

Report Title	Government Response – Local Government Ethical Standards
Portfolio Holder	Metro Mayor Steve Rotheram, Portfolio Holder for Policy, Reform and Resources
Summary of decision being sought	The Liverpool City Region Audit and Governance Committee to note the contents of the report.
Is this report exempt?	No
Is this a Key Decision	No
Is the report urgent	No
Is this decision to be exempt from call in	No
Local Authorities affected	All
Impact and implications of this report	
Financial impact	No
Delegation (s) sought	N/A
Supporting the Corporate Plan	A Fairer City Region ✓ A Stronger City Region ✓ A Cleaner City Region ✓ A Connected City Region ✓ A Vibrant City Region ✓
Climate Change Implications	No
Equality and Diversity implications	No
Social Value implications	No
Human Resources implications	No
Physical Assets implications	No
Information Technology implications	No
Legal implications	Yes, see paragraph 4.1
Risk and Mitigation	No
Privacy implications	No

Communication and consultation implications

Yes, see paragraph 4.2

Contact Officer(s)

Jill Coule, Chief Legal Officer and Monitoring Officer, Tel: 0151 330 1855,
Email: Jill.Coule@liverpoolcityregion-ca.gov.uk

Sharna Chowdhury, Trainee Solicitor, Tel: 0738 896 4192,
Email: Sharna.Chowdhury@liverpoolcityregion-ca.gov.uk

Appendices

Yes

Background Documents

No

LIVERPOOL CITY REGION COMBINED AUTHORITY

Liverpool City Region Audit and Governance Committee

27 July 2022

REPORT OF THE MONITORING OFFICER

GOVERNMENT RESPONSE – LOCAL GOVERNMENT ETHICAL STANDARDS

1. PURPOSE OF REPORT

- 1.1. The purpose of this report is to highlight to Members the Government's response to the Committee on Standards in Public Life ("CSPL") review into Local Government Ethical Standards.

2. RECOMMENDATIONS

- 2.1. It is recommended that the Liverpool City Region Audit and Governance Committee note the contents of the report.

3. BACKGROUND

- 3.1. At the LCR Audit and Governance Committee meeting on 20 March 2019, Members considered the review by the CSPL into Local Government Ethical Standards.
- 3.2. The review contained 26 recommendations and 15 best practice suggestions. Most of the recommendations were directed at central government and many would require legislative change to be implemented.
- 3.3. The LCR Audit and Governance Committee agreed that the report and contents of the review be noted, and the actions contained within paragraph 3 in relation to the Best Practice recommendations be endorsed.
- 3.4. As indicated in the Government's response, the Government believes that some of the recommendations do not need a legislative response but can be more appropriately, effectively, and swiftly taken forward by local authorities as best practice.
- 3.5. The Government published its formal response on 18 March 2022. This is summarised below with the full text set out in Appendix 1 of this report and runs to 12 pages.

The Government's Response

- 3.6. In summary, the key points from the Government's response are as follows:

(Numbering follows the same order as CSPL’s recommendation numbers as per Appendix 1.

- The response to recommendations 10, 12, 13, 14 and 16 have been grouped together.
- Recommendation 19 is directed to Parish councils to make a response. Recommendations 20 and 21 relates to areas with Parish Councils. Recommendation 25 is directed to Political groups and National political parties to provide a response.
- Recommendation 26 is directed to the Local Government Association to provide a response).

Number	Recommendation	Key points from Government’s Response	Action by the Combined Authority
1	The Local Government Association (“LGA”) should create an updated model code of conduct, in consultation with representative bodies of councillors and officers of all tiers of local government.	The LGA published the updated code of conduct in January 2021. However, it remains a local decision on whether this model code is adopted.	The updated LGA model code of conduct that was published in January 2021, a locally agreed version of the Code was adopted by the Combined Authority (“CA”) at its meeting on 4 June 2021. The Combined Authority continues to review its code and incorporates amendments accordingly to the revisions of the locally agreed code.
2	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	The Government agrees with the principle behind this recommendation – which safeguards elected representatives - and considers amending the Relevant Authorities (Disclosable Pecuniary Interests)	The Combined Authority does not conduct the election for the office of Metro Mayor. There is therefore no step that the Combined Authority can take in response to this recommendation.

	<p>should be amended to clarify that a councillor does not need to register their home address on an authority's register of interests.</p>	<p>Regulations 2012 would be an option to achieve it.</p> <p>Notwithstanding, it is important that home addresses are internally registered with monitoring officers, to help avoid conflicts of interest.</p>	
3	<p>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.</p>	<p>The Government's view is that it is for individual local authorities to consider if their code of conduct is adequate in addressing the issue of inappropriate use of social media.</p>	<p>The Combined Authority's current version of the code of conduct makes adequate reference to the issue of inappropriate use of social media.</p>
4	<p>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</p>	<p>The Local Government Association have updated their own suggested code of conduct to state that the code applies when "[a member's] actions could give the impression to a reasonable member of the public with knowledge of all the facts that [they] are acting as a</p>	<p>The Combined Authority's adopted code of conduct has been updated to incorporate this amendment.</p>

	authority.	[member]”. It is for individual local authorities to ensure that their codes of conducts are regularly updated, comprehensive and fit for purpose. The Government will keep this matter under review but has no immediate plans to amend the regulations.	The Combined Authority’s code of conduct is regularly updated, most recently changes to the code have been presented to the Audit and Governance Committee at its meeting on 30 March 2022.
5	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.	Unpaid roles may need to be declared if it is relevant to council business, and councillors should recuse themselves if necessary if discussions relate to private bodies, they are involved in. The Government will keep this matter under review but has no immediate plans to amend the regulations.	The Combined Authority’s current version of the code of conduct makes appropriate reference to this.
6	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	Local authorities have the autonomy to set gifts and hospitality requirements in their own codes of conduct. The Government accepts that there is merit in best practice guidance on the thresholds for gifts and hospitality and	The Combined Authority follows best practice guidance on thresholds for gifts and hospitality. The register is regularly updated and is published on the Combined Authority’s website.

	<p>a single source. This requirement should be included in an updated model code of conduct.</p>	<p>agrees that a register of gifts and hospitality should be publicly available.</p>	
7	<p>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 if 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".</p>	<p>The Government will keep this matter under review but has no immediate plans to repeal Section 31 of the Localism Act 2011.</p>	<p>No action required at this stage.</p>
8	<p>The Localism Act 2011 should be amended to require that Independent Persons are appointed for a fixed term of two years, renewable once.</p>	<p>The Government does not accept this recommendation as appropriate for legislation on the basis that it would be likely to be unworkable. The Government's view is that it would be more appropriately implemented as a best practice</p>	<p>There is correspondence in place currently with each of the Constituent Authorities that confirms Independent Persons will be called upon from the Constituent Councils to deal with standards complaints. This</p>

		recommendation for local authorities.	will be reviewed during 2022/23.
9	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.	The Government does not agree with this. The Local Government Transparency Code is a statutory requirement to publish information; it does not regulate the content of councils' minutes or decision notices.	No action required.
10	A local authority should only be able to suspend a councillor where the authority's Independent Person agrees both with the finding or a breach and that suspending the councillor would be a proportionate sanction.	There is no provision in current legislation for a sanction to suspend a councillor found to have breached the code of conduct, and this was a deliberate policy decision by the Coalition Government at the time of the Localism Act 2011 to differentiate from the previous, failed Standards Board regime.	No action required at this stage. We are currently awaiting further output from Government.
12	Local authorities should be given the discretionary power to establish a decision-making standards committee with voting independent members and voting members from dependent	As part of the Government's response to the Committee's report on intimidation in public life, the Government recommended that every political party establish their own code of conduct for party members,	

13	<p>parishes, to decide on allegations and impose sanctions.</p> <p>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.</p>	<p>including elected representatives.</p> <p>The Government will engage with sector representative bodies of councillors and officers of all tiers of local government to seek views on options to strengthen sanctions to address breaches of the code which fall below the bar of criminal activity and related sanctions but involve serious incidents of bullying and harassment or disruptive behaviour.</p>	
14	<p>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</p>		

16	<p>be binding on the local authority.</p> <p>Local authorities should be given the power to suspend councillors, without allowances, for up to six months.</p>		
11	<p>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.</p>	<p>The Government agrees in principle.</p> <p>The Government endorses providing legal indemnity for Independent Persons as local authority best practice but does not currently see the need to require this through secondary legislation.</p>	<p>Our Independent Persons are called upon from the Constituent Councils. Requests will be made to understand the indemnity position at the local authorities through the Monitoring Officer group.</p>
15	<p>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.</p>	<p>The Government believes that this is better addressed through the sector adopting as best practice a regular pattern of annual reporting by Standard Committees of the cases and complaints handled and would encourage this as best practice by the sector.</p> <p>The Government does not believe that there is a requirement to prescribe to local authorities the form and content of such Standard Committee annual</p>	<p>For monitoring and review purposes, it is already a requirement for the Monitoring Officer to provide the Audit and Governance Committee annually a summary of all complaints received.</p>

		reports.	
17	The government should clarify if councils may lawfully bar councillors from council premises or withdraw facilities as sanctions. These powers should be put beyond doubt in legislation if necessary.	<p>The criminal law, overseen by the police and courts, provides for more appropriate and effective action against breaches of public order, for anti-social behaviour, and against harassment.</p> <p>The occasion where councils would seek to bar councillors from council premises are thought to be extremely rare. We will consider this further.</p>	No action required at this stage. If this proved necessary, precedent would be drawn from similar arrangements in place for other public buildings, such as schools and common law, to adopt a proportionate approach.
18	The criminal offences in the Localism Act 2011 relating to Disclosable Pecuniary Interests should be abolished.	The Government does not agree with this recommendation, but rather believes the criminal offence of a non-disclosure of pecuniary interest to be a necessary and proportionate safeguard and deterrent against corruption.	No action required.
22	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	The Government agrees in principle with this recommendation and recognises this will be pertinent to Monitoring Officers who may not necessarily be afforded the same seniority in the organisational hierarchy of a local authority as the	No action required at this stage. Engagement from the Government in this regard will be reported when it occurs.

	dismissal.	<p>two other statutory officers (Head of Paid Service and the Section 151 Officer), and who may be subject to personal pressures when conducting high profile breach of conduct investigations.</p> <p>The Government will engage with sector representative bodies of all tiers of local government to seek views on amending the Local Authorities (Standing Orders) (England) (Amendment) Regulations to provide disciplinary protections for statutory officers.</p>	
23	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.	<p>The Government agrees with the principle that openness is essential.</p> <p>Most local authorities already publish their whistleblowing policy, procedures and a named contact on their websites, and Government is recommending that this is adopted as a best practice recommendation.</p>	The whistleblowing policy is already published on the Combined Authority's website, which includes its procedures and specifies a named contact for the external auditor alongside their contact details.
24	Councillors should be listed as 'prescribed persons' for the	Disclosures relating to local authorities can be made to the	No action required at this stage. Engagement

	<p>purposes of the Public Interest Disclosure Act 1998.</p>	<p>external auditor of the relevant authority, the Comptroller and Auditor General (National Audit Office), or a Member of Parliament.</p> <p>However, the Government recognises that this may provide a further check and balance against council corruption or wrongdoing and is open to further representations on the matter on how local accountability can be strengthened in this regard.</p>	<p>from the Government in this regard will be reported when it occurs.</p>
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4. IMPACT AND IMPLICATIONS

4.1. Legal

There are no legal implications directly relating to the contents of this report. However, there are potential future implications detailed within the Government's Response and these will be addressed as and when necessary.

4.2. Communication and Consultation

Members of the Combined Authority will be advised of the contents of this report following its consideration by the LCR Audit and Governance Committee.

5. CONCLUSION

- 5.1. The Government believes that some of these recommendations do not need a legislative response but can be taken forward by authorities as best practice. Officers have and continue to take appropriate action accordingly to the Government's responses.
- 5.2. Responses which indicate future legislative change will be appropriately addressed by the Combined Authority as and when required.

JILL COULE
Chief Legal Officer and Monitoring Officer

METRO MAYOR STEVE ROTHERAM
Portfolio Holder for Policy, Reform and
Resources

Appendices:

Appendix 1 – Government's response to the Committee on Standards in Public Life review of Local Government Ethical Standards

Background Documents:

None