



## ADUR & WORTHING COUNCILS

Joint Governance Committee  
26 November 2019  
Agenda Item 8

Ward(s) Affected: All

### **Standards in Public Life**

### **Report by the Solicitor for the Council and Monitoring Officer**

### **Executive Summary**

#### **1. Purpose**

- 1.1. The purpose of this report is to update Members of the Joint Governance Committee with the work recently undertaken by the Committee on Standards in Public Life and their recommendations.

#### **2. Recommendations**

The Joint Governance Committee is recommended to:

- 2.1. Note the work recently undertaken by the Committee on Standards in Public Life, and
- 2.2. Receive a report back in January 2020 from the Council's Monitoring Officer proposing amendments to Adur District Council and Worthing Borough Council's Code of Conduct for Members.

### **3. Context**

- 3.1. The Committee on Standards in Public Life (CSPL) is the guardian of local government standards and is responsible for promoting the Seven Principles of Public Life, based on the Nolan principles.
- 3.2. In 2018, the Committee on Standards in Public Life announced its first examination of local government standards since the complete transfer of responsibility for standards to Local Authorities in 2011 as a result of the Localism Act.
- 3.3. Their report, Local Government Ethical Standards, was published earlier this year and it concludes that aspects of the current system are not working, requiring changes in the law and best practice.
- 3.4. The terms of reference of the review included to examine the structures, processes and practices in local government for:
  - Maintaining codes of conduct for local councillors;
  - Investigating alleged breaches fairly and with due process;
  - Enforcing codes and imposing sanctions for misconduct; and
  - assessing whether the existing structures, processes and practices are conducive to high standards of conduct in local government.
- 3.5. The investigation found clear evidence of misconduct, such as bullying and harassment, by some Councillors, and some cases of persistent misconduct which the current system is failing to address. Overall the report found that there was a need for greater consistency in codes of conduct and for greater enforceable sanctions for serious and repeated breaches.
- 3.6. Many of the recommendations made by the Committee are already well addressed by procedures at Adur and Worthing Councils. Others would require changes to legislation. But there are some issues of good practice and recommendations that could be incorporated into the Adur and Worthing Codes of Conduct without the need for legislative changes. The Council's Monitoring Officer therefore intends to review the Codes of Conduct for both Councils and bring a further report to the Joint Governance Committee in January 2020 with recommendations for change.

## **4. Issues for Consideration**

### **4.1. Codes of conduct**

- 4.1.1. The Committee on Standards in Public Life found that there is considerable variation in length, breadth, clarity and detail between codes which creates confusion for members of the public over what is required in different areas and tiers of government. The report calls on the LGA to produce a new national model code of conduct, which specifically addresses issues such as bullying and harassment and use of social media. Such a model code could be adapted by local authorities as required.
- 4.1.2. The report recommends that Local Authorities review their codes of conduct to ensure that bullying and harassment are specifically addressed, rather than reliance on the provisions relating to failure to treat with respect.
- 4.1.3. Best practice recommendations include a requirement that Councillors comply with a formal standards investigation, prohibition of trivial or malicious allegations, requirement of an annual review of the Code, clear guidance on social media and publication of the Code in a prominent position on the Council's website.
- 4.1.4. The report further recommends that Local Authorities establish a separate protocol on Member - Officer relationships. Adur and Worthing Councils have already adopted a protocol on relationships within the Council, which includes relationships between Members and Officers, and this forms part of each Council's constitution.
- 4.1.5. It is proposed that a review be carried out of each Council's code of conduct and that members of the Joint Governance Committee receive a report on proposed amendments at a future meeting in January 2020.

### **4.2. Scope of the Code of Conduct**

- 4.2.1. Currently a breach of the code of conduct will arise when an individual is acting in their capacity as a Councillor and as a

result, it is difficult to deal with some instances of poor behaviour by Councillors in public, particularly in relation to social media use.

- 4.2.2. The report proposes that there be a presumption that a Councillor's behaviour in public is in an official capacity. This would require a change to the Localism Act 2011 to be effective.
- 4.2.3. The Code should also apply to a Member when they claim to act, or give the impression they are acting, in their capacity as a Member, as the Adur and Worthing codes do now.

#### 4.3. Councillor Interests

- 4.3.1. The Committee concluded that the current arrangements around disclosable pecuniary interests are not working effectively as the requirements are narrow, unclear and do not require the registration of some important interests nor of gifts and hospitality.
- 4.3.2. The report recommends the repeal of the criminal offences imposed by the Localism Act for failure to declare a disclosable pecuniary interest but this would require a change to legislation.
- 4.3.3. The report also recommends that Local Authorities adopt a scheme to make transparent those interests and relationships which would most likely lead to a conflict of interest. It recommends that relevant commercial interests, even if unpaid, of a Councillor and their spouse are included and that relevant non-pecuniary interests such as trusteeships or membership of organisations that seek to influence opinion or public policy, are also included.
- 4.3.4. The report recommends that the Code requires Councillors to record any gifts and hospitality over a value of £50, or totalling over £100 a year from a single source.
- 4.3.5. The report found that clarification around the disclosure of interests of partners, family and close associates is required, as well as clarity around when a Member is required to withdraw from participating in a decision.

#### 4.4. Investigations and Safeguards

- 4.4.1. The report recommended that Local Authorities should have access to at least two Independent Persons who should be appointed for a fixed term of 2 years with the possibility of one term renewal and that their views should always be formally recorded in any decision notice or minutes.
- 4.4.2. The report provided that it should be made possible for Local Authorities to be able to have standards Committees that include voting independent members and voting members from Parish Councils, in addition to the non voting role of the Independent Person.
- 4.4.3. The report recommends that there be no appeal mechanism for standards decisions, other than if the sanction of suspension be reinstated when a system of appeal (in respect of maladministration only) in respect of that particular sanction could be to the Local Government Ombudsman.
- 4.4.4. The Committee further recommended that 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, including if they are rejected as trivial or vexatious, and any sanctions applied.

#### 4.5. Sanctions

- 4.5.1. The Committee highlighted the fact that when a Councillor is found to have broken the code of conduct there is no requirement for them to comply with remedial action, and commented that this is a significant weakness in the system. They also expressed concern at the lack of more punitive sanctions available to address more serious breaches or repeated breaches of the code. They conclude that public confidence will only be maintained if sanctions are sufficient to deter and prevent further wrongdoing and are seen to be imposed fairly and in a timely way.
- 4.5.2. The Committee recommends that there are strong reasons to introduce a power of suspension without allowances for up to six

months for significant breaches, such as serious cases of bullying and harassment, or significant breaches of the rules on declaring financial interests, or in the case of repeated breaches or repeated non-compliance with lower level sanctions.

- 4.5.3. The Committee also recommends the abolition of criminal offences for failure to disclose a pecuniary interest as they consider it is inappropriate and disproportionate.
- 4.5.4. Recommendations were also made by the Committee that the circumstances in which a Member can be disqualified from being a Councillor are extended to include being listed on the sexual offences register, receiving a criminal behaviour order and receiving a civil injunction under the Anti-Social Behaviour, Crime and Policing Act 2014.

## **5. Engagement and Communication**

- 5.1. The Committee on Standards in Public Life consulted widely and extensively before producing their report and recommendations. Such consultation included all Monitoring Officers across England and Wales.

## **6. Financial Implications**

- 6.1. There are no financial implications arising from this report.

## **7. Legal Implications**

- 7.1. Section 27 Localism Act 2011 provides that a relevant authority must promote and maintain high standards of conduct by Members and co-opted Members of the authority. In discharging this duty, a relevant authority must, in particular, adopt a code dealing with the conduct that is expected of Members and co-opted Members of the authority when they are acting in that capacity.
- 7.2. Section 28 Localism Act provides that the Local Authority's Code of Conduct must, when viewed as a whole, be consistent with the following principles: selflessness; integrity; objectivity; accountability; openness; honesty; leadership. And that a relevant authority must secure that its code of conduct includes the provision the authority

considers appropriate in respect of the registration in its register, and disclosure, of pecuniary and other interests.

- 7.3. Section 28 Localism Act 2011 also provides that a relevant authority may revise its existing code of conduct, or adopt a code of conduct to replace its existing code of conduct, and must have arrangements in place under which allegations can be investigated, and arrangements under which decisions on allegations can be made. Such arrangements must include provision for the appointment by the authority of at least one independent person.

### **Background Papers**

- Adur District Council and Worthing Borough Council Constitutions and Codes of Conduct
- 'Local Government Ethical Standards' by Committee on Standards in Public Life Chaired by Lord Evans of Weardale KCB DL.

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## **Sustainability & Risk Assessment**

### **1. Economic**

Matter considered and no issues identified

### **2. Social**

#### **2.1 Social Value**

Having strong arrangements around Member conduct increases public confidence in the democratic process.

#### **2.2 Equality Issues**

Matter considered and no issues identified

#### **2.3 Community Safety Issues (Section 17)**

Matter considered and no issues identified

#### **2.4 Human Rights Issues**

Matter considered and no issues identified

### **3. Environmental**

Matter considered and no issues identified

### **4. Governance**

Failure to uphold high standards of conduct and ethics amongst Members and/or to fail to deal with allegations of misconduct can lead to reputational damage and a lack of confidence in the democratic process.