

Committee on Standards in Public Life

- Established in 1994 by then PM John Major
- Responsible for promoting the Nolan Principles
- 3rd report in 1997 on local government
- Led to Standards Board for England, AP Wales etc
- Current report – a review of effectiveness of post 2011 changes in England



Terms of reference

1. examine structures, processes and practices of local gov in England (but compared Wales, Scotland and NI) for
 - a. maintaining code of conduct for councillors
 - b. investigating alleged breaches fairly and with due process
 - c. enforcing code and imposing sanctions for misconduct
 - d. declaring interests and managing conflicts of interests
 - e. whistleblowing
2. Assess whether existing structures etc are conducive to high standards of conduct
3. Make recommendations for improvement
4. Note evidence of intimidation and make recommendations to prevent

Review

- covers 10,000 town and parish councils in England
- 353 principal English authorities
- 319 submissions
- 2 roundtable seminars
- 30 stakeholder meetings
- 5 visits to LAs
- studied 20 codes
- studied reports of LA failure
- Report launch 30th Jan 2019



Key areas and issues considered

- Codes of conduct
- Interests
- Gifts and hospitality
- Investigations and safeguards
- Sanctions
- Town and parish councils
- Role of the Monitoring Officer
- Council governance, leadership and culture



Codes of conduct

Findings

- Inconsistent
- Don't cover bullying effectively
- Problems re scope – social media, claiming to or appearing to act as a councillor
- Nolan only codes inadequate
- Need to be reviewed
- Hard to find on LA websites

Codes of conduct

Recommendations / Best Practice

R1 LGA to create new model code, in consultation with SLCC, NALC etc

BP1 LA codes to define and prohibit bullying and harassment, with examples

R3 Councillors presumed to be acting in an official capacity in their public conduct

R4 Code to apply to when cllr claims, or appears to be acting as such

BP2 Failure to co-operate with investigation to be breach of code

BP3 LAs to review code annually

BP4 Code readily accessible in prominent position on LA website

Interests

Findings

- DPIs too narrow, unclear and criminalisation is disproportionate
- Registers disclose home addresses exposing clrs to intimidation
- List of people whose interests need to be registered is too narrow
- But current list of pecuniary interests ok
- Need to include non-pecuniary interests in codes
- Unsatisfactory arrangements on registers of gifts and hospitality
- Requirements to declare DPIs and withdraw are too narrow

Interests

Recommendations / Best Practice

R18 abolish DPI criminal offences

R2 amend DPI regs so that cllr home address not registrable

R5 amend DPI regs to include unpaid directorships, trusteeships, charity / public body roles and lobbying organisations


R6 code to require registration of gifts / hospitality over £50 or over £100 pa from a single source

BP5 LAs to update registers of gifts & hospitality quarterly and make accessible

R7 abolish s31 Localism Act, code to require cllr to leave room if member of public would reasonably regard their interest as so significant that likely to prejudice their discussion or decision making

Investigations and safeguards

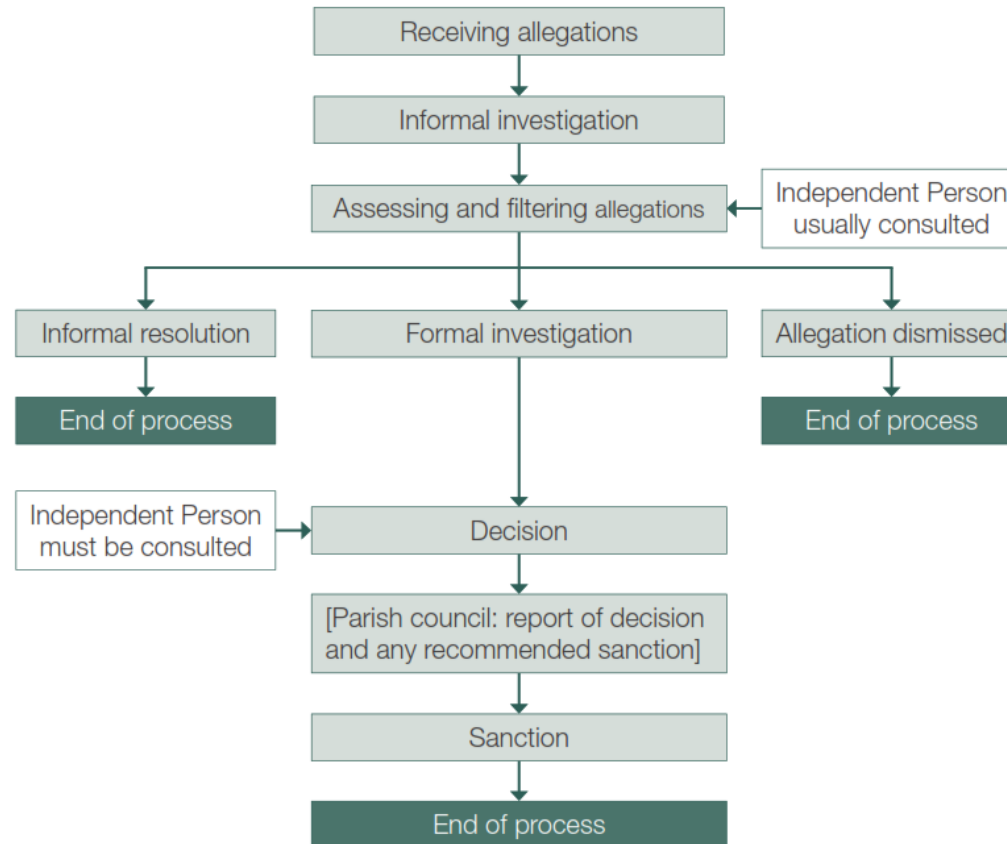
Findings

-  public interest test for filtering complaints
- No role specification, term, formal powers or legal protection for IPs
- IP views not public
- Many LAs not transparent on numbers of complaints and details of decisions
- Standards Committees should have voting independent and parish members
- No current right of appeal after hearings

Investigations and safeguards

Findings

The current investigation process



Investigations and safeguards

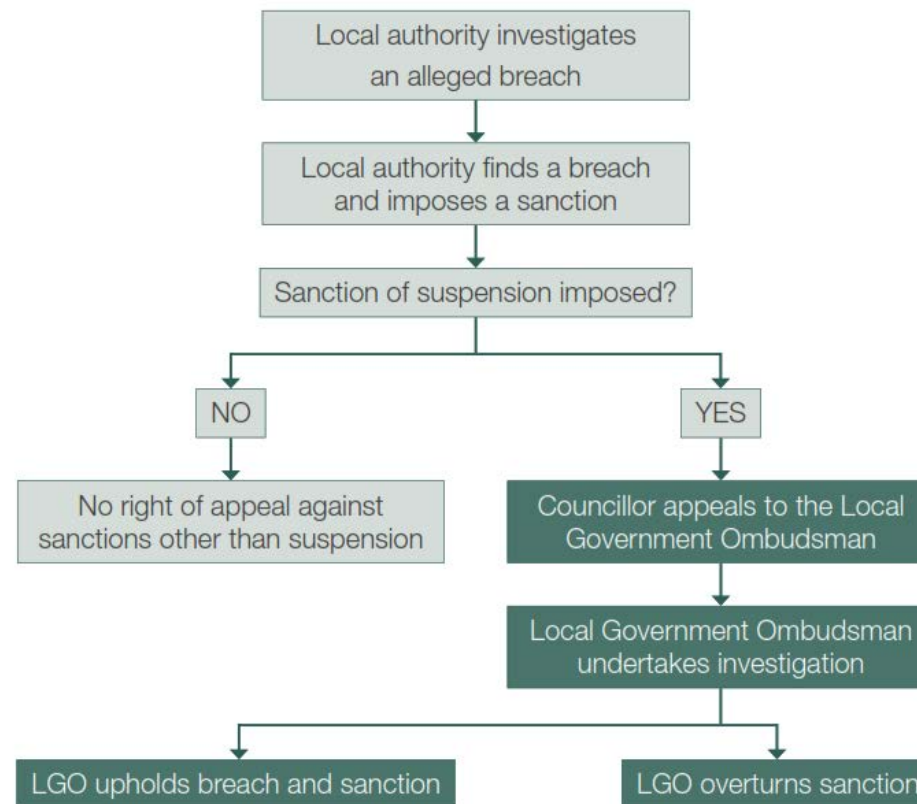
Recommendations / Best Practice

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|---|---|
| BP6 LAs to adopt public interest test for filtering complaints | R12 LAs may have voting independent and parish members on standards committees |
| BP7 LAs to have at least 2 IPs | |
| BP8 IP views on assessment | R13 Right of appeal to LGO if suspension |
| R8 2 year term of office for IPs, renewable once | R14 LGO power to investigate and binding sanction |
| R9 IPs views to be recorded in decision notice and minutes | R15 LAs required annually to publish complaints data and outcomes |
| R10 IP must agree breach and sanction on suspensions | BP9 LAs to publish full hearing decisions |
| R11 LAs to provide legal indemnity to IPs | BP10 LA websites to have clear complaints guidance and info |

Investigations and safeguards

Recommendations / Best Practice

Proposed appeals process



Investigations and safeguards

Recommendations / Best Practice

- BP6 Assessment criteria
- **CAN / SHOULD** test

Northern Ireland Local Government Commissioner for Standards public interest test

1 'CAN' we investigate your complaint?

- Is the person you are complaining about a councillor?
- Did the conduct occur within the last six months?
- Is the conduct something that is covered by the code?

2 'SHOULD' we investigate your complaint?

- Is there evidence which supports the complaint?
- Is the conduct something which it is possible to investigate?
- Would an investigation be proportionate and in the public interest?⁵³

Sanctions

Findings

- Lack of serious sanctions:-
 - Prevents enforcement of lower level sanctions
 - Damages public credibility
 - Makes cost of investigations disproportionate to outcome
 - Removes means of LAs containing reputational damage
- Credibility of current regime undermined by lack of serious sanctions
- Party group discipline can fill the gap but lacks transparency, consistency and checks on impartiality of a standards system
- Suspension preserves the ballot box which is insufficient in itself
- Legal uncertainty of premises bans

Sanctions

Recommendations / Best Practice

R16 LA power to suspend without allowances for up to 6 months

R17 Government / legislation to put beyond doubt lawfulness of premises bans

R18 decriminalise DPs (see interests)



Town and parish councils

Findings

- Parish councils are highly dependent on the skills, experience and support of clerks – evidence of substantial difficulties where clerks are inexperienced, untrained, feel isolated and poor member behaviour
- **15% of PCs experience serious behaviour issues, 5% dysfunctional**
- PCs should report complaints, not the clerk
- Some MOs decline or lack resources to provide advice or accept parish complaints
- Variation in parish codes is a burden on the principal authority and confusing for dual hatted members
- PCs can ignore sanctions recommended by principal authority hearing
- PCs can take lawful protective steps short of sanctions

Town and parish councils

Recommendations / Best Practice

R19 Parish clerks to be qualified

BP11 standards complaints about member on clerk conduct to be made by chair or PC as a whole

BP12 MO role and resourcing to include advice, support and management of PC cases

R20 PCs to adopt parish version of principal authority code of conduct

R21 Parish councillor sanctions to be determined by principal authority only

Role of the Monitoring Officer

Findings

- MO is the lynchpin for upholding standards
- Can be conflicts of interest in MO being involved in investigation of senior members
- Confidence and support of chief executive is crucial to ensure MO has ability to upholds standards
- Some MOs have been forced to resign because of unwelcome advice or decisions
- Whistle-blowers could be deterred from reporting concerns to a private audit firm
- Whistle-blowers should be able to report concerns to councillors

Role of the Monitoring Officer

Recommendations / Best Practice

- BP13** LA should have investigation conflict procedures, including use of MOs from other LAs
- R22** statutory protection for MOs etc to extend to all disciplinary action, not just dismissal
- R23** LAs required to ensure whistleblowing policy and website specifies named contact for external auditor
- R24** councillors to be “prescribed persons” in Public Interest Disclosure Act 1998



Council governance, leadership and culture

Findings

- LAs now have complex governance – joint ventures, owned companies, LEPs
- Increased risk of conflicts of interest, lack of transparency
- 3 common threads in corporate failure:-
 - Unbalanced relation between members and officers
 - Lack of understanding of governance processes and scrutiny
 - Culture of fear or bullying
- Visible leadership essential in embedding ethical culture
- Early induction for councillors vital to set ethical tone

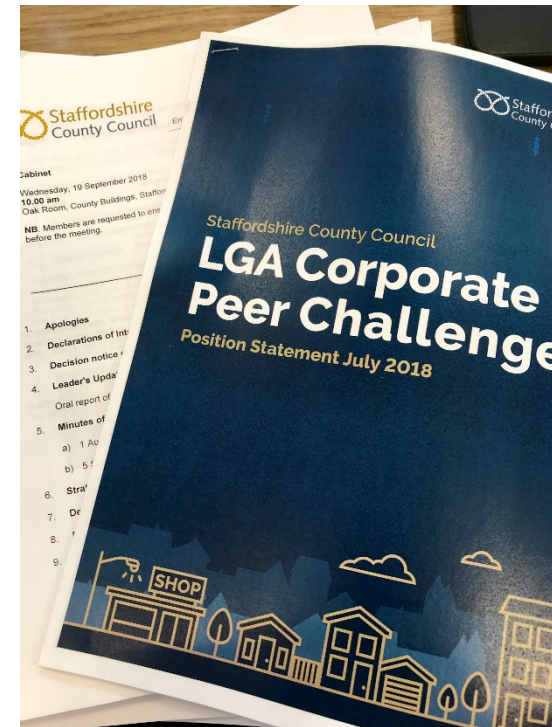
Council governance, leadership and culture

Recommendations / Best Practice

BP14 LA governance statement to include related bodies, those bodies to publish agendas, minutes and annual reports

BP15 senior officers to meet regularly with group leaders or whips re standards

R26 LGA peer reviews to include standards processes



Where now?

- Detailed and challenging report
- Some recommendations require primary legislation, some changes to regulations
- **Many best practice points can be implemented now by LAs**

	Recommendation	Action
BP1	LA codes to define and prohibit bullying and harassment, with examples	Revise code
BP2	Failure to co-operate with investigation to be breach of code	Revise code
BP3	Review code annually	Build into Standards Committee business cycle
BP4	Code readily accessible in prominent position on website	Home page link
BP5	Update registers of gifts & hospitality quarterly and make accessible	Home page link, send out update forms to members every 3 months
BP6	Public interest test for filtering complaints	Revise arrangements
BP7	At least 2 IPs	Joint recruitment campaign?
BP8	IP views on assessment	Revise arrangements
BP9	Publish full hearing decisions	Revise arrangements
BP10	Clear complaints guidance on website	Home page link

	Recommendations	Action
BP11	Standards complaints about member on clerk conduct to be made by chair or PC as a whole	Refer to ERNLCA
BP12	MO role and resourcing to include advice, support and management of PC cases	Include in budget round, involve s151 officer
BP13	LA should have investigation conflict procedures, including use of MOs from other LAs	Revise arrangements, agree other MO use protocol
BP14	LA governance statement to include related bodies, those bodies to publish agendas, minutes and annual reports	Ensure s151 officer aware, identify relevant related bodies and raise with them, brief Council reps, monitor compliance
BP15	Senior officers to meet regularly with group leaders or whips re standards	Raise with Ch Exec and s151 officer, Ch Exec to arrange (involve SC chair)

Where now?

- LLG, SLCC, ADSO, NALC group on code (all cover Wales and England)
- Association of Drainage Authorities might be interested in code (covers Wales and England)
- LGA ambivalent, but new leader being elected to replace Lord Porter
- Whitehall MCLG appears to want to reduce recommendations to best practice
- Even if interested, has Westminster Government the capacity or focus, post Brexit?
- **Failure to implement 6 months suspension will undermine whole system**



Jonathan Goolden

jonathan.goolden@wilkinchapman.co.uk

01472 265998

wilkin chapman llp
solicitors