) Is the current requirement that the views of an Independent Person must be sought and taken into account before deciding on an allegation sufficient to ensure the objectivity and fairness of the decision process? Should this requirement be strengthened? If so, how?

Proposed response: The current requirement works well and is effective in ensuring a proportionate and fair approach to the investigation of any allegation. In East Sussex, the Independent Person is made aware of all allegations of a breach of the Code of Conduct and is informed of decisions of the Assessment Sub-Committee. The views of the Independent Person are further sought and taken into account before a final decision is taken on a response. The views of the Independent Person are valued. There is no need to strengthen the current requirement.

iii) Monitoring Officers are often involved in the process of investigating and deciding upon code breaches. Could Monitoring Officers be subject to conflicts of interest or undue pressure when doing so? How could Monitoring Officers be protected from this risk?

Proposed response: Because the initial assessment of any allegation is carried out by an Assessment sub Committee (comprising three councillors), we have never experienced a situation where the Monitoring Officer has been subject to a conflict of interest or undue pressure. However, such conflicts and pressures are a theoretical possibility. If an investigation is warranted, the Monitoring Officer appoints an independent investigator (who is not employed by the Council).

These measures virtually eliminate any risk of the Monitoring officer being subject to conflicts of interest or undue pressure. It is not apparent what further measures are needed or would be effective.

Sanctions

f) Are existing sanctions for councillor misconduct sufficient?

i) What sanctions do local authorities use when councillors are found to have breached the code of conduct? Are these sanctions sufficient to deter breaches and, where relevant, to enforce compliance?

Proposed response: The most common sanctions used in East Sussex have included:

- Recommendation to undertake training
- Recommendation to participate in a conciliation exercise
- Request to issue an apology.

In most cases, councillors in East Sussex take the lessons arising from the assessment or investigation of an alleged breach of the local code seriously.

We do consider that the Council has insufficient power to take action in respect of a serious breach of the local Code.

ii) Should local authorities be given the ability to use additional sanctions? If so, what should these be?

Proposed response: Yes. The local authority should have the ability to suspend a councillor for a significant breach of the Code of Conduct.

Declaring interests and conflicts of interest

g) Are existing arrangements to declare councillors' interests and manage conflicts of interest satisfactory?

i) A local councillor is under a legal duty to register any pecuniary interests (or those of their spouse or partner), and cannot participate in discussion or votes that engage a disclosable pecuniary interest, nor take any further steps in relation to that matter, although local authorities can grant dispensations under certain circumstances. Are these statutory duties appropriate as they stand?

Proposed response: Yes

ii) What arrangements do local authorities have in place to declare councillors' interests, and manage conflicts of interest that go beyond the statutory requirements? Are these satisfactory?

Proposed response: The register of interest form for each councillor is published on the Council's website. As previously mentioned, councillors are asked at each meeting of any interest they have in any item on the agenda they wish to declare. Any declarations made at this point are recorded on the Council's website in addition to being recorded in the minutes. Councillors are aware of the importance of declaring interests and if they are unsure will seek advice from officers in advance of a meeting. The current arrangements are satisfactory.

Whistleblowing

h) What arrangements are in place for whistleblowing, by the public, councillors, and officials? Are these satisfactory?

Proposed response: The County Council has a Whistleblowing Policy that applies to all employees, councillors, contractors and staff working for the Council such as agency staff, consultants and builders. The policy is available via the web site. With regard to members of the public, the corporate complaints policy is published on the Council's website together with the contact details for the Team. There are established arrangements for dealing with complaints and whistleblowing, and are considered satisfactory.

Improving standards

i) What steps could *local authorities* take to improve local government ethical standards?

Proposed response: Local authorities have a role in maintaining ethical standards and a key way of doing this is by ensuring that councillors are aware of their responsibilities and duties. This can be achieved by providing training, regular reminders to councillors and ensuring that councillors are aware who to contact for advice.

j) What steps could *central government* take to improve local government ethical standards?

Proposed response: None. From a local perspective, the current approach is largely understood and has resulted in a relatively small number of allegations.

Intimidation of local councillors

k) What is the nature, scale, and extent of intimidation towards local councillors? What measures could be put in place to prevent and address this intimidation?

Proposed response: There have been no reported cases of intimidation towards East Sussex County Councillors.

3 Conclusion and reasons for the recommendations

3.1 The Standards Committee is recommended to approve the response to the Committee for Standards in Public Life consultation on local government ethical standards as set out in paragraph 2.1 of this report.

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Local Members: All

Background Documents: Review of Local Government Ethical Standards: Stakeholder Consultation