

Report of the City Solicitor

Report to Standards and Conduct Committee

Date 8th March 2019

Subject: Local Government Ethical Standards; A Review by the Committee on Standards in Public Life – Implications for Leeds

Are specific electoral Wards affected? If relevant, name(s) of Ward(s): n/a	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
Are there implications for equality and diversity and cohesion and integration?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
Is the decision eligible for Call-In?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
Does the report contain confidential or exempt information? If relevant, Access to Information Procedure Rule number: n/a Appendix number: n/a	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No

1.0 Purpose of this report

- 1.1** This report provides a commentary on the recent Committee on Standards in Public Life (CSPL) report into Ethical Standards in Local Government. Leeds City Council was one of 5 local authorities visited by CSPL during their work and the resulting report is the first national assessment of the ethical framework introduced by the Localism Act 2011.
- 1.2** This report considers matters raised in the CSPL report and asks the Standards and Conduct Committee to consider amendments to the existing ethical framework arrangements operating at Leeds City Council.

2 Background Information

- 2.1** 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 and promotes the 7 principles of public life.
- 2.2** As part for their work CSPL maintains a longstanding interest in local government standards, and regularly receives correspondence from members of the public expressing views about this issue. The committee undertook a review of local government standards based around a consultation launched in 2018.

3 Main issues

3.1 The Committee launched their findings at an event in Parliament on the 30th January 2019 to which the chair, Cllr Nash and the Deputy Monitoring Officer were invited by the committee's secretariat. The report from the committee is attached at Annex 1 and makes a series of recommendations to the Prime Minister.

3.2 Focussed discussions with 5 local authorities were a key feature of the CSPL's review work; Leeds was one of the 5 authorities asked to participate and an intensive one day visit took place in September 2018. This included interviews with the Leader, the Leader of the Opposition, the Chief Executive, Independent Person, Group Whips, Community representatives, members of this committee and the Deputy Monitoring Officer. Members' attention is drawn to Page 58 of Annex 1 this committee's approach of reporting annually to Full Council is recognised as good practice.

3.3 In his letter to the Prime Minister, the chair of the committee, Lord Evans of Weardale commented that:

"... the vast majority of councillors and officers want to maintain the highest standards of conduct in their own authority. We have, however, identified some specific areas of concern. A minority of councillors engage in bullying or harassment, or other highly disruptive behaviour, and a small number of parish councils give rise to a disproportionate number of complaints about poor behaviour.

We have also identified a number of risks in the sector: the current rules around conflicts of interest, gifts, and hospitality are inadequate; and the increased complexity of local government decision-making is putting governance under strain.

The challenge is to maintain a system which serves the best instincts of councillors, whilst addressing unacceptable behaviour by a minority, and guarding against potential corporate standards risks.

It is clear from the evidence we have received that the benefits of devolved arrangements should be retained, but that more robust safeguards are needed to strengthen a locally determined system. We are also clear that all local authorities need to develop and maintain an organisational culture which is supportive of high ethical standards. A system which is solely punitive is not desirable or effective; but in an environment with limited external regulation, councils need the appropriate mechanisms in place to address problems when they arise."

3.4 A number of the recommendations made in the report involve legislative change which the CSPL believe the Government should implement at speed. It is anticipated that the Ministry of Housing, Communities and Local Government will soon consult widely on the recommendations. As such this report does not seek Members detailed views on the recommendations (set out in pages 14-17 of Annex 1) at this time.

3.5 In addition to these recommendations the CSPL have set out 15 areas of 'best practice' for local authorities; CSPL feel these represents a benchmark for ethical practice and in relation to which there is an expectation that authorities should comply. The CSPL intend to evaluate the extent to which their recommendations have been implemented in 2020 and it is timely for Leeds City Council to review existing arrangements against the benchmarked areas.

Reviewing the Leeds City Council Ethical Framework against the CSPL Best Practice

3.6 The ethical framework at Leeds is comprised of the **Members' Code of Conduct**, the **Protocol on Member Officer Relations, Procedure for Consideration of Complaints**¹ and the **Social Media Guidance for Members**

3.7 Member's attention is drawn to **Appendix 1** of this report where an assessment of the best practice set out by the CSPL is provided against a commentary of the arrangements currently operating in Leeds.

3.8 Members attention is particularly drawn to:

- **Best Practice 1** – the suggestion from the Monitoring Officer being that the Members' Code of Conduct be amended to reflect the CSPL recommendations regarding coverage of Bullying and Harassment;
- **Best Practice 2** – the proposal being from the Monitoring Officer that amends be made to the Code of Conduct to prohibit trivial or malicious Code of Conduct allegations being submitted by councillors.
- **Best Practice 5** – CSPL are concerned about the high threshold could allow a councillor to accept significant gifts and hospitality from a single source on multiple occasions without the need to register that they have done so. CSPL recommend a financial limit of £50 for gifts and hospitality (linked to the threshold for election campaigns) this approach is based on Leeds' approach and ensures that there is a consistent declaration threshold both during and outside of election periods. The Committee also propose that a separate publication containing details of all Members' gifts and Hospitality should be collated and published in one place on a quarterly basis – Members are invited to comment on this.
- **Best Practice 8** – where Members views are sought on a change in the procedure for the initial assessment of complaints to incorporate a requirement to consult the Independent Person.
- **Best Practice 11** – The views of parish/town council co-opted members are sought in relation to this matter.

3.9 Members will note that CSPL acknowledge that Social Media continues to be a feature of the ethical landscape in local government sector and have made two recommendations (recommendations 3 and 4) to Government:

¹ Amendments may subsequently be necessary depending on the Government's response to the recommendations made by the Committee on Standards in Public Life

Recommendation 3

Councillors should be presumed to be acting in an official capacity in their public² conduct, including statements on publicly-accessible social media. Section 27(2) of the Localism Act 2011 should be amended to permit local authorities to presume so when deciding upon code of conduct breaches

Recommendation 4

Section 27(2) of the Localism Act 2011 should be amended to state that a local authority's code of conduct applies to a member when they claim to act, or give the impression they are acting, in their capacity as a member or as a representative of the local authority.

3.10 Whilst not yet responded to by Government, the recommendations provide useful additional context to recommendations made by the Scrutiny Board Resources and Strategy who have considered the Social Media Guidance³ issued by the Monitoring Officer to Leeds City Council Members.

3.11 Following discussion, the chair of the Scrutiny Board has asked that consideration be given by this committee, as part of this annual review of the Ethical Framework, of two amendments to strengthen the application of the guidance as follows:

In the 'Do's' section that an addition be made at point 13;

Act in a manner that is conducive to supporting the principles set out in this guidance, and endeavour to do so in your private capacity;

And in the further information section;

That Group Whips be asked to take ownership to support Members of their groups in recognising the content of the Guidance as well as ensuring that any concerns raised can be dealt with urgently and appropriately through group procedures.

3.12 The Monitoring Officer is content for the amendments to be made to the guidance in order to further strengthen expected norms of behaviour and also welcomes the role of group whips set out.

3.13 In considering these proposals Members are asked to note that such an amendment will not amount to an enforceable duty under the code. In addition the Monitoring Officer has provided additional commentary to point 1 and 4 in the 'Don'ts' section of the guidance to provide further clarification and has moved point 8 in the do section to the don't section of the guidance.

² CSPL recognise that this is distinct from a councillors personal and private life.

³ In seeking the committee's views on this matter the Chair of the Scrutiny Board wishes Members to be aware of a recent case at Oxford City Council where an investigation recommended that the Council adopt Social Media guidance for councillors with the dual purpose for members to act in a manner that is conducive to supporting the guidance and aspiring to do so when acting in their private capacity.

3.14 In light of the CSPL's report, and the assessment of best practice at **Appendix 1**, Members views are sought on the suggested areas of amendment to the **Members' Code of Conduct** (Appendix 2) and **Procedure for Consideration of Complaints** (Appendix 3). Members are also asked to consider whether any amendments are necessary to the **Protocol on Member/Officer Relations** (Appendix 4) and are invited to comment on the proposed amendments set out in the 'tracked changed' **Social Media Guidance** (Appendix 5).

4 Corporate Considerations

4.1 Consultation and Engagement

4.1.1 In reviewing the Social Media Guidance consultation has taken place with Group Whips; those Group Whips who responded are supportive of both the amendments and in relation to the other areas of clarification being proposed by the Monitoring Officer.

4.2 Equality and Diversity / Cohesion and Integration

4.2.1 There are no implications for equality and diversity or cohesion and integration arising from this report.

4.3 Council policies and best council plan

4.3.1 Principle 3 of the Code of Corporate Governance states that the Council will put in place a Code of Conduct and keep it under review.

4.4 Resources and value for money

4.4.1 There are no resource implications arising from this report and the Monitoring Officer confirms, by way of this report, that she has adequate resources to fulfil her statutory duties.

4.5 Legal Implications, Access to Information and Call In

4.5.1 The Standards and Conduct Committee's terms of reference are taken from the Chapter 7 of the Localism Act 2011.

4.5.2 There are no implications for access to information or call in arising from this report.

4.5.3 Members will note that the recommendations made by the CSPL to Government will require, should government be supportive of them, primary or secondary legislation to enact. The best practice set out and responded to by way of self-assessment at Appendix 1 does not require any change to the current legislative arrangements.

4.5.4 However, should Members wish to recommend amendments to either the Member's Code of Conduct or the Procedure for Considering Complaints then these will require consideration first by the General Purposes Committee prior and then a subsequent decision of full Council.

4.6 Risk Management

4.6.1 There are no specific risks associated with this report.

5 Recommendations

5.1 Members are asked to consider:-

- a) The report of the Committee on Standards in Public Life and offer observations;
- b) Having, reviewed the self-assessment at Appendix 1, whether any amendments are necessary to;
 - i. The Members' Code of Conduct;
 - ii. The Procedure for Handling Complaints alleging a failure to comply with the Code of Conduct, or;
 - iii. The Protocol on Member-Officer Relations.
- c) The amendments to the Guidance for Members on Social Media set out by the Monitoring Officer at Appendix 5;

6 Background documents⁴

6.1 None.

⁴ The background documents listed in this section are available to download from the Council's website, unless they contain confidential or exempt information. The list of background documents does not include published works.