

Local authorities should be given the power to suspend councillors without allowances for up to six months, the Committee on Standards in Public Life (CSPL) has recommended.

In a report, [Local Government Ethical Standards](#), the CSPL said: “The current sanctions available to local authorities are insufficient. Party discipline, whilst it has an important role to play in maintaining high standards, lacks the necessary independence and transparency to play the central role in a standards system.

“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 Committee said councillors, including parish councillors, who are suspended should be given the right to appeal to the Local Government and Social Care Ombudsman, who should be given the power to investigate allegations of code breaches on appeal. The decision of the Ombudsman would then be binding.

The CSPL meanwhile described the Monitoring Officer as “the lynchpin” of the current standards arrangements, but accepted that the role was “challenging and broad”, with a number of practical tensions and the potential for conflicts of interest. Local authorities should put in place arrangements to manage any potential conflicts, it said.

However, the Committee concluded that the role was not unique in its tensions and could be made coherent and manageable with the support of other statutory officers.

It called for employment protections for statutory officers to be extended, and for statutory officers to be supported through training on local authority governance.

Other key findings and recommendations in the report include:

- There is considerable variation in the length, quality and clarity of codes of conduct. This created confusion among members of the public, and among councillors who represent more than one tier of local government. Many codes of conduct failed to address adequately important areas of behaviour such as social media use and bullying and harassment. 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.

- The updated model code should be voluntary and able to be adapted by local authorities. 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, was in their official capacity.

- The current arrangements for declaring and managing interests are "unclear, too narrow and do not meet the expectations of councillors or the public". The current requirements for registering interests should be updated to include categories of non-pecuniary interests. The current rules on declaring and managing interests should be repealed and replaced with an objective test, in line with the devolved standards bodies in Scotland, Wales and Northern Ireland.

- The current criminal offences relating to disclosable pecuniary interests are "disproportionate in principle and ineffective in practice, and should be abolished".

- Local authorities should maintain a standards committee. This committee may advise on standards issues, decide on alleged breaches and sanctions, or a combination of these. Independent members of decision-making standards committees should be able to vote.

- The safeguard provided by the Independent Person should be strengthened and clarified: 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. Independent Persons should have fixed terms and legal protections. The view of the Independent Person in relation to a decision on which they are consulted should be published in any formal decision notice.

- Parish councils should be required to adopt the code of their principal authority (or the new model code), and a principal authority's decision on sanctions for a parish councillor should be binding.

- Monitoring officers should be provided with adequate training, corporate support and resources to undertake their role in providing support on standards issues to parish councils, including in undertaking investigations and recommending sanctions. Clerks should also hold an appropriate qualification to support them to uphold governance within their parish council.

- At a time of rapid change in local government, decision-making in local councils was getting more complex, with increased commercial activity and partnership working. "This complexity risks putting governance under strain. Local authorities setting up separate bodies risk a governance 'illusion', and should take steps to prevent and manage potential conflicts of interest, particularly if councillors sit on these bodies. They should also ensure that these bodies are transparent and accountable to the council and to the public."

- An ethical culture required leadership. Given the multi-faceted nature of local government, leadership was needed from a range of individuals and groups: an authority's standards committee, the chief executive, political group leaders, and the chair of the council.

- Political groups have an important role to play in maintaining an ethical culture. "They

should be seen as a semi-formal institution sitting between direct advice from officers and formal processes by the council, rather than a parallel system to the local authority's standards processes. Political groups should set clear expectations of behaviour by their members, and senior officers should maintain effective relationships with political groups, working with them informally to resolve standards issues where appropriate."

- An ethical culture starts with tone. "Whilst there will always be robust disagreement in a political arena, the tone of engagement should be civil and constructive." Expected standards of behaviour should be embedded through effective induction and ongoing training.

- Political groups should require their members to attend code of conduct training provided by a local authority, and this should also be written into national party model group rules. "Maintaining an ethical culture day-to-day relies on an impartial, objective monitoring officer who has the confidence of all councillors and who is professionally supported by the chief executive."

- An ethical culture will be an open culture. "Local authorities should welcome and foster opportunities for scrutiny, and see it as a way to improve decision making. They should not rely unduly on commercial confidentiality provisions, or circumvent open decision-making processes. Whilst local press can play an important role in scrutinising local government, openness must be facilitated by authorities' own processes and practices."

In a letter to the Prime Minister, contained in the introduction to the report, Lord Evans of Weardale, Chair of the Committee on Standards in Public Life, said: "It is clear that the vast majority of councillors and officers want to maintain the highest standards of conduct in their own authority. We have, however, identified some specific areas of concern. A minority of councillors engage in bullying or harassment, or other highly disruptive behaviour, and a small number of parish councils give rise to a disproportionate number of complaints about poor behaviour.

"We have also identified a number of risks in the sector: the current rules around conflicts of interest, gifts, and hospitality are inadequate; and the increased complexity of local government decision-making is putting governance under strain."

The CSPL chair added: "The challenge is to maintain a system which serves the best instincts of councillors, whilst addressing unacceptable behaviour by a minority, and guarding against potential corporate standards risks.

"It is clear from the evidence we have received that the benefits of devolved arrangements should be retained, but that more robust safeguards are needed to strengthen a locally determined system. We are also clear that all local authorities need to develop and maintain an

organisational culture which is supportive of high ethical standards. A system which is solely punitive is not desirable or effective; but in an environment with limited external regulation, councils need the appropriate mechanisms in place to address problems when they arise.”

Lord Evans said the Committee’s recommendations would enable councillors to be held to account effectively and would enhance the fairness and transparency of the standards process.

A number of the CSPL’s recommendations involve legislative change which it believed the government should implement. The Committee has also identified ‘best practice’ for local authorities, “which represents a benchmark for ethical practice which we expect that any authority can and should implement”.

Michael King, the Local Government and Social Care Ombudsman, said he supported the CSPL’s call for a greater degree of transparency and independent oversight of a strengthened framework for local government ethical standards, particularly in circumstances where it has not been possible to resolve issues at a local level.

He said: “Currently, our role in investigating councillor conduct complaints involves considering how a council has dealt with such complaints. Although we recognise that many complaints are rightly and successfully resolved locally, we have seen some instances of councils unreasonably delaying taking action, failing to take into account relevant information in reaching a decision, or where councils have not had proper procedures in place.”

King added: “As the committee has recognised, we have more than 40 years’ experience of investigating most complaints about local authorities and our oversight of the sector as a whole puts us in an ideal position to ensure such independent scrutiny. This possible extension to our role would not only complement our existing work but also help ensure such complaints are dealt with in a proportionate way.

“Should a decision be made to create a route for councillors who have had a sanction imposed against them to appeal to the Ombudsman, we stand ready to work with the Committee and Government to determine how this might be achieved in practice.”

Commenting on the report, Suki Binjal, President of Lawyers in Local Government (LLG), described the current standards regime with its lack of sanctions as “a toothless tiger”.

She said: “For too long, unacceptable standards of behaviour from a (thankfully) small number of councillors has had a negative impact on decision making, committee cohesiveness, and culture. The long-awaited recommendation for a power to suspend is warmly welcomed by LLG as a first step; as is the recognition of the need for increased statutory protection for monitoring officers as the lynchpins of the standards regime.”

Deborah Evans, CEO of LLG, said: “We hope that the proposals will be implemented without undue delay. Will they be enough? Only time will tell whether at some point the power of disqualification will be in the reform program. For now, however, the focus should be on turning these sensible recommendations into a positive agenda for change.”

Helen McGrath, Head of Public Affairs at LLG, added: “LLG shares the view that an ethical culture requires a monitoring officer who is professionally supported by the chief executive. LLG knows that the downgrading of Heads of Legal from the top tier places considerable strain and conflict on monitoring officers and can leave them susceptible to targeted campaigns. It is our mission to elevate the status of all local government lawyers and ensure the protection of monitoring officers in their statutory role to uphold the governance of their authorities.

“We are keen to ensure a direct input with the Local Government Association in producing a model code of conduct given our expertise in this area and professional credibility in drafting codes, (acknowledged last year by the Supreme Court). It remains to be seen on sanctions however, whether the ballot box reflects continuous repeat offenders as historically, this has not always proven the case.”

Cllr Sue Baxter, chairman of the National Association of Local Councils, said she was pleased the Committee had listened to the concerns of NALC, county associations of local councils, and local councils themselves.

“The Committee rightly acknowledges it is a minority of local councillors who engage in bullying or harassment, or other highly disruptive behaviour, therefore NALC is delighted the Committee agrees with our proposal for the regime to have more teeth through the re-introduction of

sanctions for breaches of the code,” she said.

“However, NALC is bitterly disappointed at the report’s failure to support local councillors by helping them develop a better understanding of the standards regime through councillor training such as induction and regular refresher training. That is why I am urging the government to go further and work with NALC to encourage and support training for local councillors, and to provide investment to support a national training programme comprising a range of initiatives including a member development charter. Such investment could come from existing funding into local government improvement.”

Cllr Baxter said NALC supported the recommendation to develop an updated model code of conduct to reflect the proposed changes, “but given over half of local councils and many principal authorities use NALC’s model code of conduct, this should be the foundation for the development of an updated model code of conduct for all tiers of local government”.

SEE ALSO: [Not just back to the future](#) - Jonathan Goolden analyses the key findings in the Committee for Standards in Public Life’s report on local government ethical standards.