

From: Tristan Godfrey, Senior Governance Manager

To: The Standards Committee, 9 May 2022

Subject: Government Response to the Committee on Standards in Public Life

Classification: **Unrestricted**

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**Summary:**

This report summarises the Government Response to the Committee on Standards in Public Life into Local Government Ethical Standards and sets out what changes are proposed that may impact the current standards regime.

**Recommendation:**

The Standards Committee is asked to note the report.

**1. Introduction**

- a) On 31 July 2019, this Committee considered the review into 'Local Government Ethical Standards' published by the Committee on Standards in Public Life<sup>1</sup>. The report contained 26 recommendations and 15 best practice suggestions.
- b) In responding to the first recommendation, the Local Government Association (LGA) conducted a consultation into a revision of its Model Code of Conduct for Members. This in turn resulted in a review of the Kent Code, and the outcome of this is presented to Members in a separate paper at this meeting.
- c) Most of the recommendations were directed at central government, and many would require legislative/regulatory change to be implemented. The review of the Kent Code was carried out therefore on the understanding that a future update might be required if the Government were to decide to amend or change the legislation underpinning the standards regime.
- d) On 18 March 2022, the Government published its formal response. This is summarised in the next section, with the full text set out in the Appendix.

**2. The Government Response**

- a) The following sections summarise the Government response by setting out the CSPL recommendation (in italics) beneath different headings.
- b) Government to take action:

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- *The government should ensure that candidates standing for or accepting public offices are not required publicly to disclose their home address. The Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012 should be amended to clarify that a councillor does not need to register their home address on an authority's register of interests.*
- *The Local Authorities (Standing Orders) (England) (Amendment) Regulations 2015 should be amended to provide that disciplinary protections for statutory officers extend to all disciplinary action, not just dismissal.*

c) Keeping under review / Further consideration:

- *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.*
- *The Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012 should be amended to include: unpaid directorships; trusteeships; management roles in a charity or a body of a public nature; and membership of any organisations that seek to influence opinion or public policy.*
- *Section 31 of the Localism Act 2011 should be repealed, and replaced with a requirement that councils include in their code of conduct that a councillor must not participate in a discussion or vote in a matter to be considered at a meeting if they have any interest, whether registered or not, "if a member of the public, with knowledge of the relevant facts, would reasonably regard the interest as so significant that it is likely to prejudice your consideration or decision-making in relation to the matter".*
- *The government should clarify if councils may lawfully bar councillors from council premises or withdraw facilities as sanctions. These powers should be put beyond doubt in legislation if necessary.*
- *Section 28 (11) of the Localism Act 2011 should be amended to state that any sanction imposed on a parish councillor following the finding of a breach is to be determined by the relevant principal authority.*

d) For local authority determination:

- *Local authorities should be required to establish a register of gifts and hospitality, with councillors required to record gifts and hospitality received over a value of £50 or totalling £100 over a year from a single source. This requirement should be included in an updated model code of conduct.*
- *Local authorities should provide legal indemnity to Independent Persons if their views or advice are disclosed. The government should require this through secondary legislation if needed.*
- *The Local Government Transparency Code should be updated to require councils to publish annually: the number of code of conduct complaints they receive; what the complaints broadly relate to (e.g., bullying; conflict of interest); the outcome of those complaints, including if they are rejected as trivial or vexatious; and any sanctions applied.*
- *Section 27(3) of the Localism Act 2011 should be amended to state that parish councils must adopt the code of conduct of their principal authority, with the necessary amendments, or the new model code.*

e) Further engagement with sector:

- *A local authority should only be able to suspend a councillor where the authority's Independent Person agrees both with the finding or a breach and that suspending the councillor would be a proportionate sanction.*
- *Local authorities should be given the discretionary power to establish a decision making standards committee with voting independent members and voting members from dependent parishes, to decide on allegations and impose sanctions.*
- *Councillors should be given the right to appeal to the Local Government Ombudsman if their local authority imposes a period of suspension for breaching the code of conduct.*
- *The Local Government Ombudsman should be given the power to investigate and decide upon an allegation of a code of conduct breach by a councillor, and the appropriate sanction, an appeal by a councillor who has had a suspension imposed. The Ombudsman's decision should be binding on the local authority.*
- *Local authorities should be given the power to suspend councillors, without allowances, for up to six months.*
- *The Local Government Transparency Code should be updated to provide that local authorities must ensure that their whistleblowing policy specifies a named contact for the external auditor alongside their contact details, which should be available on the authority's website.*
- *Councillors should be listed as 'prescribed persons' for the purposes of the Public Interest Disclosure Act 1998.*

f) Government not taking action / Rejects recommendation:

- *Councillors should be presumed to be acting in an official capacity in their public 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.*
- *The Localism Act 2011 should be amended to require that Independent Persons are appointed for a fixed term of two years, renewable once.*
- *The Local Government Transparency Code should be updated to provide that the view of the Independent Person in relation to a decision on which they are consulted should be formally recorded in any decision notice or minutes.*
- *The criminal offences in the Localism Act 2011 relating to Disclosable Pecuniary Interests should be abolished.*

### 3. Future Changes

- a) As set out in the previous section, there are two areas where legislative change is likely in the short to medium term. There are other areas where changes may be forthcoming following further review and/or engagement with the local government sector.
- b) The first likely change is around the default assumption that Members are required to publicly disclose their home addresses. There is an existing route whereby home addresses can be classified as a sensitive interest and so not made publicly available where there are legitimate concerns of abuse or intimidation. The Government has previously written<sup>2</sup> that requests to use this

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route should be viewed sympathetically. Depending on how the change is enacted in law, it may not require a change to the Kent Code, but this will be reviewed at the time and the Committee advised accordingly.

- c) The other recommendation likely to result in legislative change is to extend protections for statutory officers to all disciplinary action, not just dismissal. Were this to require any changes, they would not be to the Kent Code, but rather amendments to Section 25 of the Constitution, Personnel Management Rules.

#### **4. Recommendation:**

The Standards Committee is asked to note the report.

#### **5. Appendices**

Government response to the Committee on Standards in Public Life review of local government ethical standards.

#### **6. Background Documents**

'Local Government Ethical Standards' by the Committee on Standards in Public Life,

[https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/777315/6.4896\\_CO\\_CSPL\\_Command\\_Paper\\_on\\_Local\\_Government\\_Standards\\_v4\\_WEB.PDF](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/777315/6.4896_CO_CSPL_Command_Paper_on_Local_Government_Standards_v4_WEB.PDF)

Government response to the Committee on Standards in Public Life review of local government ethical standards,

[https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/1061773/Government\\_response\\_to\\_CSPL\\_review\\_of\\_local\\_government\\_ethical\\_standards.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1061773/Government_response_to_CSPL_review_of_local_government_ethical_standards.pdf)

#### **7. Contact details**

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