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| LONDON BOROUGH OF CAMDEN | WARDS: All |
| REPORT TITLE Update on Standards Matters – October 2024 | |
| REPORT OF Borough Solicitor | |
| FOR SUBMISSION TO Standards Committee | DATE 21 October 2024 |
| <p>SUMMARY OF REPORT</p> <p>This report brings to Members' attention recent standards news items for information and updates on actions from the previous Standards Committee meeting.</p> <p>Local Government Act 1972 – Access to Information</p> <p>No documents that require listing have been used in the preparation of this report.</p> <p>Contact Officer: Cheryl Hardman Principal Committee Officer Camden Town Hall Judd Street London WC1H 9JE 020 7974 1619 cheryl.hardman@camden.gov.uk</p> | |
| <p>RECOMMENDATIONS</p> <p>That Standards Committee notes and comment on the contents of the report.</p> | |

Signed: 

Borough Solicitor

Date: 9 October 2024

1. Purpose of Report

- 1.1. This report highlights recent matters concerning standards, which will be of interest to the Committee. Following the cancellation of previous meetings of Standards Committee, a newsletter updating the Members on various issues was circulated and the updates have been included in this report for transparency and discussion.

2. Updates since the previous meeting

- 2.1. At its meeting on 15 January 2024, there was discussion on a case of predetermination being found at West Northamptonshire. It was agreed that officers would write to Planning Committee about how councillors making clear a firm view at a meeting prior to hearing the officer presentation or public speakers could be conceived of as predetermination. The training slides for Planning Committee have been updated to address the case and circulated to the Committee members.

3. Committee on Standards in Public Life Update

Blog: Making sense of the standards landscape

- 3.1. On 14th February 2024, Doug Chalmers, Chair of the Committee on Standards in Public Life (CSPL), published a blog on the complexity of the current standards landscape¹. Having recently taken over as Chair, he spent time exploring the evolution of standards since 1995. He argues for the need to do more educative work to make people aware of the Seven Principles of Public Life and what they mean for behaviour by public officials, both elected and appointed.

Review on accountability within public bodies

- 3.2. A new review of accountability within public bodies and the importance of acting on early warning signs has been announced, with the aim of publishing a best practice report in Spring 2025². It will consider how organisations build and maintain internal accountability systems, supporting timely decision-making and scrutiny. An [open consultation](#) is being held.

4. Ethical Behaviours and Governance

Teignbridge District Council

- 4.1. A report by external auditors, Grant Thornton, has said that relationships between Members and officers need to improve³. The previous year's report

¹ <https://cspl.blog.gov.uk/2024/02/14/making-sense-of-the-standards-landscape/> [accessed: 26 February 2024]

² <https://www.gov.uk/government/news/committee-on-standards-in-public-life-launches-new-review-on-accountability-within-public-bodies> [accessed: 7 May 2024]

³ <https://localgovernmentlawyer.co.uk/governance/396-governance-news/57175-auditors-call-for-improved-member-officer-relations-at-council-for-second-year-running> [accessed: 8 May 2024]

had noted that a revised Member-Officer Protocol had been drafted to address issues but the report of December 2023 highlighted that the Protocol had not yet been agreed. Challenges with Member behaviour was affecting the ability of officers to work effectively.

- 4.2. A previous report⁴ to Standards Committee on 26 June 2023 summarised the findings of the Local Government and Social Care Ombudsman that there had been faults in a Teignbridge District Council investigation into a councillor's conduct. Following this the Council referred the former Monitoring Officer, Karen Tricky, to the Solicitors Regulation Authority. The SRA dismissed the referral, with no action to be taken⁵.

Borough Solicitor's Comment

- 4.3. Grant Thornton published a paper in 2023, in partnership with Lawyers in Local Government, the Association of Local Authority Treasurers Societies, SOLACE and CIPFA, on preventing failure in local government. It highlighted the need for appropriate behaviours as defined by the Seven Principles of Public Life⁶. Leadership being shared between councillors and senior officers, appropriate behaviours underpin effective relationships, enabling good communication, constructive challenge and collective problem-solving. A recent report by the Local Government Association set out learning from five councils with experience of finance and governance challenges⁷. This reiterated that a healthy organisational culture requires effective Member-officer relationships to establish trust and informed decision-making.

5. Registers of Interest

- 5.1. Newport City Council has found, following an investigation, that its 14 town and community councils are not publishing compliant Registers of Interest on their websites in line with their statutory obligations⁸. Only four had published some Registers, of which some had not been updated in more than two years. Two community councils had published records of Declarations of Interest as if they were Registers. Many community councils did not understand the requirement to publish the documents, believing that holding a private Register of Interest was compliant with legislation.

Borough Solicitor's Comment

- 5.2. Councils in England have a statutory requirement to publish Register of Interest on their website in accordance with the Localism Act 2011. Councillors are required by law to register Statutory Disclosable Pecuniary

⁴ <https://democracy.camden.gov.uk/documents/s112639/Standards%20Updates%20-%202026%20June%202023.pdf> [accessed: 8 May 2024]

⁵ <https://localgovernmentlawyer.co.uk/governance/396-governance-news/54704-solicitors-regulation-authority-dismisses-referral-of-council-monitoring-officer-with-no-action-taken> [accessed: 8 May 2024]

⁶ <https://www.gov.uk/government/publications/the-7-principles-of-public-life> [accessed: 8 May 2024]

⁷ <https://www.local.gov.uk/publications/research-councils-experience-finance-S114> [accessed: 8 May 2024]

⁸ <https://localgovernmentlawyer.co.uk/governance/396-governance-news/57148-welsh-community-councils-rapped-over-non-compliant-registers-of-interests> [accessed: 10 May 2024]

Interests within 28 days of election or of becoming aware of a new or change in interest. They are also required by the Councillor Code of Conduct to register Compulsory Registerable Non-Pecuniary Interests. Sensitive Interests are recorded in a private register but a note is made on the public register that an interest is withheld.

6. Call for more effective standards regime

- 6.1. The National Association for Local Councils (NALC), which represents parish and town councils in England, has warned the Committee for Standards in Public Life that the existing standards regime does not have “teeth”⁹. It highlighted the lack of effective sanctions and that monitoring officers and standards committees in many organisations lack organisational capacity to promote, monitor and maintain ethical standards. It recommended more basic training on the standards regime for councillors and staff, as well as the full implementation of the 2019 report [Local Government Ethical Standards](#) by the new Government.

7. Standards Cases

Ashfield District Council

- 7.1. Councillor Tom Hollis, Deputy Leader of Ashfield District Council, has pleaded guilty of failing to disclose a pecuniary interest following re-election in 2019 and 2021¹⁰. In 2018, Councillor Hollis had loaned £70,000 to another councillor who had used the money to purchase a property. Councillor Hollis failed to register the loan, with the Deputy Chief Magistrate reportedly saying “Throughout the period 2019 to 2021 he was the beneficial owner of the said property and was re-elected twice without disclosure on his part of that financial interest”. While the magistrate acknowledged that there was no benefit to the councillor from the non-disclosure, Councillor Hollis was fined £2,400 for the failure.

Borough Solicitor’s Comment

- 7.2. A failure to register or disclose a Statutory Disclosable Pecuniary Interest is a criminal offence under the Localism Act 2011. One of the categories is any beneficial interest in land which is in the area of the council. Statutory Disclosable Pecuniary Interests include any interests of a Member’s spouse or civil partner, or person with whom a Member lives as if they were a spouse or civil partner.
- 7.3. Members are regularly reminded to update their registers of interest.

⁹ <https://localgovernmentlawyer.co.uk/governance/396-governance-news/57715-standards-regime-needs-more-teeth-town-and-parish-councils-say> [accessed: 16 September 2024]

¹⁰ <https://www.localgovernmentlawyer.co.uk/governance/396-governance-news/56496-councillor-pleads-guilty-to-failing-to-disclose-pecuniary-interest> [accessed: 26 February 2024]

Hartlepool Borough Council

- 7.4. Two councillors have been found to have breached the Code of Conduct for “untrue statements” made in a Conservative Party leaflet circulated in summer 2023¹¹. The statements were: “FACT: No other political party in Hartlepool has ever frozen council tax”; and that the Council leader, Councillor Mike Young, had “immediately instructed officers to start preparing for a budget that froze council tax”. An independent investigation was carried out following a referral from Council to the Audit and Governance Committee¹². The investigation found that the first statement had no “factual basis” while the second statement was untrue. It concluded that Councillor Young and Councillor Tom Cassidy had breached the requirement “not to bring my role or local authority into disrepute”. The Audit and Governance Committee accepted the findings and imposed sanctions to apologise to full Council, with a formal censure if the apology was not offered. The papers were exempt from publication but an extract of the Investigating Officer’s report was submitted to Council in February¹³. Apologies were made at the February meeting of Council.

Borough Solicitor’s Comment

- 7.5. This case highlights how the Code of Conduct applies in all forms of communication when a Member is acting in their capacity as a councillor, including where a reasonable member of the public with knowledge of all the facts would gain the impression that a Member is acting as a councillor. The actions and behaviours of sitting councillors are under greater scrutiny than that of other candidates, with the potential for bringing their office or the council into disrepute. Statements within political campaigning literature of sitting councillors that are considered to be misleading could be found to be in breach of the Code of Conduct.

Tower Hamlets Council

- 7.6. A standards investigation¹⁴ has been carried out following allegations that a councillor at Tower Hamlets Council had sought and failed to elicit a bribe¹⁵. Santosh Nair had appealed the refusal of a renewal for a sexual entertainment licence, claiming the councillor had sought to elicit a bribe in

¹¹ <https://www.hartlepoolmail.co.uk/news/politics/hartlepool-borough-council-leader-mike-young-and-tory-colleague-tom-cassidy-apologise-for-breaching-code-of-conduct-over-council-tax-leaflet-4531098> [accessed: 5 March 2024]

¹² https://www.hartlepool.gov.uk/meetings/meeting/4484/audit_and_governance_committee [accessed: 5 March 2024]

¹³ file:///C:/Users/CAMCH062.CAMDEN/Downloads/22.02.24_Council_Agenda_5.pdf [accessed: 22 March 2024]

¹⁴ <https://democracy.towerhamlets.gov.uk/documents/g14297/Public%20reports%20pack%2007th-Dec-2023%2018.30%20Standards%20Advisory%20Committee.pdf?T=10> [accessed: 7 May 2024]

¹⁵ <https://www.standard.co.uk/news/politics/tower-hamlets-councillor-strip-club-bribe-oops-whitechapel-b1145414.html> [accessed: 7 May 2024]

return for granting the licence. The council reached a settlement¹⁶, agreeing to reinstate the lap dancing club's licence and pay Mr Nair's legal costs and damages.

- 7.7. A meeting of the Standards Advisory Committee, on 7 December 2023, heard that an external investigator had been appointed due to the seriousness of the allegation but slow progress was being made. A police investigation was halted after finding insufficient evidence. In June 2024, the Committee heard that the case had been close due to insufficient evidence¹⁷. During the meeting, the Committee expressed concern that it had not been sufficiently updated on the progress of the investigation or the related settlement¹⁸.

Borough Solicitor's Comment

- 7.8. Where a complaint is made against a councillor, the Borough Solicitor has delegated authority, in consultation with an Independent Person, to decide whether to progress this to investigation. An allegation of eliciting a bribe could be considered as a potential breach of the Code of Conduct obligations not bring the local authority into disrepute and not to use, or attempt to use, the councillor's position improperly to their advantage. Given the seriousness of the allegations, an investigation would be the likely outcome although other factors such as the potential for evidence supporting the complaint would need to be considered. An investigation may also not be pursued or be deferred where a complaint has also been made to the police.
- 7.9. Where it has been determined that a complaint requires investigation, the Borough Solicitor will determine whether the investigation be undertaken internally or an external investigator appointed.

South Tyneside Metropolitan Borough Council

- 7.10. Iain Malcolm, former leader of South Tyneside Metropolitan Borough Council, has been found to have breached the councillors' Code of Conduct by failing to treat the Monitoring Officer and the Corporate Director, Business and Finance with respect, and through conduct that amounted to bullying¹⁹. He had also attempted to influence the actions of statutory officers and brought the council and office of councillor into disrepute. As Mr Malcolm was no longer a serving councillor, no sanctions could be imposed²⁰.

¹⁶

https://www.whatdotheyknow.com/request/santosh_nair_settlement/response/2622483/attach/2/Response%20all%20information%20to%20be%20supplied.pdf?cookie_passthrough=1 [accessed: 7 May 2024]

¹⁷ <https://democracy.towerhamlets.gov.uk/documents/g15330/Public%20reports%20pack%2026th-Jun-2024%2018.30%20Standards%20Advisory%20Committee.pdf?T=10> [accessed: 13 September 2024]

¹⁸ <https://democracy.towerhamlets.gov.uk/documents/g15330/Printed%20minutes%2026th-Jun-2024%2018.30%20Standards%20Advisory%20Committee.pdf?T=1> [accessed: 13 September 2024]

¹⁹ <https://localgovernmentlawyer.co.uk/governance/396-governance-news/56849-monitoring-officer-was-undermined-and-bullied-by-former-council-leader-investigation-finds> [accessed: 7 May 2024]

²⁰ <file:///C:/Users/CAMCH062.CAMDEN/Downloads/Decision%20Notice%20-%2020.03.24.pdf> [accessed: 7 May 2024]

Borough Solicitor's Comment

- 7.11. In the event of the Monitoring Officer bringing a complaint against a Member for conduct such as bullying, the likely process followed would be to ask the Deputy Monitoring Officer to consider the complaint, in consultation with one of the Independent Persons, and who would then refer it to Standards Committee for a decision on whether it should be investigated.

Warwickshire County Council

- 7.12. Three councillors, Brian Hammersley, Jeff Morgan, and Clare Golby, have apologised for comments made about children with special educational needs at a Scrutiny Committee meeting in Warwickshire County Council but an investigation has concluded that there was no breach of the Code of Conduct²¹. The comments had included: "Not automatically accepting the plea of a mother saying that little Willy has ADHD when in actual fact little Willy is just really badly behaved and needs some strict form of correction"²².
- 7.13. While Councillors Hammersley and Morgan were found to have used phrases that were "disrespectful and showed a lack of care and sensitivity", there was insufficient evidence that Councillor Golby had carried out bullying, harassment or unlawful discrimination. In the cases of Councillors Hammersley and Morgan, the enhanced protections during political debate from Article 10 of the European Convention on Human Rights led to the finding of no breach of the Code of Conduct. Recommendations were made that the Chief Executive of the Council explore how councillors could be supported to engage in debate while using respectful, courteous and sensitive language.

Borough Solicitor's Comment

- 7.14. The comments reported at the Scrutiny Committee meeting could be considered under the respect provision of the Code of Conduct. In an investigation into a potential breach, the need for councillors to express and challenge views, ideas, opinions and policies would need to be balanced with the requirement for politeness and courtesy in behaviour and speech. It would need to be assessed as to whether groups of people, such as those with special education needs or their carers, had been subjected to personal attack in the comments made. Any apologies already given would also need to be considered in the event of a breach being found.

8. Finance Comments of the Executive Director Corporate Services

- 8.1. There are no financial impacts resulting from this report.

²¹ <https://localgovernmentlawyer.co.uk/governance/396-governance-news/57695-investigation-into-comments-by-warwickshire-councillors-on-special-educational-needs-finds-no-breach-in-code-of-conduct> [accessed: 13 September 2024]

²² <https://www.localgovernmentlawyer.co.uk/governance/396-governance-news/56378-councillors-issue-apology-over-send-comments-as-local-authority-launches-investigation> [accessed: 13 September 2024]

9. Legal Comments of the Borough Solicitor

9.1. This is a report of the Borough Solicitor and there are no other legal comments.

10. Environmental Implications

10.1. There are no environmental implications.

REPORT ENDS