

Corporate Governance and Standards Committee Report

Ward(s) affected: n/a

Report of Director of Environment

Author: Joyce Hamilton, Principal Corporate Services Solicitor

Tel: 01483 444053

Email: joyce.hamilton@guildford.gov.uk

Lead Councillor responsible: Matt Furniss

Tel: 07891 022206

Email: matt.furniss@guildford.gov.uk

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Local Government Ethical Standards: Stakeholder Consultation

Executive Summary

The Committee on Standards in Public Life (CSPL) is undertaking a review of local government ethical standards. As part of this review, the CSPL is holding a public stakeholder consultation, which was launched on 29 January 2018 and closes on 18 May 2018.

A copy of the consultation paper is attached as **Appendix 1** to this report.

In order to inform the Committee's consideration of this matter, all councillors have been sent a copy of the consultation paper and asked to submit any comments they may have to the Monitoring Officer in time for this meeting. Similarly, the consultation has been drawn to the attention of all parish councils in the borough and they too have been invited to submit comments.

As at the date of publication of the agenda for this meeting, the only response received has been submitted by Albury Parish Council (see **Appendix 2**).

Details of any further comments received will be reported to the Committee at the meeting.

Recommendation to Committee

That, taking into account comments received, the Committee considers its response to the consultation and authorises the Monitoring Officer to draft the Council's formal response to the Committee on Standards in Public Life, in consultation with the Chairman and the Lead Councillor.

Reason for Recommendation:

To assist in maintaining robust standards arrangements to safeguard local democracy, maintain high standards of conduct, and protecting ethical practice in local government.

1. Purpose of Report

- 1.1 This report refers to the current stakeholder consultation by the CSPL in connection with their review of local government ethical standards. The consultation closes on 18 May 2018.
- 1.2 A copy of the consultation document is attached as **Appendix 1** to this report.

2. Strategic Framework

- 2.1 High standards of conduct protects ethical practice in local government, underpinning the values and mission of the Council.

3. Background

- 3.1 The CSPL welcomes submissions from the following stakeholders, both individually and corporately:

- local authorities and standards committees
- local authority members (for example, parish councillors, district councillors)
- local authority officials (for example, Monitoring Officers)

The CSPL has also invited submissions from members of the public.

- 3.2 The terms of reference for the review are to:

- Examine the structures, processes and practices in local government in England for:
 - (a) Maintaining codes of conduct for local councillors;
 - (b) Investigating alleged breaches fairly and with due process;
 - (c) Enforcing codes and imposing sanctions for misconduct;
 - (d) Declaring interests and managing conflicts of interest; and
 - (e) Whistleblowing
- Assess whether the existing structures, processes and practices are conducive to high standards of conduct in local government;
- Make any recommendations for how they can be improved; and
- Note any evidence of intimidation of councillors, and make recommendations for any measures that could be put in place to prevent and address such intimidation.

4. Financial Implications

- 4.1 There are no financial implications arising from this report.

5. Legal Implications

- 5.1 The Council has a statutory obligation to promote and maintain high standards of conduct by its councillors and co-opted members in accordance with the seven Nolan principles¹. Councillors and co-opted members have a

¹ The seven Nolan Principles are: Selflessness; Integrity; Objectivity; Accountability; Openness; Honesty; and Leadership

duty to comply with these principles, the rules on predetermination and bias and the legal obligation to register and declare Disclosable Pecuniary Interests (DPIs).

- 5.2 A failure by a councillor or co-opted member to maintain high standards of conduct or to comply with the law regarding DPIs gives rise to legal implications.
- 5.3 Depending on the circumstances, failure to comply with the Nolan principles, the Council's code of conduct for councillors and/or legislation; can result in disciplinary action and/or criminal investigation/proceedings.

6. Human Resource Implications

- 6.1 There are no human resource implications arising from this report.

7. Equality and Diversity Implications

- 7.1 There are no equalities implications arising from this report.

8. Conclusion

- 8.1 This review will consider all levels of local government in England, including town and parish councils. Guildford Borough Council will have an opportunity to influence future recommendations by the CSPL by submitting its response to this consultation.

9. Background Papers

None

10. Appendices

Appendix 1: The Committee on Standards in Public Life - Open consultation, on the review of local government ethical standards: consultation questions published on 29 January 2018.

<https://www.gov.uk/government/consultations/local-government-ethical-standards-stakeholder-consultation>

Appendix 2: Response from Albury Parish Council

The Committee on Standards in Public Life**Review of Local Government Ethical Standards: Stakeholder Consultation****Consultation questions**

The Committee invites responses to the following consultation questions.

Please note that not all questions will be relevant to all respondents and that submissions do not need to respond to every question. Respondents may wish to give evidence about only one local authority, several local authorities, or local government in England as a whole. Please do let us know whether your evidence is specific to one particular authority or is a more general comment on local government in England.

Whilst we understand submissions may be grounded in personal experience, please note that the review is not an opportunity to have specific grievances considered.

- (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.
- (b) What, if any, are the most significant gaps in the current ethical standards regime for local government?

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?
- (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.

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?

Sanctions

- (f) Are existing sanctions for councillor misconduct sufficient?
- i. What sanctions do local authorities use when councillors are found to have breached the code of conduct? Are these sanctions sufficient to deter breaches and, where relevant, to enforce compliance?
 - ii. Should local authorities be given the ability to use additional sanctions? If so, what should these be?

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.

Whistleblowing

- (h) What arrangements are in place for whistleblowing, by the public, councillors, and officials? Are these satisfactory?

Improving standards

- (i) What steps could *local authorities* take to improve local government ethical standards?
- (j) What steps could *central government* take to improve local government ethical standards?

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?

Who can respond?

Anyone with an interest may make a submission. The Committee welcomes submissions from members of the public.

However, the consultation is aimed particularly at the following stakeholders, both individually and corporately:

- Local authorities and standards committees;
- Local authority members (for example, Parish Councillors, District Councillors);
- Local authority officials (for example, Monitoring Officers);

- Think tanks with an interest or expertise in local government;
- Academics with interest or expertise in local government; and
- Representative bodies or groups related to local government.

How to make a submission

Submissions can be sent either in electronic format or in hard copy.

Submissions must:

- State clearly who the submission is from, i.e. whether from yourself or sent on behalf of an organisation;
- Include a brief introduction about yourself/your organisation and your reason for submitting evidence;
- Be in doc, docx, rtf, txt, ooxml or odt format, not PDF;
- Be concise – we recommend no more than 2,000 words in length; and
- Contain a contact email address if you are submitting by email.

Submissions should:

- Have numbered paragraphs; and
- Comprise a single document. If there are any annexes or appendices, these should be included in the same document.

It would be helpful if your submission included any factual information you have to offer from which the Committee might be able to draw conclusions, and any recommendations for action which you would like the Committee to consider.

The Committee may choose not to accept a submission as evidence, or not to publish a submission even if it is accepted as evidence. This may occur where a submission is very long or contains material which is inappropriate.

Submissions sent to the Committee after the deadline of 17:00 on Friday 18 May 2018 may not be considered.

Submissions can be sent:

1. Via email to: public@public-standards.gov.uk
2. Via post to:
Review of Local Government Ethical Standards
Committee on Standards in Public Life
GC:07
1 Horse Guards Road
London
SW1A 2HQ

If you have any questions, please contact the Committee's Secretariat by email (public@public-standards.gov.uk) or phone (0207 271 2948).

RESPONSE FROM ALBURY PARISH COUNCIL

(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.*

No the existing structures, processes and practices are not necessarily in place and do not work. Albury Parish Council looks to SSALC to provide guidance on Codes of Conduct and Disciplinary Process. At present we have a simple Code of Conduct which covers how a Parish Councillor should behave and Declarations of Interest only. This is inadequate and “toothless”.

(b) *What, if any, are the most significant gaps in the current ethical standards regime for local government?*

- i. Albury Parish Council needs a Disciplinary Guide and Process so that Parish Councillors who breach either the Code of Conduct or Declarations of Interest statements can be disciplined and grievances addressed. We need a Monitoring Officer and Standards Board that reviews grievances and disciplinary breaches and administers discipline which should in proven cases of serious breach allow Parish Councillors to be removed from office.

- ii. In addition, Albury Parish Council needs a Planning Code of Conduct for Parish Councillors so that Councillors understand what advice and comments they can and cannot make to applicants regarding planning applications. They need to understand what behaviour can be deemed to have fettered their judgement. At present, Parish Councillors receive no training from Guildford Borough Council or SSALC. This is especially important for new Councillors so that they understand the Code of Conduct and Disciplinary Process regarding the behaviour expected of Parish Councillors. In addition, Parish Councillors need to understand the Planning Process and what would constitute a breach of the Councillors Planning Code of Conduct. This training should be provided by GBC at the start of each new electoral year. If this were implemented it would bring the standards, practice and training of Parish Councillors in line with Borough Councillors.

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?*

- i. The Code of Conduct for Parish Councillors that Albury Parish Council has received from SSALC has not been written specifically for Parish Councils, it is an abbreviated version of that given to Borough Councillors. It needs to be re-written properly with specific information regarding behaviour towards the Parish Clerk. Although “bullying” is mentioned in the Code there is no reference to the type of language deemed inappropriate for use when discussing Parish Council business or at meetings. There is no information regarding what would constitute inappropriate sexual behaviour or language. There is no grievance procedure, and no mention of the Monitoring Officer or disciplinary process.

- (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.***
- i. Not enough training is given for new Parish Councillors in this area, and there is currently no disciplinary or grievance process or Monitoring Officer mentioned in the code.

Investigations and decisions on allegations

- (e) ***Are allegations of councillor misconduct investigated and decided fairly and with due process?***

No, there is no clear process or disciplinary/grievance procedure.

- 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?***

None are apparent and a disciplinary and grievance process needs to be put in place. The existing code updated to reflect Parish Councillors and a Planning Code introduced, with training on both.

- 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?***

We need a Monitoring Officer that deals specifically with Parish Council disciplinary and grievance procedures.

- 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***

They should be able to delegate the investigation to another capable officer and take no part in the investigation. The reasons should be clearly documented.

Sanctions

- (f) ***Are existing sanctions for councillor misconduct sufficient?***

- i. ***What sanctions do local authorities use when councillors are found to have breached the code of conduct? Are these sanctions sufficient to deter breaches and, where relevant, to enforce compliance?***

No sanctions are currently in place for Parish Councillors, these should be in line with those for Borough Councillors.

- ii. ***Should local authorities be given the ability to use additional sanctions? If so, what should these be?***

If current sanctions were in line with those for Borough Councillors, there would be no need for additional sanctions

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.***

No training is available in this area for new Parish Councillors and the disciplinary process needs to be put in place for breaches.

- 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?***

Only if training is adequate.

- 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.***

Unlike Borough Councillors, Parish Councillors do not have access to a Monitoring Officer who can guide them regarding what would constitute a conflict of interest.

Whistleblowing

- (h) ***What arrangements are in place for whistleblowing, by the public, councillors, and officials? Are these satisfactory?***

There are no arrangements in place.

Improving standards

- (i) ***What steps could local authorities take to improve local government ethical standards?***

Parish Councils need: A Parish Council Code of Conduct written specifically for Parish Councils, they need a Disciplinary Code explaining the disciplinary process, they need a Standards Committee and Monitoring Officer for grievances/breaches of Codes. They need a Planning Code of Conduct. They need annual training on all of these areas so that new Parish Councillors are informed and existing Parish Councillors can be appraised of updates.

- (j) ***What steps could central government take to improve local government ethical standards?***

All of the above could be put in place by local borough council and SSALC. Central Govt. could make improvements regarding Councillor intimidation (see below).

Intimidation of local councillors

- (k) **What is the nature, scale, and extent of intimidation towards local councillors?
What measures could be put in place to prevent and address this intimidation?**

The government needs to review what evidence can be submitted by developers/applicants to the Planning Inspectorate during planning appeals. At present it is possible for developers and applicants to make public, personal false statements about the conduct, ethics and behaviour of Borough and Parish Councillors which can have a material bearing on the appeal by intimidating the Councillor such that they are unable to speak frankly at appeals. This is compounded when there is a Public Hearing and Councillors are expected to face Barristers acting on the part of the appellant. Despite Planning Inspectors saying that they will disregard comments of a personal nature made against Councillors, this is intimidating for Councillors giving evidence, particularly as these comments are often picked up and printed by the press. The Councillor has no right of reply in this situation. Councillors are bound by their Codes of Conduct and any complaint should be addressed to the Monitoring Officer and not made publicly without redress as part of a planning appeal in an attempt to achieve bias. A simple rule that underhand comments made by appellants towards Councillors in either appeal statements or at hearings will lead the appeal to be dismissed, would resolve this.