

Report to:

STANDARDS COMMITTEE

Relevant Officer:

Mark Towers, Director of Governance and Partnerships / Monitoring Officer

Date of Meeting:

19 April 2022

GOVERNMENT RESPONSE TO THE COMMITTEE ON STANDARDS IN PUBLIC LIFE REPORT

1.0 Purpose of the report:

1.1 To consider the Government's response to the report of the Committee on Standards in Public Life's review of local government ethical standards.

2.0 Recommendation(s):

2.1 To note the Government's response.

3.0 Reasons for recommendation(s):

3.1 The Committee considered the report and recommendations to Government from the Committee on Standards in Public Life (CSPL) in September 2019 and this is the Government's response to that report.

3.2a Is the recommendation contrary to a plan or strategy adopted or approved by the Council? No

3.2b Is the recommendation in accordance with the Council's approved budget? Yes

3.3 Other alternative options to be considered:

None. This is an item for information.

4.0 Council Priority:

4.1 This report covers all of the Council's priorities.

5.0 Background Information

5.1 On 5th September 2019, this Committee received an update report from the Monitoring Officer on the Committee on Standards in Public Life (CSPL) review of local government ethical standards. This was the first full review since the Localism

Act in 2011. The review produced a report which was submitted by the CSPL to the Prime Minister in January 2019, as it included proposed legislative changes. This report can be accessed at the following link:

<https://www.gov.uk/government/publications/local-government-ethical-standardsreport>

- 5.2 Members will recall the Localism Act 2011 implemented a new process and abolished the previous national body, Standards Board for England. The remaining elements of the previous Standards regime were revoked in July 2012.

Local authorities consequently were given the following duties:

- Duty to promote and maintain high standards of conduct by elected and co-opted members.
- Duty to adopt a Code of Conduct based on Lord Nolan's Principles of Public Life.
- Duty for the local authority to require registration and for members to register and disclose pecuniary interests and such other interests as the local authority may determine.
- Duty to have arrangements in place to investigate allegations and to reach decisions in relation to allegations.
- Duty to appoint at least two Independent Persons whose views must be sought before a decision is reached regarding an allegation of breach of the code.

- 5.3 However, concerns had been raised by the CSPL in various reports following the implementation of the Localism Act 2011, as to whether the sanctions for breach of standards were adequate and that it would therefore be monitoring the implementation of the new local government standards regime. Hence its report being submitted to the Prime Minister.

- 5.4 The CSPL advises the Prime Minister on ethical standards across the whole of public life in England. It monitors and reports on issues relating to the standards of conduct of all public office holders. It is an independent advisory non-departmental public body.

- 5.5 As a reminder the terms of reference for the review were to:

i. 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

ii. Assess whether the existing structures, processes and practices are conducive to high standards of conduct in local government;

- iii. Make any recommendations for how they can be improved;
- iv. 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.

5.5 In formulating a response to this review, a workshop had been held with representatives from Blackpool Council and Fylde Borough Council in 2018 to formulate a joint response outlining the views of both groups and this had been submitted prior to the consultation deadline and shared with Standards Committee members.

5.7 Those Members in attendance at the workshop favoured stronger sanctions being available for Monitoring Officers and Standards Committees to deal with certain areas of misconduct such as bullying and intimidation. Praise was offered for the amount of joint working between Blackpool and Fylde Councils as an example of good practice for other Councils to consider adopting. It was also suggested that there should be a 'model' code of conduct (as existed prior to the Localism Act) to ensure consistency across Councils and also some form of national guidance in relation to registering and declaring interests.

5.8 Members will be aware that the LGA has produced a Model Code of Conduct and recommendations regarding this are the subject of another report on this agenda.

5.9 The Government's response published in March 2022 to the CSPL report is attached in full at Appendix 5(a). In summary the key points from the response are as follows:

(Numbering refers to the CSPL's recommendation numbers and corresponds with Government's response to the Recommendations at Appendix 5(a)).

Recommendation 1 - The recommendation for a model code has been actioned and published by the LGA (*A proposed updated Code of Conduct has been produced based on the Model Code and is subject to a separate agenda item*).

Recommendation 2 - The Government agrees with the principle not to require public disclosure of home addresses for candidates and councillors and will engage with interested parties to ensure such disclosure is not required (whilst noting that it is important to register internally with MO's). See Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012. (*This option applies for Blackpool Councillors already, on request to the Monitoring Officer*).

Recommendation 3 - Creating a presumption that a councillor is acting in an official capacity including on publicly accessible social media should be dealt with by use of the code of conduct recognising the boundary between public and private life. No amendment to s27(2) Localism Act 2011

Recommendation 4 - Whilst keeping under review, the Government has no immediate plans to legislate for the code of conduct to apply when a councillor claims to act or gives the impression as acting in their capacity.

Recommendation 5 - Whilst keeping under review, the Government has no immediate plans to amend the Relevant Authorities (Disclosable Pecuniary Interests)

Regulations 2012 to include other interests not currently specified. *(These are currently in the Blackpool Code of Conduct and the proposed updated version).*

Recommendation 6 - It is for local authorities to set gifts and hospitality registration requirements. The Government sees merit in best practice guidance and agrees that the register should be publicly available. *(This is publicly available for Blackpool's councillors on the Council's website).*

Recommendation 7 - Whilst keeping under review, the Government has no immediate plans to repeal s31 Localism Act in respect of participating in discussion or voting at a meeting where an interest, whether registered or not, exists and the interest is reasonably regarded as significant.

Recommendation 8 - The Government does not accept that Independent Persons should be appointed for a fixed term of two years, renewable once, on the basis it would be unworkable. *(The Independent Persons for Blackpool and Fylde Councils are currently part way through a 3 year term of office expiring in February 2024).*

Recommendation 9 - The Government does not agree that the Local Government Transparency Code should include decisions of the Independent Person. It does accept there is merit to the substantive policy suggestion but cautions it depends on the circumstances. *(Under the Elected Member Complaints Handling Procedure agreed in December 2020, then the views of the Independent Person will be made public following a determination by the Standards Committee in the form of a Decision Notice)*

5.4 **Recommendations 10, 12, 13, 14 and 16.** These recommendations were taken all together in the Government's response and covered sanctions, power to establish decision making standards committees, right of appeal to the Local Government Ombudsman and its power to investigate, together with 6-month suspension powers.

The Government has affirmed that the lack of suspension sanction was a deliberate policy decision by the coalition government at the time of the Localism Act, stating that the Standards Board had a 'chilling effect on free speech' and that it would be 'undesirable to have a Government quango to police the free speech of councillors'.

The Government's position is that councillors are 'ultimately held to account via the ballot box' and that the Government has already recommended that every political party 'establish their own code of conduct for party members including elected representatives'.

However, the Government will engage with sector representatives to 'seek views on options to strengthen sanctions to address breaches of the code which fall below the bar of criminal activity and related sanctions but involve serious incidents of bullying and harassment or disruptive behaviour'. (This was a key part of the consultation response by Blackpool and Fylde Borough Councils).

- 5.5 **Recommendation 11** - The Government agrees in principle to the provision of legal indemnity to an Independent Person if their views or advice are disclosed but does not see the need to legislate for this, rather endorsing local authorities who already provide it. *(This is covered for the 3 appointed Independent Persons under Blackpool Council's insurance indemnity).*
- Recommendation 15** - The Government does not believe that there is a requirement to prescribe to local authorities the form and content of Standard Committee annual reports which are better addressed through the sector adopting as best practice a regular pattern of annual reporting by Standards Committees. *(An annual report is produced for this committee which includes the areas specified)*
- Recommendation 17** - The Government will consider further, barring councillors from council premises but notes these are thought to be extremely rare occasions.
- Recommendation 18** - The Government does not agree that criminal offences in the Localism Act 2011 relating to Disclosable Pecuniary Interests should be abolished.
- Recommendation 20 and 21** - relates to Boroughs with Parish Councils.
- Recommendation 22** - The Government agrees in principle to amend The Local Authorities (Standing Orders) (England) (Amendment) Regulations 2015 to extend disciplinary protections for statutory officers to all disciplinary actions (not just dismissal) and will engage sector representatives of all tiers to seek views on the amendments.
- Recommendation 23** - The Government recommends that local authorities publish their whistleblowing policies and named contact as best practice and the Department for Levelling Up, Housing and Communities will work with Local Government to advance transparency in the sector and support Local Government to solidify transparent policies whilst encourage proactive publication of open data. *(The Council's Whistleblowing Policy is published and has named contacts).*
- Recommendation 24** - The Government is open to further representations on how local accountability can be strengthened and recognises that councillors being listed as prescribed persons for the purposes of the Public Interest Disclosure Act 1998 provides a further check and balance against corruption.

5.6 The Monitoring Officer will speak further on the response of Government at the meeting.

5.7 Does the information submitted include any exempt information? No

5.8 **List of Appendices:**

Appendix 5(a): Government's response to the Committee on Standards in Public Life Report.

6.0 Legal considerations:

6.1 The principal statutory provisions relating to standards of conduct are contained in the Localism Act 2011. S.27(1) of the 2011 Act provides that the Council must promote and maintain high standards of conduct by members and co-opted members of the authority. Paragraphs 7.2 S.27 and s.28 of the 2011 Act require the Council to adopt a Code of Conduct consistent with the Nolan principles of good governance and to appoint at least one Independent Person whose views must be sought and taken into account before the Council makes any decision about the alleged breach of the Code that has been investigated.

7.0 Human Resources considerations:

7.1 There are no direct human resource implications from the recommendations in this item.

8.0 Equalities considerations:

8.1 None.

9.0 Financial considerations:

9.1 There are no financial implications associated with this report.

10.0 Risk management considerations:

10.1 None.

11.0 Ethical considerations:

11.1 None.

12.0 Internal/ External Consultation undertaken:

12.1 None, as this is a document for information.

13.0 Background papers:

13.1 None