

9 – Strengthening Ethical Standards

The long-awaited report of the Independent Committee on Standards in Public Life (previously the Nolan Committee) on Ethical Standards in Local Government was published earlier this year. It contains a special chapter on town and parish councils and many of the 26 recommendations intended to promote and maintain the standards expected by the public relate directly to them.

Although the report, which is addressed to the Prime Minister, is specific to England, it does refer in some detail to the standards regime in the devolved administrations from which some of its recommendations are drawn.

The specific recommendations include:

- There should be a new national model code of Standards for Local Government
- All towns and parishes should follow the Code of their relevant principal authority or the new model code
- Regulations should be amended to clarify that a councillor need not include his/her home address in the Register of Interests
- A principal authority's decision on sanctions for a parish councillor should be binding (at present it is only a recommendation to the parish to consider)
- Monitoring Officers should be provided with adequate training, corporate support and resources to undertake their role in providing support on standards issues to parish councils, including in undertaking investigations and recommending sanctions
- Sanctions for contravening the Code should include suspension of the councillor, subject to appeal

Shortly before the publication of the above report the LA's Audit, Governance and Standards Committee received an in-house report which set out for the benefit of members the responsibilities of Wigan Council in respect of elected member behaviour.

Wigan Council is under a duty, under the Localism Act, to promote and maintain high standards of behaviour of elected members and must have arrangements for investigating complaints.

In addition, Wigan Council is legally required to have its own Code of Conduct for Members.

The purpose of the LA's report was to explain to members the recent developments in case law and to inform them of their obligations. The report was written from a legal perspective and therefore the Deputy Monitoring Officer highlighted the relevant points:

- 1. The Council is under a duty to promote and maintain high standards of conduct by Members and Co-opted Members.*
- 2. The Council must have a Code of Conduct.*
- 3. It is the Council's discretion as to what is in its Code of Conduct although this Council chose to adopt the expectations that existed pre the Localism Act.*
- 4. The Code of Conduct must reflect the Nolan principles ie selflessness, integrity, honesty, truthfulness, objectivity, accountability and openness.*

5. *That Parish Councils do not have their own Code of Conduct but follow that of the principal authority ie Wigan Council.*
6. *That a Standards Committee is not compulsory but Wigan has chosen to use a Sub-Committee known as the Standards (Ad Hoc) Sub-Committee to hear complaints. This lets Members against who complaints have been made to attend and make oral representations and ask questions of the complainants and their witnesses about the complaint.*
7. *The Courts have stated that Article 6 of the Human Rights Act – the right to a fair hearing does not apply to such hearings. However, it is stressed that the Council follows the principles of natural justice which means that all parties receive the papers in advance, get the opportunity to present their case and ask questions of the other side.*
8. *That the Code of Conduct only applies when the Elected Member is acting in their official capacity as a Councillor. The Courts have reinforced that there is a difference between a Councillor acting in a public ie Councillor role and a private personal capacity.*
9. *Case law has shown that a Council must follow the Code of Conduct when investigating complaints.*
10. *The recent Ledbury case reinforced that principle. Here the Council refused to follow the Code of Conduct preferring to use a grievance procedure. The principal authority stated it should follow the Code of Conduct. The Court agreed with the principal authority stating that it was inappropriate to use the grievance procedure and that the Council should follow and use the Code of Conduct only to investigate matters.*
11. *The Ledbury case also advised Councils that there needed to be a fair procedure which allowed the independent person to give their view and gave the person being complained about the right to respond to those allegations. It also suggested that there be a non-formal mediation stage where the matter could be resolved and a more formal stage where a decision is made whether there has been a breach and if so what would be the appropriate sanction.*
12. *All the Court's expected standards for a fair procedure are contained within Wigan Council's arrangements for hearing complaints.*
13. *The Courts have reinforced that sanctions can be imposed and such things as training are appropriate sanctions.*

Since the report was taken to Committee on 17th January, the Committee on Standards in Public Life have published their report following a review of local government ethical standards. They have made a number of recommendations involving both parliamentary and local government action and include recommendations for a LGA published Code of Conduct, suspending members with no allowance for up to six months and removing the requirement for candidates and members to publically disclose their addresses. A further report will be presented to the next Audit, Standards and Governance Committee in due course on their recommendations.