

30 June 2022

Joint Standards Committee

Report of the Monitoring Officer

Government response to the Committee for Standards in Public Life review of local government ethical standards

City of York's response to the recommendations made by the Committee for Standards in Public Life recommendation – update

Summary

1. This report provides the Joint Standards Committee with an update as to the activity undertaken (where possible) at City of York Council in response to the Recommendations published by the Committee for Standards in Public Life Review of Local Government Ethical Standards in January 2019.

Background

2. In January 2019, the Committee for Standards in Public Life published its Review of Local Government Ethical Standards. This prompted significant action, nationally and locally with particular focus on the review and production of a Model Code of Conduct by the LGA.

3. A number of recommendations were put forward, many of which would require primary legislation changes and some which could be adopted locally.

4. In March 2022, the Government published its final response to the Committee for Standards in Public Life Report and where necessary indicated its stance as regards any proposals for legislative changes.

5. Set out below are the Government responses together with the action which has already been taken, where possible, by City of York Council.

Recommendations

6. Joint Standards Committee is invited to review and note, as detailed within this report, the Government's formal response and where possible, progress made by City of York in meeting the committee for Standards in Public Life Recommendations from January 2019,

Committee for Standards in Public Life Recommendations and Responses

Recommendation One:

7. The Local Government Association should create an updated model code of conduct, in consultation with representative bodies of councillors and officer of all tiers of local government

8. The LGA has produced a Model Code of Conduct. City of York Council adopted this Code in October 2021, with the associated procedures being implemented on 26th May 2022. Training for all Members and Key Officers took place during October 2021.

9. Work is now ongoing with the YLCA to encourage all Parish and Town Councils to adopt the LGA Model Code of Conduct.

Recommendation Two:

10. The government should ensure that candidates standing for or accepting public offices are not required publicly to disclose their home address. The Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012 should be amended to clarify that a councillor does not need to register their home address on an authority's register of interests.

This requires the Government to change legislation.

11. City of York already offers an informal ability to all councillors to remove their home addresses from their Register of Interests, however the details must be held by the Monitoring Officer. When standing for election, candidates do not need to declare their home address however again, the details must be held by the (Acting) Returning Officer.

Recommendation Three:

12. Councillors should be presumed to be acting in an official capacity in their public conduct, including statements on publicly accessible social media. Section 27(2) of the Localism Act 2011 should be amended to

permit local authorities to presume so when deciding upon code of conduct breaches.

The government is not proposing to change legislation.

13. City of York Council does have a social media policy. The Code of Conduct does apply to all forms of communication, including social media and this is an issue which the LGA will keep under annual review. The Protocol for Officer/Member Relations offers further guidance on social media correspondence.

Recommendation Four:

14. 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 they are acting, in their capacity as a member or as a representative of the local authority.

15. City of York has adopted and implemented the LGA Model Code of Conduct almost unchanged. The Joint Standards Committee has made a commitment to keep this under review, which ideally will be triggered by national updates issues by the LGA. The Code of Conduct is incorporated into the Constitution which will be reviewed on a six monthly basis with an annual fitness for purpose test undertaken by Audit & Governance Committee on an annual basis.

Recommendation Five:

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

17. City of York has issued guidance about appointments to outside bodies, trusts and charities which is incorporated into the Council's constitution. The Register of Interests form ask for details of membership of these organisations to be declared.

Recommendation Six:

18. Local authorities should be required to establish a register of gifts and hospitality, with councillors required to record gifts and hospitality received over a value of £50 or totalling £100 over a year from a single source. This requirement should be included in an updated model code of conduct.

19. The Monitoring Officer holds the Register of Gifts and Hospitality. City of York's Council has made specific provision in its Code of Conduct that all gifts accepted over a value of £25 should be declared. Likewise any Councillor who declines a gift and or hospitality is also required to declare the same to the Monitoring Officer.

Recommendation Seven:

20. 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 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 the matter".

21. This requires government change to legislation but the Council has adopted the LGA Model Code of Conduct which is clear as to guidance for councillors in the instances where they believe they have a DPI.

Recommendation Eight:

22. The Localism Act 2011 should be amended to require that Independent Person are appointed for a fixed term of 2 years, renewable once.

23. City of York Council is currently promoting a recruitment exercise to appoint Independent Persons to the Joint Standards Committee.

Recommendation Nine:

24. 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.

25. The Council provides the Joint Standards Committee with summary information about all complaints. Following a hearing decision notices are published in the Council's website.

Recommendation Ten:

26. A local authority should be able to suspend a councillor where the authority's Independent Person agrees both with the finding of the

breach and that suspending the councillor would be a proportionate response.

Recommendation Twelve:

27. Local authorities should be given the discretionary power to establish a decision making standards committee with voting independent members and voting member and voting members from dependent parishes, to decide on allegations and impose sanctions.

Recommendation Thirteen:

28. 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 Fourteen:

29. The Local Government Ombudsman should be given the power to investigate and decide upon an allegation of a code of conduct breach by a councillor, and the appropriate sanction, an appeal by a councillor who has had a suspension imposed.

The Ombudsman's decision should be binding on the local authority.

Recommendation Sixteen:

30. Local Authorities should be given power to suspend councillors, without allowance for up to 6 months.

31. All of the above would require the government to change legislation; until such time as that happens, City of York cannot consider these recommendations.

Recommendation Eleven:

32. 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.

Awaiting confirmation from the insurers.

Recommendation Fifteen:

33. 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 (e.g. bullying, conflict of interest); the outcome of those complaints, including if they are rejected as trivial or vexatious; and any sanctions applied.

34. The Joint Standards Committee receives an update report in respect of Code of Conduct complaints as a standing item on every agenda. The Joint Standards Committee now also publishes an annual report by way of good practice.

Recommendation Seventeen:

35. The government should clarify if councils may lawfully bar councillors from council premises or withdraw facilities or sanctions. These powers should be put beyond doubt in legislation if necessary.

36. The council has not taken any action as regards this recommendation. However should the circumstances arise, each case will be considered on a case by case basis.

Recommendation Eighteen:

37. The criminal offences in the Localism Act 2011 relating to Disclosable Pecuniary Interests should be abolished.

This is an issue for the government and not City of York Council.

Recommendation Twenty:

38. Section 27(3) of the Localism Act 2011 should be amended to state that parish councils must adopt the code of conduct of their principal authority, with the necessary amendments, or the new model code.

39. The Joint standards Committee is supporting the YLCA in its encouragement for all Parish and Town Councils to adopt the LGA Model Code of Conduct.

Recommendation Twenty-One:

40. Section 28(11) of the Localism Act 2011 should be amended to state that any sanction imposed on a parish councillor following a finding of a breach is to be determined by the relevant principal authority.

This is an issue for the government and not City of York Council.

Recommendation Twenty-Two:

41. 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.

This is an issue for the government and not City of York Council.

Recommendation Twenty-Three:

42. The Local Government transparency Code should be updated to provide that local authorities must ensure that their whistleblowing policy specifies a named contact for the external auditor alongside their contact details, which should be available on the authority's website.

43. City of York Council's Whistleblowing Policy details our Internal Auditors, Veritau and External Auditors, Mazars, as points of contact for whistleblowing purposes and does provide contact details but not named individuals.

Recommendation Twenty-Four:

44. Councillors should be listed as prescribed persons for the purposes of the Public Disclosure Act 1998.

This is an issue for the government and not City of York Council.

Implications

Financial

45. Not directly applicable to this report, however costs were incurred in the review of the Code of Conduct and associated procedures.

Human Resources (HR)

46. Not applicable to this report.

Equalities

47. There are no known equalities issues applicable to this report.

Legal

48. Where necessary the legal implications are addressed within the body of this report.

Crime and Disorder, Information Technology and Property

49. Not applicable to this report.

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Report
Approved

Date 7 June 2022

Specialist Implications Officer(s):

Wards Affected: *List wards or tick box to indicate all*

All

For further information please contact the author of the report

Background Papers:

- Committee for Standards in Public Life Review of Local Government Ethical Standards published in January 2019.
- Government Response to the Committee for Standards in Public Life Report published in March 2022
- City of York Council Constitution
- Agendas, Reports and Minutes (various) of the Joint Standards Committee 2019-2022,