

Agenda

Standards and Ethics Committee

Wednesday, 25 April 2018, 10.00 am
County Hall, Worcester

This document can be made available in other formats (large print, audio tape, computer disk and Braille) on request from Democratic Services on telephone number 01905 728713 or by emailing democraticServices@worcestershire.gov.uk

DISCLOSING INTERESTS

There are now 2 types of interests:
'Disclosable pecuniary interests' and **'other disclosable interests'**

WHAT IS A 'DISCLOSABLE PECUNIARY INTEREST' (DPI)?

- Any **employment**, office, trade or vocation carried on for profit or gain
- **Sponsorship** by a 3rd party of your member or election expenses
- Any **contract** for goods, services or works between the Council and you, a firm where you are a partner/director, or company in which you hold shares
- Interests in **land** in Worcestershire (including licence to occupy for a month or longer)
- **Shares** etc (with either a total nominal value above £25,000 or 1% of the total issued share capital) in companies with a place of business or land in Worcestershire.

NB Your DPIs include the interests of your spouse/partner as well as you

WHAT MUST I DO WITH A DPI?

- **Register** it within 28 days and
- **Declare** it where you have a DPI in a matter at a particular meeting
 - you must **not participate** and you **must withdraw**.

NB It is a criminal offence to participate in matters in which you have a DPI

WHAT ABOUT 'OTHER DISCLOSABLE INTERESTS'?

- No need to register them but
- You must **declare** them at a particular meeting where:
You/your family/person or body with whom you are associated have
a **pecuniary interest** in or **close connection** with the matter under discussion.

WHAT ABOUT MEMBERSHIP OF ANOTHER AUTHORITY OR PUBLIC BODY?

You will not normally even need to declare this as an interest. The only exception is where the conflict of interest is so significant it is seen as likely to prejudice your judgement of the public interest.

DO I HAVE TO WITHDRAW IF I HAVE A DISCLOSABLE INTEREST WHICH ISN'T A DPI?

Not normally. You must withdraw only if it:

- affects your **pecuniary interests** **OR**
relates to a **planning or regulatory** matter
- **AND** it is seen as likely to **prejudice your judgement** of the public interest.

DON'T FORGET

- If you have a disclosable interest at a meeting you must **disclose both its existence and nature** – 'as noted/recorded' is insufficient
- **Declarations must relate to specific business** on the agenda
 - General scattergun declarations are not needed and achieve little
- Breaches of most of the **DPI provisions** are now **criminal offences** which may be referred to the police which can on conviction by a court lead to fines up to £5,000 and disqualification up to 5 years
- Formal **dispensation** in respect of interests can be sought in appropriate cases.

Standards and Ethics Committee

**Wednesday, 25 April 2018, 10.00 am, County Hall, Worcester,
WR5 2NP**

Membership: Mr R P Tomlinson (Chairman), Mr R C Adams, Mr R M Bennett,
Ms P A Hill, Dr A J Hopkins, Mr S M Mackay, Dr K A Pollock and
Mr R M Udall

Independent Members (Non-voting): Dr M Mylechreest, Mr C Slade and
Dr P Whiteman

Agenda

Item No	Subject	Page No
1	Apologies and Named Substitutes	
2	Declarations of Interest	
3	Public Participation Members of the public wishing to take part should notify the Head of Legal and Democratic Services in writing or by e-mail indicating both the nature and content of their proposed participation no later than 9.00am on the working day before the meeting (in this case 24 April 2018). Enquiries about this can be made through the telephone number/e-mail address listed below.	
4	Confirmation of Minutes To confirm the Minutes of the meeting held on 18 October 2017. (previously circulated – pink pages)	
5	Local Government Ethical Standards - Stakeholder Consultation	1 - 6
6	Code of Conduct - Complaints Update	7 - 8

Agenda produced and published by Simon Mallinson, Head of Legal and Democratic Services, County Hall, Spetchley Road, Worcester WR5 2NP

To obtain further information or a copy of this agenda contact Simon Lewis, Committee Officer on 01905 846621, slewis@worcestershire.gov.uk

All the above reports and supporting information can be accessed via the Council's website at <http://www.worcestershire.gov.uk/cms/democratic-services/minutes-and-agenda.aspx>

Date of Issue: Monday, 16 April 2018

This page is intentionally left blank

STANDARDS AND ETHICS COMMITTEE

25 APRIL 2018

LOCAL GOVERNMENT ETHICAL STANDARDS – STAKEHOLDER CONSULTATION

Recommendation

1. The Head of Legal and Democratic Services recommends that the Committee:

- a) notes the consultation by the National Committee on Standards in Public Life; and**
- b) considers what, if any, response to make to that consultation.**

Summary

2. The National Committee on Standards and Public Life (sometimes called the "Nolan Committee") invites responses to its consultation to inform its review of local government ethical standards. This consultation will close on 18 May 2018. The Standards and Ethics committee may therefore wish to become involved in responding to the consultation on behalf of Worcestershire County Council.

Background information

3. The National Committee on Standards and Public Life (NCSPL) considers that robust standards arrangements are needed to safeguard local democracy, maintain high standards of conduct, and to protect ethical practice in local government.

4. The terms of reference for the review are to examine the structures, processes and practices in local government in England for:

- maintaining member codes of conduct
- investigating alleged breaches fairly and with due process
- enforcing codes and imposing sanctions for misconduct
- declaring interests and managing conflicts of interests, and
- whistleblowing.

5. The review will also 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 to note any evidence of any intimidation of councillors.

6. The review will consider all levels of local government in England, including town and parish councils, principal authorities, combined authorities (including metro mayors) and the GLA/Mayor of London.

7. The stakeholder consultation document is attached as an Appendix. Responses are invited to the consultation questions set out, noting that respondents do not need to answer every question and may choose to give evidence about their own authority, several local authorities or local government as a whole. The NCSPL asks respondents to be clear whether the evidence is specific to one particular authority or a more general comment.

8. The questions are grouped into the following areas:

- General
- Codes of Conduct
- Investigations and decisions on allegations
- Sanctions
- Declaring interests and conflicts of interests
- Whistleblowing
- Improving standards
- Intimidation of local councillors.

9. The review is encouraging concise responses of no more than 2000 words, including any factual information and any recommendations for action. Submissions are likely to be published.

10. The Standards and Ethics Committee is therefore invited to consider the review and consider what response it would like to make to the NCSPL.

Supporting information:

Appendix – consultation document from the NCSPL

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

Contact Points

County Council Contact Points

County Council: 01905 763763

Worcestershire Hub: 01905 765765

Specific Contact Points for this report

Simon Mallinson, Head of Legal and Democratic Services

Tel: 01905 846670

Email: smallinson@worcestershire.gov.uk

Background Papers

In the opinion of the proper officer (in this case the Head of Legal and Democratic Services) there are no background papers relating to the subject matter of this report.

Review of Local Government Ethical Standards: Stakeholder Consultation

The Committee on Standards in Public Life is undertaking a review of local government ethical standards.

Robust standards arrangements are needed to safeguard local democracy, maintain high standards of conduct, and to protect ethical practice in local government.

As part of this review, the Committee is holding a public stakeholder consultation. The consultation is open from 12:00 on Monday 29 January 2018 and closes at 17:00 on Friday 18 May 2018.

Terms of reference

The terms of reference for the review are to:

1. 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.
2. Assess whether the existing structures, processes and practices are conducive to high standards of conduct in local government;
3. Make any recommendations for how they can be improved; and
4. 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.

The review will consider all levels of local government in England, including town and parish councils, principal authorities, combined authorities (including Metro Mayors) and the Greater London Authority (including the Mayor of London).

Local government ethical standards are a devolved issue. The Committee's remit does not enable it to consider ethical standards issues in devolved nations in the UK except with the agreement of the relevant devolved administrations. However, we welcome any evidence relating to local government ethical standards in the devolved nations of the UK, particularly examples of best practice, for comparative purposes.

Submissions will be published online alongside our final report, with any contact information (for example, email addresses) removed.

The Committee will publish anonymised submissions (where the name of the respondent and any references to named individuals or local authorities are removed) where a respondent makes a reasonable request to do so.

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);

- Independent Persons appointed under section 28(7) of the Localism Act 2011;
- 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).

STANDARDS AND ETHICS COMMITTEE

25 APRIL 2018

CODE OF CONDUCT – COMPLAINTS UPDATE

Recommendation

- 1. The Head of Legal and Democratic Services recommends that the Committee notes the formal complaints that have been made about the conduct of County Councillors.**

Summary

2. To update the Committee on formal complaints which have been made against the conduct councillors since the last report.

Background

3. The Council receives a small number of formal complaints concerning the conduct of county councillors. None of these have progressed to formal investigation but have been resolved informally through the facilitation of the Monitoring Officer.

Complaint 01/17

4. A member of the public complained about the accuracy of various reported comments made by a member a number of years before. The Monitoring Officer considered the filtering guidelines set by the committee and decided that the matter would not be further investigated, having made preliminary enquiries. The matters raised were minor, historical and were driven by relationship issues with the councillor and so no further action was appropriate.

Complaint 01/18

5. A complaint was made concerning a comment made by a councillor at a meeting of full Council. The Monitoring Officer consulted the Chairman of the Committee and also an independent member of the committee. The consensus was that the personal jibe made was somewhat below the belt and not done in the spirit of treating others with respect, but did not warrant pursuing more formally. The member in question was written to by the Monitoring Officer and reminded of the need to comply with the Code in political debate and to treat others with respect, but it was not considered necessary to move to a formal investigation of the complaint.

Complaint 02/18

6. This complaint concerned a social media comment by a 3rd party which had been reposted on Facebook by a councillor who was said to be in breach of the Code for not treating others with respect or bringing the office into disrepute through 3rd party material which had been reposted. The councillor's Facebook account was public and referenced the fact of being a councillor etc, thus blurring distinctions between acting as

a councillor or in a private or party political capacity. However, even on the assumptions that the Code of Conduct was engaged, and that the councillor supported the post, the nature of the material reposted did not amount to a breach of the Code. It related to party politics; whether right or wrong was not the issue as it fell within the concepts of freedom of speech and expression and there was nothing within the repost itself which amounted to a breach of the Code. Therefore no further investigation was required.

7. The Councillor was not deemed to be responsible for the original poster's other actions or views. However, the repost allowed access to other comments connected with the original post involving some vulgar abuse, although the councillor was not responsible for them and may have been unaware of them.

8. Accordingly, the Monitoring Officer has raised with the councillor the danger of reposting pages on social media which have associated comments which might then reflect upon the councillor, inadvertently or otherwise, and to bear this in mind for future posts.

Contact Points

County Council Contact Points

County Council: 01905 763763

Worcestershire Hub: 01905 765765

Specific Contact Points for this report

Simon Mallinson, Head of Legal and Democratic Services

Tel: 01905 846670

Email: smallinson@worcestershire.gov.uk

Background Papers

In the opinion of the proper officer (in this case the Head of Legal and Democratic Services) there are no background papers relating to the subject matter of this report.