

<b>SUBJECT:</b>	<b>LOCAL GOVERNMENT ETHICAL STANDARDS – A REVIEW BY THE COMMITTEE ON STANDARDS IN PUBLIC LIFE</b>
<b>DIRECTORATE:</b>	<b>CHIEF EXECUTIVE AND TOWN CLERK</b>
<b>REPORT AUTHOR:</b>	<b>CAROLYN WHEATER, CITY SOLICITOR AND MONITORING OFFICER</b>

## 1. Purpose of Report

- 1.1 To provide the Ethics and Engagement Committee with an opportunity to consider the content of the Committee on Standards in Public Life report on the subject of ethical standards in local government.

## 2. Background

- 2.1 The Committee on Standards in Public Life was established in 1994 and is responsible for promoting the seven principles of public life, which provide the structure for the model code of conduct adopted by local authorities and known as the Nolan principles: selflessness, integrity, objectivity, accountability, openness, honesty and leadership.
- 2.2 Since the Committee last reviewed standards arrangements in local government the Committee has maintained a watching brief and has received regular correspondence relating to local government. Other recent reviews have also received evidence relevant to the maintenance of standards in local government.
- 2.3 The review covered all local authorities in England, involving 353 principal authorities, and 319 written submission to the Committee's consultation had been received from a range of local authorities, representative bodies, stakeholder organisations and other interested parties.

## 3. Key Findings of the Review

- 3.1 The report which presents the findings of the review, attached at Appendix A, makes 26 recommendations to the Government which the Committee feels would enable councillors to be held to account effectively and would enhance the fairness and transparency of the standards process.
- 3.5 The main recommendations that could have an impact on the City of Lincoln Council, if supported and acted upon by Government, are set out below:

**Recommendation One** – 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.

**Recommendation Two** – the Government should ensure that candidates standing for or accepting public offices are not required publicly to disclose their home address.

**Recommendation Three** – councillors should be presumed to be acting in an official capacity in their public conduct, including statements on publicly-accessible social media.

**Recommendation Four** – 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 that they are acting, in their capacity as a member or as a representative of the local authority.

**Recommendation Five** – the Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012 should be amended to include: unpaid directorships, trusteeships, management of roles in a charity or a body of public nature and membership of any organisations that seek to influence opinion or public policy.

**Recommendation Six** – 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.

**Recommendation Seven** – 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”.

**Recommendation Eight** – the Localism Act 2011 should be amended to require that Independent Persons are appointed for a fixed term of two years, renewable once.

**Recommendation Nine** – 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.

**Recommendation Ten** – 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 suspending the councillor would be a proportionate sanction.

**Recommendation Eleven** – 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,

**Recommendation Twelve** – 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.

**Recommendation Thirteen** – 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.

**Recommendation Fifteen** – 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, the outcome of those complaints and any sanctions applied.

**Recommendation Sixteen** – local authorities should be given the power to suspend councillors, without allowances, for up to six months.

**Recommendation Seventeen** – the government should clarify if councils may lawfully bar councillors from council premises or withdraw facilities as sanctions.

**Recommendation Twenty** – 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.

#### **4. City of Lincoln Council considerations**

4.1 It is unclear at this stage how the Government will respond to the recommendations put forward by the Committee on Standards in Public Life. However, a number of the recommendations are reflective of best practice. In view of this, the following matters are highlighted below for further consideration by the Ethics and Engagement Committee:

##### **i) The City of Lincoln Council's Code of Conduct**

4.2 The last time the City Council's Code of Conduct was comprehensively reviewed was upon the introduction of the Localism Act 2011. It may therefore be prudent to undertake a review of the Code of Conduct to check that it is still fit for purpose, including consideration of widening its scope to include aspects such as harassment, examples of bullying, links to official capacity and social media use. In addition, consideration should also be given to links between the member/officer protocol and whether this document should form an appendix to the Code of Conduct, as well as a social media policy for members.

4.3 The report reflects on a local authority's ability to amend its own Code of Conduct, which could provide more detail on the issues highlighted above, whereas a mandatory code set by central government would be unlikely to be updated regularly or amended in light of learning experiences.

##### *Social Media*

4.4 Evidence collated as part of the report suggested that the current narrow scope of the Code of Conduct makes it difficult to effectively deal with some instances of poor behaviour, particularly in relation to social media. It was clear to the Committee on Standards in Public Life that when a social media account identifies the individual as a councillor or an individual makes comments related to their role as a councillor, then the Code of Conduct applies. This would even be the case if the individual posts a 'disclaimer' to suggest that the account is a personal one.

4.5 A social media policy appended to the Code of Conduct for members would add strength by stipulating how it should and should not be used from the perspective of selflessness, integrity, objectivity, accountability, openness, honesty and leadership. The policy could include examples of how social media should and should not be used and stipulate under what circumstances an account used in a

personal capacity could inevitably have a bearing on the individual's public role, meaning that the Code of Conduct would still apply.

### *Bullying and Harassment*

4.5 The findings of the report identified that in several high-profile cases of standards failures in local government, bullying behaviour which was not challenged or addressed enable other, more serious misconduct to take place. Bullying and harassment can have a significant impact on the wellbeing of officers and councillors who are subjected to it. Specific examples of bullying behaviour include the following:

- spreading malicious rumours, or insulting someone by word or behaviour;
- copying correspondence that are is about someone to others who do not need to know;
- ridiculing or demeaning someone – picking on them or setting them up to fail;
- exclusion or victimisation;
- unfair treatment;
- overbearing supervision or other misuse of power or position;
- unwelcome sexual advances – touching, standing too close, display of offensive materials, asking for sexual favours, making decisions on the basis of sexual advances being accepted or rejected;
- making threats or comments about job security without foundation;
- deliberately undermining a competent worker by overloading and constant criticism;
- preventing individuals progressing by intentionally blocking promotion or training opportunities.

4.6 By including bullying and harassment as part of the Council's Code of Conduct, the Ethics and Engagement Committee should consider the inclusion of the above examples as part of the revised document, making the interpretation of bullying and harassment clear.

#### **ii) Gifts and Hospitality Registers**

The Committee may wish to undertake a review of the Council's policy and procedures in respect of the registration of gifts and hospitality by members to ensure that they are fit for purpose and that councillors understand their obligations.

#### **iii) Publication of Home Addresses**

The Committee may wish to consider adopting an approach similar to some other authorities whereby members' addresses are not placed in the public domain on their Register of Interests, but are held in a separate register maintained by the Monitoring Officer. The Council currently does not list members' addresses on the website under the profile of individual members, with this being list as c/o City Hall. However, home addresses can still be viewed via a members' Register of Interests which is publicly available for viewing on the Council's website.

## **6. Organisational Impacts**

### **6.1 Finance (including whole life costs where applicable)**

There are no financial implications arising from this report.

### **6.2 Legal Implications including Procurement Rules**

TBC

## **8. Recommendation**

8.1 That the Ethics and Engagement Committee notes the report by the Committee on Standards in Public Life and awaits the Government's response to the recommendations contained within the report.

8.2 That a review of the Council's Code of Conduct be undertaken and that its scope be widened to include aspects such as harassment, examples of bullying, links to official capacity and social media use.

8.3 That, as part of the review of the Code of Conduct, a social media policy for members be developed and appended to the revised Code of Conduct, together with the member/officer protocol.

8.4 That a review of the gifts and hospitality policy and procedure for members be undertaken.

8.5 That consideration be given to the publication of members' addresses on their Register of Interests.

**Is this a key decision?**

No

**Do the exempt information categories apply?**

No

**Does Rule 15 of the Scrutiny Procedure Rules (call-in and urgency) apply?**

No

**How many appendices does the report contain?**

One

**List of Background Papers:**

None

**Lead Officer:**

Graham Watts, Democratic Team Leader and  
Elections Manager  
Telephone (01522) 873439