

REPORT TO	ON
Standards Committee	21 March 2019



TITLE	REPORT OF
Local Government Ethical Standards	Interim Monitoring Officer

1. PURPOSE OF THE REPORT

The purpose of the report is to inform members of the report that has been published by the Committee on Standards in Public Life on the issue of “Local Government Ethical Standards.”

2. RECOMMENDATIONS

2.1 That Committee notes the contents of this report

2.2 That Committee notes that further reports will be brought to Committee and to full Council in the event of any legislation being enacted to effect any changes to the standards regime

3. CORPORATE PRIORITIES

The report relates to the following corporate priorities:

Excellence and Financial Sustainability	X
Health and Wellbeing	
Place	

Projects relating to People in the Corporate Plan:

People	
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4. BACKGROUND TO THE REPORT

As Members are aware the standards regime changed fundamentally as a consequence of the introduction of the Localism Act 2011. Essentially a less regulated standards regime was introduced.

Changes included:

- The abolition of independent members on standards committee

- The abolition of the Model Code of Conduct
- Parish council members no longer to be members of standards committees
- Powers of sanction greatly reduced – in particular the power to suspend members was removed
- The introduction of the independent person – a different role to independent members
- No power of appeal against decisions of standards committee

In 2018 the Committee of Standards in Public Life commenced an extensive consultation exercise on local government ethical standards. On the 15th of March 2018 a report was brought to Standards Committee to agree a response to the questions being posed by that consultation. In summary the principal concern of Standards Committee when it considered the matter was that it had insufficient sanctions at its disposal.

5. PROPOSALS (e.g. RATIONALE, DETAIL, FINANCIAL, PROCUREMENT)

Members will find the detailed report prepared by the Committee of Standards in Public Life appended to this report.

In the introduction of the report Lord Evans of Weardale states: “It is clear that the vast majority of councillors and officers want to maintain the highest standards of conduct in their own authority.”

On pages 14 – 17 are a list of recommendations. This is preceded by an Executive summary on pages 10 – 13. Members’ attention in particular is drawn to these two sections.

Of particular interest are the following:

- The report states: “We have concluded that whilst the consistency and independence of the system could be enhanced, there is no reason to reintroduce a centralised body, and that local authorities should retain ultimate responsibility for implementing and applying the Seven Principles of Public Life in local government.” This seems to be a sensible starting point.
- It is also stated: “An updated model code of conduct should therefore be available to local authorities in order to enhance the consistency and quality of local authority codes.” It is further stated on this issue: “The updated model code should therefore be voluntary and able to be adapted by local authorities.” Members may recall that when we introduced our own local Code back in 2012 we modelled that closely on the previous model Code. That way we ensured there was sufficient detail contained in the document. What some local authorities did though at the time was to introduce shorter, more succinct reports that just concentrated on the high level Nolan principles. In practice these Codes have not been easy to enforce. The idea of a new model code which councils could adapt to their own requirements seems a sensible suggestion.
- With regard to the Code of Conduct there is another specific statement: “The scope of the code of conduct should also be widened, with a rebuttable presumption that a councillor’s public behaviour, including comments made on publicly accessible social media, is in their official capacity.” The specific comments relating to the use of public media is largely welcomed. This is an issue that does cause confusion with different councils taking different

views on it. We already have various provisions on this in such documents as the Member Officer protocol and the Social Media protocol but any greater clarity on this issue would be desirable.

- There are comments made that the current arrangements for declaring and managing interests are unclear, too narrow and do not meet the expectations of councillors or the public. In South Ribble we retained much of the old rules relating to prejudicial and personal interests. We do not rely just on Disclosable Pecuniary Interests – if we did that then that would be far too narrow. Some of the changes proposed here are not that different to what we already have in place in South Ribble.
- There are comments made that a council should retain a Standards committee. Some councils combine the work of a Standards committee with that of an Audit/Governance committee. This is something we in South Ribble have not done of course.
- There is a recommendation that “Independent members of decision-making standards committees should be able to vote.” Under the previous regime (pre 2012) our independent members were indeed able to vote. This worked well at the time.
- There is a recommendation that “The Localism Act should be amended to require that Independent Persons are appointed for a fixed term of two years, renewable once.” Whilst one can understand the thinking behind this there is a danger that this could cause practical difficulties. The position of Independent Person is essentially an unpaid post and there may be difficulties in finding suitable candidates.
- The report states: “The current sanctions available to local authorities are insufficient.” It is further stated: “The current lack of robust sanctions damages public confidence in the standards system and leaves local authorities with no means of enforcing lower level sanctions, nor of addressing serious or repeated misconduct.” The main issue that Standards Committee raised in their response to the consultation exercise was the inadequacy of sanctions. There would appear to be widespread support across the political spectrum in this council for a more robust standards regime.
- With regard to sanctions the report further states: “Local authorities should therefore be given the power to suspend councillors without allowances for up to six months. Councillors, including parish councillors, who are suspended should be given the right to appeal to the Local Government Ombudsman, who should be given the power to investigate allegations of code breaches on appeal. The decision of the Ombudsman should be binding.” This recommendation is very welcome. As a consequence of giving a council meaningful powers of sanction then it is important that an affected member should have the right to appeal to an independent body. However, whether the Ombudsman at the moment would have the necessary experience and knowledge to deal with such appeals is unclear.
- With regard to the proposed power of sanction it is recommended: “..a local authority should only be able to suspend a councillor where the Independent Person agrees both that there has been a breach and that suspension is a proportionate sanction.” It is considered that this would be a sensible safeguard on the use of this power.

- It is further stated: “The current criminal offences relating to Disclosable Pecuniary Interests are disproportionate in principle and ineffective in practice, and should be abolished.” This is very welcome. In general these provisions have not been enforced – it is a police matter to so enforce them.

In addition to the above there are also comments about Town and Parish councils and the increasing complexity of decision making in councils with increased commercial activity and partnership working. As has already been stated the full list of recommendations is to be found on pages 14- 17.

On pages 18 to 19 of the report there is a list of best practice recommendations. The majority of these recommendations are already in place in our arrangements. Best Practice 15 is interesting. It states: “Senior officers should meet regularly with political group leaders or group whips to discuss standards issues.” This is something which is not currently in place in this council but moving forward it could be a good idea to introduce here.

6. CONSULTATION CARRIED OUT AND OUTCOME OF CONSULTATION

The Committee on Standards in Public Life did carry out a substantial consultation exercise prior to producing this report. On the 15 March 2018 Standards Committee considered a series of questions that had been posed in that consultation exercise. The Monitoring Officer subsequently responded to the consultation as agreed by committee.

7. FINANCIAL IMPLICATIONS

There are no financial implications

8. LEGAL IMPLICATIONS

Please see the MO comments below.

9. COMMENTS OF THE STATUTORY FINANCE OFFICER

There are no issues to raise from the Section 151 officer.

10. COMMENTS OF THE MONITORING OFFICER

The general thrust of the report is to be welcomed. The inadequacy of sanctions has long been a concern to many councillors and officers. It must be understood though changes in primary and secondary legislation will be required to effect the changes outlined. It will be a matter for the Government whether they wish to act on the recommendations.

11. OTHER IMPLICATIONS:

▶ HR & Organisational Development	There are no HR implications
▶ ICT / Technology	There are no ICT implications
▶ Property & Asset Management	There are no property implications
▶ Risk	There is a risk that if we do not have a robust and meaningful standards regime that the reputation of the council could be damaged.
▶ Equality & Diversity	There are no concerns from an Equality and Diversity perspective

12. There are no background papers to this report

13. APPENDIX

Appendix A – the report of the Committee on Standards in Public Life on Local Government Ethical Standards

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Job Title: Interim Monitoring Officer

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