

## **Committee on Standards in Public Life – Consultation on Ethical Standards in Local Government**

### **Draft Response of the Standards Committee**

#### Question

- a. Are the existing structures, processes and practices in place working to ensure high standards of conduct by local councillors? If not, please say why.

#### Draft Response

Existing structures, processes and practices are sufficient to manage the day to day conduct of councillors. Group discipline also plays a significant role in ensuring high standards of conduct. However, as outlined below, should a particularly serious breach of the Code of Conduct occur, the actions available to Councils are extremely limited and not sufficient to respond adequately.

#### Question

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

#### Draft Response

The lack of effective sanctions (see below).

Capacity for any independent assessment of the most serious cases beyond the role of the Independent Person. Councillors being responsible for hearing cases against their peers and colleagues can be effective in less serious cases but where serious allegations are being investigated natural justice would be better served through independent consideration of the case. This may avoid any perceptions of personal or political influences affecting the fairness of the hearing.

#### *Codes of conduct*

#### Question

- 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?

Our code of conduct is clear and easily understandable as far as possible given the relatively complex subject matter it is dealing with. The majority of questions raised by councillors relate to what interests need to be declared. Our experience is that councillors take these matters seriously and want to ensure they are making all necessary declarations and, often those that are not required but might be regarded

as good practice. Code of Conduct training is mandatory for all councillors when they take up office and is delivered shortly after an election (including by-elections).

As required, our code follows the Nolan Principles for Public Life which capture the fundamental principles for good ethical standards. In addition Nottingham has added standards relating to safeguarding and mandatory DBS checks and safeguarding training to our code of conduct to support the council's safeguarding agenda and Councillors' role in this. Should any Councillors not have a DBS check or if any risks are identified via the check the Councillor is disbarred from any offices and memberships of committees, etc and outside bodies.

#### Question

- 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

See comments on declaring interests below.

#### *Investigations and decisions on allegations*

#### Question

- 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

Our process for dealing with allegations of misconduct is available on our website. We have a process for managing minor complaints (those not constituting a breach of the code of conduct) where the complaint is investigated by an officer and resolved informally. The number and nature of these minor complaints is reported every six months to the Standards Committee. Where more significant fault is identified this would be escalated to, and dealt with in accordance with, the formal process. The process is designed to be fair, open and transparent and to date we have experienced no issues in operating it.

Where issues could arise is with perceptions of unfairness (whether it exists or not) with Councillors hearing and deciding on sanctions to take against fellow Councillors.

Perceptions that political interests or personal relationships may prejudice the judgement of the Councillors conducting the hearing may result in the hearing not being seen to be fair. While the role of the Independent Person ensures an independent voice is considered as part of the process their role is limited. They only have one voice and have an influencing rather than a decision taking role. For these reasons we have made our comments on the need for an independent body to consider serious allegations of misconduct.

#### Question

- 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 role of the Independent Person ensures there is an independent voice in the consideration of allegations and their consultative role in relation to the subject of allegations and the Monitoring Officer can also help to bring about informal resolution. However, as outlined above, their role is limited and, in the most serious cases, to ensure hearings are and are seen to be objective and fair these should be considered by a body that is independent of the Council concerned.

#### Question

- 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?

There is always the possibility that Monitoring Officers could find themselves in a position where they have a conflict of interest. This can, to some extent, be mitigated by ensuring that they appoint a deputy to act in circumstances where they cannot. As far as undue pressure is concerned, the only realistic protection mechanism would be to bring in a further statutory protection on top of the ones that already exist.

#### *Sanctions*

#### Question

- 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 sanctions currently available to Councils are not sufficient for the most serious cases. Sanctions identified in Nottingham's procedure include withdrawal of office and IT facilities, recommending that the councillor is removed from relevant positions or committees, and public censure at Council. While these may be appropriate in relation to relatively minor breaches of the code they may not provide sufficient deterrent in the most serious cases and are unlikely to be seen as sufficient in the eyes of citizens. Where allegations of serious misconduct (for example, bullying, abusive behaviour etc) are found to be true the sanctions currently available seem an insufficient response.

#### Question

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

#### Proposed Response

Yes – additional sanctions for the most serious cases should include suspension/ withdrawal of allowances, and suspension/ removal from office. It may not be appropriate for a local authority to impose these sanctions on its own members. In these cases an independent body should consider the matter.

#### *Declaring interests and conflicts of interest*

#### Question

- g. Are existing arrangements to declare councillors' interests and manage conflicts of interest satisfactory? If not please say why.
  - 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

Applying the same requirements for registering and publication of Councillors' interests to co-optees can prove problematic. We do not dispute the need for co-opted members to declare interests and not participate in discussions or votes where they have a DPI but we question whether it is necessary for them to have to publish their interests in the same way. Co-optees are usually appointed to one specific committee, often because of their professional occupations. Definitions of pecuniary interests which need to be registered are wide ranging and Council-centric and therefore are unlikely to be relevant to the business the co-optee is involved in and can potentially miss relevant conflicts. Moreover there is the question of whether it is proportionate for an individual who has not stood for public office to publicly record personal information about them and their spouse/ partner, particularly when the

information recorded is largely irrelevant to the business they are involved in. Just requiring co-optees to declare relevant interests publicly at meetings where decisions are being taken and to withdraw from any further participation in that matter would arguably be sufficient.

Question

- 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? If not, please say why.

Proposed Response

Our arrangements comply with the legislative requirements.

*Whistleblowing*

Question

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

Proposed Response

The Council has a whistleblowing procedure which outlines the arrangements in place for dealing with concerns raised.

*Improving standards*

Question

- i. What steps could *local authorities* take to improve local government ethical standards?
- j. What steps could *central government* take to improve local government ethical standards?

Proposed Response

See above.

*Intimidation of local councillors*

Question

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

Proposed Response

To be discussed with Councillors at the meeting of the Standards Committee.