

**Manchester City Council
Report for Information**

Report to: Standards Committee – 21 March 2019

Subject: Review of Local Government Ethical Standards – Committee on Standards in Public Life

Report of: City Solicitor and Monitoring Officer

Purpose of the Report

This report advises the Standards Committee that the Committee on Standards in Public Life (CSPL), has completed its latest review of local government ethical standards and published its report on 30 January 2019. The Committee advises the Prime Minister on ethical standards across the whole of public life in England and monitors and reports on issues relating to the standards of conduct of all public office holders.

Recommendations

1. That the Committee note the report;
 2. That the Monitoring Officer be requested to undertake a review of the implications for the Council in following the best practice recommendations for local authorities, of the Committee on Standards in Public Life and that she report back to a future meeting of the Standards Committee.
 3. That Council be requested to extend the terms of office of Nicolē Jackson & Geoff Linnell (the two independent co-opted members of the Standards Committee) and Alan Eastwood & Sarah Beswick (the Council's two Independent Persons) for two years commencing on 18 November 2019.
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Wards Affected: All

Contact Officers:

Name: Fiona Ledden
Position: City Solicitor
Telephone: 0161 234 3087
E-mail: Fiona.ledden@manchester.gov.uk

Name: Peter Hassett
Position: Senior Lawyer
Telephone: 0161 600 8968
E-mail: peter.hassett@manchester.gov.uk

Background documents (available for public inspection):

The following documents disclose important facts on which the report is based and have been relied upon in preparing the report. Copies of the background documents are available up to 4 years after the date of the meeting. If you would like a copy please contact one of the contact officers above.

- Manchester City Council's Code of Conduct for Members;
- Manchester City Council's Arrangements for dealing with complaints that Council Members have failed to comply with the Council's Code of Conduct for Members.

1.0 Background

1.1 The Localism Act 2011 fundamentally changed the local authority Standards regime in England with the new standards regime coming in to effect from mid-2012. Members will be aware, as reported to this Committee on 15 March 2018, that the Committee on Standards in Public Life (“the CSPL”) has been conducting a review of local government ethical standards. The CSPL has now completed its review and published a report on 30 January 2019.

1.2 A copy of the CSPL report (“the report”) is available at:

<https://www.gov.uk/government/publications/local-government-ethical-standards-report>

2.0 Terms of reference

2.1 The terms of reference for the review were 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.

2.2 The Report covers Parish Councils but not Combined Authorities.

3.0 The report findings

3.1 The CSPL report includes the following findings:

- a) “Our evidence supports the view that the vast majority of councillors and officers maintain high standards of conduct. There is, however, clear evidence of misconduct by some councillors. The majority of these cases relate to bullying or harassment, or other disruptive behaviour. There is also evidence of persistent or repeated misconduct by a minority of councillors;
- b) We are also concerned about a risk to standards under the current arrangements, as a result of the current rules around declaring interests, gifts and hospitality, and the increased complexity of local government decision-making;

- c) We have considered whether there is a need for a centralised body to govern and adjudicate on standards. We have concluded that whilst the consistency and independence of the system could be enhanced, there is no reason to reintroduce a centralised body, and that local authorities should retain ultimate responsibility for implementing and applying the Seven Principles of Public Life in local government (see Appendix1). Any Councillor suspended should have the right to appeal to the Local Government and Social Care Ombudsman whose decision will be binding.
- d) The Local Government Association should create an updated model code of conduct in order to enhance the consistency and quality of local authority codes;
- e) Whilst a Councillor's private life is outside the scope of the Code of Conduct there should be a presumption that Councillors' public behaviour is in an 'official capacity' and therefore subject to the Code of Conduct;
- f) The current arrangements for declaring and managing interests are unclear, too narrow and do not meet the expectations of councillors or the public. They should be repealed and replaced with an objective test, namely:
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".
- g) The current criminal offences relating to Disclosable Pecuniary Interests are disproportionate in principle and ineffective in practice, and should be abolished;
- h) A local authority should be able to suspend a councillor for up to six months without allowances, but only where the Independent Person (IP) agrees both that there has been a breach and that suspension is a proportionate sanction;
- i) The role of Independent Persons (IPs) should be strengthened. However, to avoid any possibility that their independence is compromised by a long period of involvement with a single Council, IP appointments should be for a fixed term of 2 years, renewable once. Councils should provide legal indemnity to IPs if their advice or views are disclosed;
- j) The government should ensure that candidates standing for or accepting public offices are not required publicly to disclose their home address;
- k) Disciplinary protections for statutory officers, such as the Monitoring Officer (MO), should be extended to all disciplinary action, not just dismissal;
- l) Councillors should be required to attend formal induction training by their political groups. National parties should add such a requirement to their model group rules."

3.2 In relation to Parish Councils the report in particular recommends:

- a) "Parish Council Clerks should hold an appropriate qualification, such as those provided by the Society of Local Council Clerks;

- b) Parish Councils should be required to adopt the code of conduct of their principal authority, with the necessary amendments, or the new model code;
- c) Any sanction imposed on a parish councillor, following a finding of a breach, should be determined by the relevant principal authority.”

4.0 Recommendations of the CSPL to the Government

- 4.1 The CSPL has made 26 recommendations to improve ethical standards in local government. Its recommendations are made to the government, the Local Government Association, Parish Councils and to political parties.
- 4.2 The CSPL list of recommendations is attached, as Appendix 2. We await the response of the Government to those recommendations.

5.0 Best practice recommendations of the CSPL to local authorities

- 5.1 In addition, the CSPL has made 15 best practice recommendations for local authorities that should be considered a benchmark of good ethical practice, which it expects that all local authorities can and should implement.
- 5.2 The CSPL list of best practice recommendations to local authorities is attached, as Appendix 3.
- 5.3 Following the abolition of the national code of conduct, by the Localism Act in 2011, the ten Greater Manchester (GM) local authorities decided to adopt an agreed local code of conduct across GM. This was to help enhance consistency across GM and also the quality of the locally adopted code. For the same reasons it is proposed that the chief legal officers of each of the ten GM local authorities discuss the best practice recommendations with a view to proposing to each authority a co-ordinated approach across GM. The MO will report back to the Standards Committee following completion of those discussions.

6.0 Implications of the CSPL best practice recommendations on Manchester City Council

- 6.1 Below is a table showing the CSPL’s 15 best practice recommendations and the potential implications on Manchester City Council (MCC). Included in **bold** are those recommendations that it is considered may be implemented by MCC prior to the MO reporting back to the Committee. Those best practice recommendations that are greyed out below are already being complied with by MCC.
- 6.2 The CSPL has recommended that the Local Government Association (LGA) should create an updated model code of conduct. Should the LGA agree to do so it is likely to take in to account best practice recommendations 1 and 2 below in formulating an amended code. It is recommended therefore that no amendments are made to the agreed GM code until such time as an updated LGA model code is available.

No.	CSPL best practice recommendation	Implication for Manchester City Council
1	Local authorities should include prohibitions on bullying and harassment in codes of conduct. These should include a definition of bullying and harassment, supplemented with a list of examples of the sort of behaviour covered by such a definition	The code of conduct contains a provision that members must not “bully or be abusive to any person”. However, the code does not: <ul style="list-style-type: none"> • specifically restrict “harassment” • define the terms • give examples. Work on this should be informed by the proposed LGA model code.
2	Councils should include provisions in their code of conduct requiring councillors to comply with any formal standards investigation, and prohibiting trivial or malicious allegations by councillors	The code does not specifically cover these. Work on this should be informed by the proposed LGA model code.
3	Principal authorities should review their code of conduct each year and regularly seek, where possible, the views of the public, community organisations and neighbouring authorities	The operation and effectiveness of the MCC code is reviewed annually as part of the annual report to the Standards Committee. A full review of the Code has been awaiting GM wide review as the Code was originally drawn up for use by by all 10 GM Councils. Work on this should be informed by the proposed LGA model code.
4	An authority’s code should be readily accessible to both councillors and the public, in a prominent position on a council’s website and available in council premises	A search on the MCC website will take you indirectly to the MCC code but only via the constitution in which it is contained. MCC will make the code more accessible by the next Committee meeting to be held on 13 June 2019.
5	Local authorities should update their gifts and hospitality register at least once per quarter, and publish it in an accessible format, such as CSV	Members are reminded to update their register including Gifts and Hospitality Register 4 times a year. 2 reminders (March and Nov) are given in the Members’ Ethical Guidance and the Governance and Scrutiny Unit sent out reminders in July 2018 and January 2019. MCC already publishes members’ registers as scanned PDF images, but will ensure that they are in an accessible format by the next

		Committee meeting to be held on 13 June 2019.
6	Councils should publish a clear and straightforward public interest test against which allegations are filtered	<p>The MCC arrangements for dealing with complaints against members does contain detailed criteria that the MO will follow in deciding whether a complaint should be accepted for investigation, dealt with informally, or rejected.</p> <p>The code also provides that the Officer investigating a complaint will follow guidance issued by the MO. The guidance promotes the principles of proportionality and the cost effective use of Council resources.</p> <p>The Arrangements, and the hearing guidance, were last reviewed in consultation with IPs and Independent Members of the Standards Committee in 2017 when the revised Arrangements were adopted by the Standards Committee.</p>
7	Local authorities should have access to at least two Independent Persons	MCC already complies with this recommendation
8	An Independent Person should be consulted as to whether to undertake a formal investigation on an allegation, and should be given the option to review and comment on allegations which the responsible officer is minded to dismiss as being without merit, vexatious, or trivial	MCC already complies with this recommendation
9	Where a local authority makes a decision on an allegation of misconduct following a formal investigation, a decision notice should be published as soon as possible on its website, including a brief statement of facts, the provisions of the code engaged by the allegations, the view of the Independent Person, the reasoning of the decision-maker, and any sanction applied	MCC complies with the requirements of the Localism Act 2011 in relation to independent persons. MCC also complies with most of this recommendation, and will ensure that any view of the IP is recorded on future decision notices.

10	A local authority should have straightforward and accessible guidance on its website on how to make a complaint under the code of conduct, the process for handling complaints, and estimated timescales for investigations and outcomes	MCC already complies with this recommendation
11	Formal standards complaints about the conduct of a parish councillor towards a clerk should be made by the chair or by the parish council as a whole, rather than the clerk in all but exceptional circumstances	The Ringway Parish Council code does not contain a provision to this effect. Work on this should be informed by the proposed LGA model code. The MO will offer support to Ringway Parish Council regarding its review of its code.
12	Monitoring Officers' roles should include providing advice, support and management of investigations and adjudications on alleged breaches to parish councils within the remit of the principal authority. They should be provided with adequate training, corporate support and resources to undertake this work	The Council's MO and her staff are happy to provide advice and support to Ringway Parish Council. The MO is provided with adequate training, corporate support and resources to undertake this work.
13	A local authority should have procedures in place to address any conflicts of interest when undertaking a standards investigation. Possible steps should include asking the Monitoring Officer from a different authority to undertake the investigation	MCC guidance issued to the Officer investigating a complaint provides that: "where there may be a conflict of interest preventing the MO from discharging his or her functions under the Arrangements, the Deputy MO, another appropriate officer of the authority, an officer of another local authority, or an external Investigating Officer shall be appointed by the MO to discharge the functions of the MO". The Guidance will be reviewed and updated as necessary, following further discussion at GM level.
14	Councils should report on separate bodies they have set up or which they own as part of their annual governance statement, and give a full picture of their relationship with	This will be discussed with those officers responsible for the annual governance statement and reported back to the next Committee meeting to be held on 13 June 2019.

	those bodies. Separate bodies created by local authorities should abide by the Nolan principle of openness, and publish their board agendas and minutes and annual reports in an accessible place	
15	Senior officers should meet regularly with political group leaders or group whips to discuss standards issues	MCC already complies with this recommendation

7.0 Terms of Office of Independent Members/Persons

7.1 Recommendation 8 of the CSPL to the Government is that “the Localism Act 2011 should be amended to require that Independent Persons are appointed for a fixed term of two years, renewable once”. It remains to be seen whether the government accepts this recommendation. The Government may also encounter difficulties in setting aside sufficient Parliamentary time to debate this, and other recommendations of the CSPL in the near future.

7.2 On 18 November 2015 the Council resolved to:

- extend Alan Eastwood’s term of office as an Independent Person for four years commencing on 18 November 2015;
- appoint Sarah Beswick to act as an Independent Person for a term of office of four years commencing on 18 November 2015;
- appoint Nicolē Jackson as an independent co-opted member and Chair of the Standards Committee for a term of office of four years commencing on 18 November 2015;
- appoint Geoff Linnell as an independent co-opted member of the Standards Committee for a term of office of four years starting on 18 November 2015.

7.3 The terms of office of all four will therefore expire on 17 November this year.

7.4 Whilst the CSPL recommendation in relation to the terms of office of Independent Persons is considered by the Government it is proposed that the terms of office of MCC’s two IP’s be extended for two years commencing on 18 November this year. It is also recommended that the terms of office of the Council’s two independent co-opted members of the Standards Committee similarly be extended.

7.5 It is envisaged that in 2021 the offices of the two independent co-opted members of the Standards Committee and the two Independent Persons be advertised with a view to appointing new membership with effect from 18 November 2021.

8.0 Recommendations

1. That the Committee note the report;
2. That the Monitoring Officer be requested to undertake a review of the implications for the Council in following the best practice recommendations for local authorities, of the Committee on Standards in Public Life and that she report back to a future meeting of the Standards Committee;
3. That Council be requested to extend the terms of office of Nicolē Jackson & Geoff Linnell (the two independent co-opted members of the Standards Committee) and Alan Eastwood & Sarah Beswick (the Council's two Independent Persons) for two years commencing on 18 November 2019.