

Committee on Standards in Public Life (Report: January 2019) – *Local Government Ethical Standards* - Summary

**1. Introduction**

- (a) The role of the Committee of Standards in Public Life (CSPL) is to advise the Prime Minister on ethical standards across the whole of public life. As its cornerstone, it promotes the 7 principles of public life.
- (b) The Localism Act 2011 introduced substantial changes to the laws and processes around how the conduct of Councillors was to be handled. More emphasis was put on individual local councils to adopt their own local code, with the national framework and powers to suspend or disqualify a Councillor abolished.
- (c) The CSPL undertook to conduct a review once the Localism Act had bedded in and did so during 2018. Overall the findings were that standards were high but marred by a small handful of serious and/or persistent offenders. A lot of the evidence gathered by the review pointed towards improvements which could be made in the current guidance and legislation. There was little appetite to return to a centralised, national, system but the CSPL does push for more consistency and powers to deal with the more serious cases. The headline recommendation would give local authorities the power to suspend, without allowances, Councillors for up to six months, but this needs to be seen in the context of the whole package of reforms.
- (d) The report contains a set of 26 Recommendations of mainly legislative and regulatory changes that the CSPL feels should be made. As an advisory Committee, it would be for Government or the relevant body/organisation to agree and bring in the changes. It also has a list of 15 best practices which can be done under current legislation. These are set out below.

**2. CSPL: Recommendations and Best Practice**

- (a) The CSPL recognises the importance of culture but also believes that the right legislation and regulations can support the development of the right kind of culture and enable practical measures to be taken.
- (b) This balance between rules and culture is also shown in having two distinct sets of recommendations.
- (c) The 26 recommendations for regulatory and legislative changes are set out in the following table:

<b>No.</b>	<b>Recommendation</b>	<b>Responsible Body</b>
1.	The Local Government Association should create an updated model code of conduct, in consultation with representative bodies of councillors and officers of all tiers of local government.	<i>Local Government Association</i>

<b>No.</b>	<b>Recommendation</b>	<b>Responsible Body</b>
2.	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.	<i>Government.</i>
3.	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.	<i>Government.</i>
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.	<i>Government.</i>
5.	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.	<i>Government.</i>
6.	Local authorities should be required to establish a register of gifts and hospitality, with councillors required to record any 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.	<i>Government.</i>
7.	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 that matter".	<i>Government.</i>
8.	The Localism Act 2011 should be amended to require that Independent Persons are appointed for a fixed term of two years, renewable once.	<i>Government.</i>
9.	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.	<i>Government.</i>
10.	A local authority should only be able to suspend a councillor where the authority's Independent Person agrees both with the finding of a breach and that	<i>Government.</i>

<b>No.</b>	<b>Recommendation</b>	<b>Responsible Body</b>
	suspending the councillor would be a proportionate sanction.	
11.	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.	<i>Government / all local authorities.</i>
12.	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.	<i>Government.</i>
13.	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.	<i>Government.</i>
14.	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, on appeal by a councillor who has had a suspension imposed. The Ombudsman's decision should be binding on the local authority.	<i>Government.</i>
15.	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.	<i>Government.</i>
16.	Local authorities should be given the power to suspend councillors, without allowances, for up to six months.	<i>Government.</i>
17.	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.	<i>Government.</i>
18.	The criminal offences in the Localism Act 2011 relating to Disclosable Pecuniary Interests should be abolished.	<i>Government.</i>
19.	Parish council clerks should hold an appropriate qualification, such as those provided by the Society of Local Council Clerks.	<i>Parish councils.</i>
20.	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.	<i>Government.</i>
21.	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.	<i>Government.</i>
22.	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.	<i>Government.</i>

<b>No.</b>	<b>Recommendation</b>	<b>Responsible Body</b>
23.	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.	<i>Government.</i>
24.	Councillors should be listed as 'prescribed persons' for the purposes of the Public Interest Disclosure Act 1998.	<i>Government.</i>
25.	Councillors should be required to attend formal induction training by their political groups. National parties should add such a requirement to their model group rules.	<i>Political Groups and national political parties.</i>
26.	Local Government Association corporate peer reviews should also include consideration of a local authority's processes for maintaining ethical standards.	<i>Local Government Association.</i>

(d) The 15 best practice recommendations are set out in the following table:

<b>No.</b>	<b>CSPL Best Practice</b>
1.	Local authorities should include prohibitions on bullying and harassment in codes of conduct. These should include a definition of bullying and harassment, supplemented with a list of examples of the sort of behaviour covered by such a definition.
2.	Councils should include provisions in their code of conduct requiring councillors to comply with any formal standards investigation, and prohibiting trivial or malicious allegations by councillors.
3.	Principal authorities should review their code of conduct each year and regularly seek, where possible, the views of the public, community organisations and neighbouring authorities.
4.	An authority's code should be readily accessible to both councillors and the public, in a prominent position on a council's website and available in council premises.
5.	Local authorities should update their gifts and hospitality register at least once per quarter, and publish it in an accessible format, such as CSV.
6.	Councils should publish a clear and straightforward public interest test against which allegations are filtered.
7.	Local authorities should have access to at least two Independent Persons.
8.	An Independent Person should be consulted as to whether to undertake a formal investigation on an allegation, and should be given the option to review and comment on allegations which the responsible officer is minded to dismiss as being without merit, vexatious, or trivial.
9.	Where a local authority makes a decision on an allegation of misconduct following a formal investigation, a decision notice should be published as soon as possible on its website, including a brief statement of facts, the provisions of the code engaged by the allegations, the view of the Independent Person, the reasoning of the decision-maker, and any sanction applied.

<b>No.</b>	<b>CSPL Best Practice</b>
10.	A local authority should have straightforward and accessible guidance on its website on how to make a complaint under the code of conduct, the process for handling complaints, and estimated timescales for investigations and outcomes.
11.	Formal standards complaints about the conduct of a parish councillor towards a clerk should be made by the chair or by the parish council as a whole, rather than the clerk in all but exceptional circumstances.
12.	Monitoring Officers' roles should include providing advice, support and management of investigations and adjudications on alleged breaches to parish councils within the remit of the principal authority. They should be provided with adequate training, corporate support and resources to undertake this work.
13.	A local authority should have procedures in place to address any conflicts of interest when undertaking a standards investigation. Possible steps should include asking the Monitoring Officer from a different authority to undertake the investigation.
14.	Councils should report on separate bodies they have set up or which they own as part of their annual governance statement, and give a full picture of their relationship with those bodies. Separate bodies created by local authorities should abide by the Nolan principle of openness, and publish their board agendas and minutes and annual reports in an accessible place.
15.	Senior officers should meet regularly with political group leaders or group whips to discuss standards issues.