

Ethical Update – March 2018

‘Helping to promote high standards of conduct’

Welcome to the March 2018 issue of Manchester City Council’s Ethical Governance Update

This newsletter contains details of the following:-

- Ethical standards review
- Proposals regarding councillor disqualification criteria
- Recent Code of Conduct Decisions and news stories
- Planning Committee Protocol proposed changes to provisions concerning site visits.
- Intimidation in Public Life. Review by the Committee on Standards in Public Life
- Reminder: Register of Interests.

To save paper this newsletter is distributed via e-mail, if you would like a hard copy or want further information about any of the issues raised please contact the Democratic Legal Services team.

Ethical standards in Local Government to be reviewed

The Committee on Standards in Public Life is calling for evidence on how effective councils standards arrangement are in light of changes over the past ten years, in particular how local authorities have designed their complaints handling, scrutiny and sanctions regimes.

The terms of reference for the review are:

- to examine the structures, processes and practices in local government in England for maintaining codes of conduct for local councillors investigating alleged breaches fairly and with due process; enforcing codes and imposing sanctions for misconduct; declaring interests and managing conflicts of interest; 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
- 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 consultation can be found at

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

The consultation closes on 18 May 2018. The review is being reported to March Standards Committee, and the views of the Committee will be sought. The finding and recommendations of the review will be published in late 2018.

Proposals regarding Councillor misconduct- disqualification criteria

In the autumn of last year, the Department of Communities and Local Government consulted on proposals to update the criteria that bar individuals from becoming or being a local councillor or directly elected mayor.

Currently, individuals cannot stand for, or hold, office as a local authority member or directly elected mayor if they have, within the previous five years or since their election, been convicted of an offence that carries a prison sentence of at least three months whether suspended or not.

The Government is proposing to amend the disqualification criteria so that anyone convicted of a serious crime, regardless of whether it carries a custodial sentence, will not be able to serve as a mayor or councillor in parish, district, county and unitary councils. Individuals will be banned from standing for office if they are subject to;

- The notification requirements set out in the Sexual Offences Act 2003 (i.e. being on the sex offenders register)
- A civil injunction granted under s1 of the Anti-Social Behaviour, Crime and Policing Act 2014
- A Criminal Behaviour Order made under s22 of the Anti-Social Behaviour, Crime and Policing Act 2014

Any proposed changes will not be retrospective.

Local Government Minister Marcus Jones said:

“Councillors hold an important position of trust and authority in communities across England. We need to hold them to the highest possible standards....the changes the

government is proposing would held make sure anyone convicted of a serious crime, regardless of whether it comes with a custodial sentence, will not be able to serve as a councillor.”

The consultation closed in December 2017. The proposals were reported to Standards Committee. The views of the Committee can be found in the minutes from the Committee meeting of 2 November 2017, and can be found here:

http://www.manchester.gov.uk/meetings/meeting/2974/standards_committee.

Briefly, the views of the Committee included:

- 1) Individuals subject to the notification requirements set out in the Sexual Offences Act 2003 (i.e. someone who is on the sex offenders register) should be prohibited from standing for election or holding office as a member of a local authority, or mayor of a combined authority.
- 2) Individuals subject to a Sexual Risk Order (i.e. someone who has not been convicted or cautioned for a sexual offence but there is reasonable cause to believe that they pose a risk of harm to the public in the UK or to children or vulnerable adults abroad) should not be prohibited from standing for election, or holding office as a member of a local authority, or mayor of a combined authority.
- 3) Individuals issued with a Civil Injunction or a Criminal Behaviour Order should be prohibited from standing for election or holding office as a member of a local authority, or mayor of a combined authority, where the injunction or order was made in respect of someone who was an adult at the time the Injunction or Order was made, and for anti-social behaviour reasons only.
- 4) That consideration should be given to the reinstatement of powers to the Standards Committee to impose sanctions which were in place prior to the Localism Act changes on Councillors for breach of the Council’s Standards code.
- 5) That all councillors and prospective councillors should be able to demonstrate that they could pass Disclosure and Barring Service (DBS) checks or similar checks.

The findings and recommendations will be published later this year.

Recent Code of Conduct Decisions and News Stories

Unfortunately councillor conduct stories have again made the headlines over the last few months. Raising awareness of those matters is important to highlight the potential consequences councillors may face where the conduct amounts to a breach of their authority’s Members Code of Conduct.

Sandwell Council found that the former deputy leader of Sandwell Council breached the code of conduct for members by substantially underselling a council asset and attempting to use his position within the council to instruct officers to reduce or cancel three parking tickets for his wife and sons. The council’s standards sub- committee

found that the councillor in question had breached the code of conduct 12 times by bringing his office and the council into disrepute, compromising officer's impartiality and giving an unfair advantage to a family friend who had bought the council asset, as well as his wife and sons regarding the parking tickets. The councillor denied any misconduct.

A separate hearing will be arranged to consider what actions should be taken against the councillor

Oakham Town Council found that a councillor had breached the code of conduct for members and demonstrated behaviour that had fallen short of that expected of an elected member by:

- (i) publishing confidential information on a public blog;
- (ii) failing to treat an employee of the Council with respect.

The recommendations included censure of the councillor and that the Council takes part in a conciliation process involving the elected member.

Planning Committee Protocol changes regarding site visits

A report regarding the operation of the Planning Protocol and proposed changes to the Protocol, including in relation to site visits undertaken by the relevant planning committee of the Council in discharging the committee's statutory planning function, was considered at Standards Committee on 2 November 2017. The relevant planning committees in Manchester are the Planning and Highways Committee, or where appropriate, the Wythenshawe Area Committee.

It was noted in the report that that the existing Protocol follows the principles set out by the Local Government Association, and is considered to be effective. It was, however, considered that provisions in the Protocol in respect of site visits could be strengthened and clarified, particularly in relation to a clearer and consistent approach on why site visits should be held and conducted.

The proposed changes to the site visit protocol specify provisions about the decision to hold a site visit; the practical arrangements for the site visit; the procedure at the site visit; the procedure at committee following the site visit.

In addition to amendments in the Protocol relating to site visits, the report recommends that new members on the Committee must attend appropriate training before taking part in the decision making process. In addition to this, annual training will be offered to all members of the Council.

The Standards Committee reviewed the report and noted that the Protocol would be revised in order to provide clarity in respect of site visits. The Standards Committee

endorsed the recommendations save that the Protocol is amended to include that planning committee members receive ongoing training on planning matters.

The details of the planning protocol report and minutes from Standards Committee can be found here:

http://www.manchester.gov.uk/meetings/meeting/2974/standards_committee/attachment/23781

Committee on Standards in Public Life- review on Intimidation in Public Life

The Committee on Standards in Public Life (the Committee) undertook a review on the intimidation of Parliamentary candidates, including those who stood at the 2017 general election, considering the wider implications for public office holders. The review recognised the important role of legitimate scrutiny of those standing for public office by the public and the press. The review examined the nature of the problem of intimidation, whether measures were in place to address such behaviours are sufficient to protect the integrity of public service. The review also looked at whether such measures are effective given the rise of social media and whether such measures are enforceable. The Committee produced recommendations for action both over the long and short term, identifying areas of good practice.

The Committee noted that the widespread use of social media is a significant factor in the surge of harassment, abuse and intimidation. Such behaviours are intended or likely to stop someone from wanting to engage in public life. The Committee propose that the government introduce legislative changes regarding the liability of social media companies for illegal content online, and an electoral offence of intimidating Parliamentary candidates, and party campaigners. The Committee found that electoral law is out of date on these issues.

The report states that those in public life should seek to uphold high standards of conduct, adhering to the Seven Principles of Public Life¹, also referred to as the Nolan Principles. Nobody in public life should engage on intimidatory behaviour, nor condone or tolerate it. All those in public life have a responsibility to challenge and report it. Those in public life must set and protect a tone in public discourse which is not dehumanising or derogatory, and which recognises the rights of others to participate in public life. Those in public life should not engage in highly personalised attacks, nor portray policy disagreements or questions of professional competence as breaches of ethical standards.

In respect of Local Government, the Committee noted that the current requirement that candidates standing for election as local councillors must publish their home address on the ballot paper has enabled intimidatory behaviour, particularly with

¹ Selflessness, Integrity, Objectivity, Accountability, Openness, Honesty, Leadership. The Principles of public life apply to anyone who works as a public office holder. This includes all those who are elected or appointed to public office.

councillors identifying fear of violence, and harassment or abuse from the electorate as a barrier. The Committee heard from former candidates that disclosure of their home address enabled intimidatory behaviour to escalate when they subsequently stood as a Parliamentary candidate. The publication of home address on the ballot paper for Parliamentary elections is not required, only the constituency in which they live. The Committee recommends that the government should bring forward legislation to remove the requirement for candidates standing as local councillors to have their home addresses published on the ballot paper, and that Returning Officers should not disclose the home addresses of those, such as agents, sub agents or observers attending an election count.

The review also states that provisions exist to prevent local authority members' financial and other interests being publically declared where there is a risk of intimidation to them or their family. The Committee recommends that Local Authority Monitoring Officers should ensure that members required to declare pecuniary interests are aware of the sensitive interests provisions in the Localism Act 2011.

The full report can be found here:

https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/66692/7/6.3637_CO_v6_061217_Web3.1_2_.pdf

Register of Interests- keeping it up to date

Members ordinarily complete this within the 28 day period of being elected.

However, members are reminded that this is a live document and therefore needs to be reviewed regularly to ensure it is up to date. Failure to keep your register of interests up to date could lead to a complaint being received that it is not accurate and also misleading.

If any member is unsure if something should be registered then please contact the Democratic Services Legal Team via DemServ@manchester.gov.uk, or 0161 234 3336.

To update your register please contact the Governance and Scrutiny Support team on 0161 234 33034.