

TONBRIDGE & MALLING BOROUGH COUNCIL

JOINT STANDARDS COMMITTEE

11 October 2021

Report of the Monitoring Officer

Part 1- Public

For information

COMMITTEE ON STANDARDS IN PUBLIC LIFE

Summary: This report updates Members on progress in implementing the recommendations set out in the report of the Committee on Standards in Public Life following its review of local government standards.

The report also updates Members of the Joint Committee on the LGA Model Code of Conduct.

1.1 Introduction

- 1.1.1 Members of the Joint Committee may recall that I have previously reported to this Committee on the consultation paper published by the Committee on Standards in Public Life (CSPL) calling for evidence about how local councils are supporting good ethical standards in local government in light of changes over the past ten years.
- 1.1.2 The consultation paper was reported to this Committee on 18 March 2018, together with a proposed response to be made by the Monitoring Officer on behalf of the Joint Committee. The Committee considered that the lack of effective sanctions, such as the ability to suspend a member of the Council, should be identified as a fundamental weakness and should be reinstated. The Committee also felt that the costs burden on the Council of dealing with standards complaints should be set out in the response.
- 1.1.3 Early in 2019 the CSPL published its report, which was considered by this Committee in July 2019.
- 1.1.4 A further report was submitted to the Committee in October 2020 on progress in implementing the best practice recommendations (attached as **Annex 1**).

1.1.5 Earlier in 2021 the CSPL published a follow up to the review of local government ethical standards. The key aspects of that are set out below at paragraph 1.3.

1.2 The CSPL Review – terms of reference

1.2.1 The CSPL commenced the review in 2018 with the following terms of reference:-

- 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.

1.2.2 The review considered all levels of local government in England, including town and parish councils, principal authorities, combined authorities (including Metro Mayors) and the Greater London Authority (including the Mayor of London).

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

1.2.4 The CSPL has an independent Chair. Its membership is comprised of four independent members and a representative from each of the Labour, Conservative, and Liberal Democratic parties.

1.3 The CSPL review – follow up (2021)

1.3.1 The key aspects of the 2021 follow up by the CSPL are set out below:-

- Having carried out a review of actions since the 2019 report, we can give further assurance that the majority of local councils are demonstrating their strong commitment to high standards in public life.
- A key recommendation was that the LGA should develop a non-mandatory, model code of conduct. Following consultation, the LGA has now

published this model code, which CSPL views as a welcome step, helping to set clear standards and avoid confusion for both councillors and members of the public alike. (*This model code is considered in paragraph 1.4 below*).

- As well as making recommendations to government, CSPL identified 15 best practice recommendations to drive high ethical standards in local government.
- In the report, the Committee said it expected all local authorities could and should implement these best practice recommendations. We therefore followed up on progress in 2020, writing to all local authorities in England inviting them to update the Committee. CSPL is of course aware that the COVID-19 pandemic has involved significant additional work for those in local government and we will continue to accept responses. We have received 213 replies to date.
- It was clear from the evidence we received during our review that the vast majority of councillors and officers want to maintain the highest standards of conduct in their own authority. This is also reflected in the positive responses received from local authorities which have replied to date, saying that they have already implemented or are taking steps to implement our best practice recommendations.
- Many of the councils, if they didn't use the precise terms of CSPL's best practice recommendation in their codes of conduct, nonetheless had elements in place and were reviewing their practices to comply fully.
- For example, with respect to the best practice recommendation: *Codes should have prohibitions on bullying and harassment*, many councils said that their codes contained provisions that members should treat others with respect. And with respect to our best practice recommendation: *Councillors should comply with formal standards provisions*, many councils said that whilst not explicitly articulated in their code, such provisions were contained within their protocols and procedures for handling standards complaints.
- Of the 213 local authorities who had responded by December 2020:-
 - 75.6 %** said they have prohibitions on bullying and harassment in their code of conduct or were putting them into place. Other councils we heard from were waiting for finalisation of the LGA model code of conduct to review how best to include prohibitions on bullying and harassment.
 - 51.2 %** said they have provisions in their code of conduct requiring councillors to comply with formal standards investigation. Most of the other councils we heard from said that they were waiting to see what the LGA model code of conduct looked like before they adapted their own codes of conduct to incorporate our best practice.

98.6 % said their code is readily accessible or were making changes to make the code accessible - published and available on council premises.

86.4 % said they update their gifts and hospitality register regularly and have made it readily accessible to the public.

98.6 % said they consulted an Independent Person as to whether to undertake a formal investigation on an allegation.

98.6 % said they had clear guidance on their websites informing members of the public how to make a complaint under the code of conduct.

93.9 % said that their senior offices had arrangements for meeting with political group leaders/whips to discuss standards issues.

- 1.3.2 In its annual report for 2020-21 (published July 2021), the CSPL noted its disappointment that the government had not yet formally responded to the report more than 2 years after its publication.

1.4 Model Code of Conduct

- 1.4.1 A copy of the model code produced by the LGA is attached as **Annex 2**.
- 1.4.2 Since its publication, the Code has been subject to detailed consideration by Kent Secretaries (a Kent-wide group of Monitoring Officers at all Districts plus Medway Council and Kent County Council). A working group of Kent Secretaries has reviewed the Model Code, with a view to establishing whether it would be preferable to adopt the new Model in its entirety or whether it would be better to modify the existing Kent Code to reflect some elements of the Model. In the view of the working group the latter of these options was more appropriate, with the group then working on specific changes to the Kent Code. This work has very recently concluded.
- 1.4.3 It is intended to submit a revised version of the Kent Model Code to the next meeting of the Borough Council's General Purposes Committee (with whom responsibility rests for advising the Borough Council on the adoption of or revisions to its Code) for further consideration.
- 1.4.4 For the awareness of Members of the Joint Committee, a copy of the revised Kent Model Code is attached at **Annex 3**. A separate (revised) version of the Kent Code, tailored for use by Town and Parish Councils, is attached as **Annex 4**. Parish and Town Council representatives on the Joint Committee may wish to take this version to their respective authorities for further consideration.

1.5 Equality Impact Assessment

- 1.5.1 The issues detailed in this paper have a remote or low relevance to the substance of the Equality Act. There is no perceived impact on end users.

1.6 Legal Implications

1.6.1 As set out above.

1.7 Financial and Value for Money Implications

1.7.1 None arising from this report.

1.8 Recommendations

1.8.1 Members are asked to note the contents of the report.

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