

The Committee on Standards in Public Life – Local Government Ethical Standards Consultation

Oxford City Council response

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.

Processes for the assessment of complaints and complaint hearings are generally working well. There is some confusion about the role of independent persons. Standards Committees can no longer be chaired by an independent person and this can be seen by the public as a retrograde step which dilutes public accountability and the independence of the standards committee from the elected members.

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

The main weakness in the standards regime is the limited range of sanctions that can be applied, which are not strong enough to provide an effective deterrent. See also answer F.

Codes of conduct

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?

The rules around disclosable pecuniary interests and the Seven 'Nolan' Principles of Public Life are clear and easily understood. However, adopted codes have not kept pace with recent technological and societal changes and the range of behaviours covered is somewhat limited. For example, it is not necessary that aspects such as bullying, the use of ICT equipment and social media are covered by all adopted codes and this has been left as local choice.

In terms of good practice, all Oxfordshire local authorities are covered by a single, jointly-agreed Code of Conduct. This ensures that councillors who are members of multiple authorities within the area are covered by a single code, providing clarity and consistency.

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.

The Seven Principles of Public Life remain relevant and continue to form the basis of all adopted codes of conduct. The compulsory provisions for registering and declaring interests are limited to disclosable pecuniary interests with no accompanying guidance. This is quite a narrow range of interests that is subject to

interpretation by elected members and is unlikely to satisfy public perceptions and expectations of the kinds of interests that should be declared. For example, there are no compulsory requirements around declaring other prejudicial interests, which may warrant further consideration.

Investigations and decisions on allegations

- 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?**
 - 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?**
 - 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?**
- i) The Council's arrangements for dealing with allegations of breaches of its Code of Conduct for Members are summarised below:

Once a complaint about an alleged breach of the Code has been received, the Monitoring Officer will take advice from an independent person and decide within 21 days whether or not the threshold has been reached for an investigation.

If the Monitoring Officer's decision is that the complaint warrants an investigation then a person will be appointed to undertake the investigation and produce a draft report. The report will be sent, in confidence, to the complainant and the subject of the complaint for comment. The Monitoring Officer will then review the report and decide which course of action to take from the following options:

1. No further action.
2. A local resolution (e.g. an apology or remedial action).
3. A Standards Committee hearing.

These arrangements while not the most detailed are considered to be sound and to appropriately balance the need to treat allegations seriously with the need to ensure that an appropriate outcome can be achieved without undue delay.

- ii) It is right that the independent person's view should be sought to provide an independent opinion and public perspective on the matter at hand. This can help to inform the Monitoring Officer's decision about whether to investigate an alleged breach but this decision should continue to rest with the Monitoring Officer.
- iii) The Monitoring Officer has to be extremely robust when dealing with complaints against senior members of an Authority. The statutory protection afforded to Monitoring Officers could be strengthened to encapsulate a specific category of when they are dealing with complaints against members. In the event of a conflict of interest it is useful to have reciprocal arrangements with other Monitoring Officers to step in, but depending on the circumstances there could be reluctance to wish to do so.

Sanctions

F. Are existing sanctions for councillor misconduct sufficient?

The sanctions currently available are as follows:

1. Censure or reprimand;
2. Publish findings in respect of the member's conduct;
3. Report findings to Council or to Parish Council for information;
4. Recommend to the member's group Leader (or in the case of un-grouped members, recommend to Council or to Committees) that he/she be removed from any or all Committee or Sub-Committees of the Council;
5. Recommend to the Leader of the Council that the member be removed from the Cabinet, or removed from particular Portfolio responsibilities;
6. Recommend to Council that the member be replaced as Executive Leader;
7. Instruct the Monitoring Officer to or recommend that the Parish Council arrange training for the member.

Additional sanctions which would strengthen the standards regime should include the powers to suspend members from office and to suspend members' allowances for a period of time. Currently there are insufficient sanctions to deal with more extreme behaviours such as serious bullying, dishonesty or conviction other than under s34 Localism Act 2011.

Declaring interests and conflicts of interest

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?

- 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.**
 - i) See answer C. In addition, further explanation and guidance on disclosable pecuniary interests would be welcome, including, for example, roles on other organisations where the councillor receives expenses or payment in kind.
 - ii) Adopted codes could be clearer about expectations in relation to conflicts that are not disclosable pecuniary interests. Further guidance, including a model Code of Conduct, would be welcome.

Whistleblowing

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

The Whistle Blowing Policy forms part of the Council's Constitution. It is reviewed annually and is considered to be satisfactory.

Improving standards

I. What steps could *local authorities* take to improve local government ethical standards?

1. Ensuring that high ethical standards are supported at the top of the organisation by both members and officers.
2. Ensuring that a Standards Committee or its equivalent is an essential part of the local authority framework and reports at least annually to full Council. The Committee should have a clear and meaningful role in relation to upholding high ethical standards.

J. What steps could *central government* take to improve local government ethical standards?

1. Broaden the range of interests that must be declared.
2. Broaden the range of sanctions that can be applied.
3. Produce a model Code of Conduct.

Intimidation of local councillors

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?**

Council officers have little experience of any intimidation councillors may be subjected to when they are in their local community or acting as local politicians (e.g. when they are out canvassing). The most serious abuse seems to occur online and also involves close members of any politician's family being subjected to unwarranted abuse.