

<b>REPORT REFERENCE NO.</b>	<b>AGC/22/11</b>
<b>MEETING</b>	<b>AUDIT &amp; GOVERNANCE COMMITTEE</b>
<b>DATE OF MEETING</b>	<b>22 JULY 2022</b>
<b>SUBJECT OF REPORT</b>	<b>ANNUAL REVIEW OF AUTHORITY STANDARDS ARRANGEMENTS</b>
<b>LEAD OFFICER</b>	<b>Director of Governance &amp; Digital Services</b>
<b>RECOMMENDATIONS</b>	<i>That the report be noted.</i>
<b>EXECUTIVE SUMMARY</b>	<p>This paper identifies the Standards arrangements adopted by the Authority to secure compliance with the legislative provisions of the Localism Act 2011 and associated Regulations.</p> <p>It also provides an overview of operation of the regime during the last (2021-22) financial year.</p>
<b>RESOURCE IMPLICATIONS</b>	Nil.
<b>EQUALITY RISKS AND BENEFITS ANALYSIS</b>	Not applicable.
<b>APPENDICES</b>	A. Government response to the Committee for Standards in Public Life review report on Local Government Ethical Standards
<b>BACKGROUND PAPERS</b>	<p><a href="#">The Localism Act 2011 (the Act)</a></p> <p><a href="#">The Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012 (the Regulations)</a></p> <p><a href="#">The Committee on Standards in Public Life review of Local Government Ethical Standards</a></p>

## **1. GENERAL INTRODUCTION**

- 1.1. This report represents the first annual report on the Authority's Standards regime in accordance with the provisions of the Localism Act 2011 and associated regulations and the operation of the regime during the last (2021-22) financial year.

## **2. LEGISLATIVE BACKGROUND**

- 2.1. The Localism Act 2011 introduced a new ethical standards regime for all local authorities. The former regime under the Local Government Act 2000 provided, amongst other things, for a Model Code of Conduct which applied across all authorities together with an independent external body – the Standards Board for England – which administered arrangements for dealing with complaints that Members had failed to follow the Code of Conduct. The Standards Board for England was able, in cases where breaches of the Model Code were established, to impose a range of sanctions up to and including suspensions.
- 2.2. The Localism Act 2011 (“the Act”) saw the old regime completely abolished, with local authorities placed under a duty to promote and maintain high standards of conduct by Members and co-opted members of the authority and so doing to:
- adopt a code dealing with the conduct expected of authority Members and co-opted members when acting in that capacity (Section 27(2) of the Act);
  - ensure that the code so adopted is, when viewed as a whole, consistent with the seven “Nolan” principles of public life (Section 28(1));
  - include provision in the code of registering and disclosing pecuniary and other interests (Section 28(2));
  - have in place arrangements to investigate and make decisions on allegations of breaches of the code of conduct adopted (Section 28(6));
  - appoint one or more “independent persons” whose views:
    - must be taken into account by the authority before it makes a decision on an allegation which has been investigated (Section 28(7)(a)); and
    - may be sought by the authority in other circumstances (to be determined by the authority in question) and by a Member or co-opted member subject to an allegation (Section 28(7)(b));
  - maintain and publish on its website a register detailing for each Member and co-opted member (including the spouse or civil partner of the Member or co-opted Member or anyone with whom the Member or co-opted member is living either as husband or wife or as if they were civil partners) a register of disclosable pecuniary interests and any other interests as determined by the authority (Sections 29 and 30).

- 2.3. Section 31 of the Act requires all Members and co-opted members with a disclosable pecuniary interest to declare this interest at meetings when matters where the interest exists are being discussed and not to participate in the debate or vote on such matters. The Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012 (“the Regulations”), made under Section 30 of the Act, identifies disclosable pecuniary interests that must be both registered and declared at meetings. Section 34 of the Act makes failure to register and/or declare a disclosable pecuniary interest an offence which may only be instituted by the Director of Public Prosecutions and which is punishable, on summary conviction, of a fine not exceeding level 5 on the standard scale (currently £5,000).
- 2.4. The Act removed the ability for Members to be suspended or disqualified for proven breaches of the code of conduct. Consequently, sanctions currently available to local authorities (including this Authority) include public censure, apology, training, removal from committee and/or outside body responsibilities and withdrawal of access to facilities and resources.
- 2.5. Other than the requirements of Section 28, there are no prescriptions in the Act either in relation to the contents of the code of conduct to be adopted by an authority or the nature of arrangements for dealing with allegations of non-compliance with the code.

### **3. APPLICATION TO THIS AUTHORITY**

- 3.1. As required by the Act, this Authority initially adopted a Code of Conduct and procedures for dealing with alleged breaches of the Code in July 2012. These have undergone a number of revisions over the years, informed by practical experience in dealing with complaints and by external reports such as the report on local government ethical standards published in 2019 by the Committee on Standards in Public Life.

#### ***Code of Conduct***

- 3.2. The Authority’s current Code of Conduct is published both on the website and the Service intranet. Since initial publication, revisions have included:
- (a). in June 2019, to include revisions reflecting two of the best practice recommendations for local authorities made by the Committee on Standards in Public Life following its review of local government ethical standards. It should be noted here that the current Code now aligns fully with the best practice recommendations for local authorities as set out in the Committee on Standards in Public Life report;
  - (b). in June 2021. This was largely a reformatting exercise to align the Code with the Model Code issued by the Local Government Association. In this respect, it should be noted that
    - production of a Model Code by the Local Government Association was a specific recommendation by the Committee on Standards in Public Life; and

- there is no obligation to adopt the LGA Model Code. The Localism Act still provides that it is for individual authorities to determine their own Code of Conduct. The LGA Model Code is, however, considered a de minimis best practice Code. The current Authority Code contains all the features of the LGA Model Code, adapted and expanded as required to fit the Authority's current processes and Standards requirements; and
- (c). in December 2021, to reflect a change in wording for the descriptor on the Leadership principle of the Nolan principles, to emphasise treating others with respect, as recommended by the Committee on Standards in Public Life.

### ***Complaints Procedure***

- 3.3. A guide on [how to make a complaint](#), together with [guidance on how complaints are handled](#), are published on the website.
- 3.4. The complaints procedure was subject to significant review in 2019, informed by previous experience in complaints processed, constituent authority practices and procedures and recommendations contained in the Committee on Standards in Public Life report.

## **4. COMMITTEE ON STANDARDS IN PUBLIC LIFE REPORT – GOVERNMENT RESPONSE**

- 4.1. As previously referenced, the Committee on Standards in Public Life published its report on local government ethical standards in 2019. This report contained some 26 recommendations for improvements, the majority of which would require government intervention, together with fifteen best practice recommendations for local authorities.
- 4.2. This report was considered by the (then) Standards Committee in April 2019 following which a number of revisions to the Authority's Code of Conduct and complaints procedure were subsequently approved by the Authority.
- 4.3. The Authority's Code of Conduct now complies fully with the best practice recommendations and the LGA Model Code (production of which was, itself, a recommendation by the Committee on Standards in Public Life). Additionally, the Authority's complaints procedure was similarly amended.
- 4.4. The government published its response to the Committee on Standards in Public Life earlier this year. A copy of this response is attached at Appendix A.
- 4.5. In relation to the 26 recommendations which the Committee for Standards on Public Life considered required government intervention, it should be noted that the Authority's current Code of Conduct:
  - (a). complies with the Model Code produced by the Local Government Association (recommendation 1);
  - (b). contains sections dealing with:

- i. recommendation 4 (code applying when acting or purporting to act as a Member);
- ii. recommendation 5 (unpaid directorships, management roles in charities etc.) - albeit not as pecuniary interests;
- iii. recommendation 6 (registration of gifts);
- iv. recommendation 7 (non-participation at meetings where an interest would be perceived as likely to prejudice impartial decision making); and

4.6. The Authority's approved procedures also comply with:

- (a). recommendation 8 (term of office of Independent Persons);
- (b). recommendation 9 (recording views of Independent Person in minutes and/or decision notice);
- (c). recommendation 11 (indemnity for Independent Persons); and
- (d). recommendation 23 (inclusion of contact for external auditor in the Authority's Whistleblowing Policy).

4.7. The remaining recommendations, notably those relating to sanctions (recommendation 16); the abolition of the criminal offence for Code breaches relating to disclosable pecuniary interests (recommendation 18); and powers of the Ombudsman to deal with appeals from councillors who had a suspension sanction imposed (recommendation 14) would require government intervention in the form of legislative change. In its response, however, the government has indicated that it is not minded to introduce such changes at this stage.

4.8. The government has also indicated that it agrees with the principle behind recommendation 2 (removing the requirement for a Member to publicly disclose their home address). This is currently a disclosable pecuniary interest as per the Regulations so, until the government determines to change this, it remains a requirement for Members of this Authority when submitting their Registration of Interests.

4.9. In this context, it should also be noted that:

- The issue of intimidation and abuse of elected councillors has again, recently, been prominent in certain media (notably, evidence submitted by Cornwall Council to the Local Government Association); and
- Section 32 of the Localism Act 2011 provides the ability for the Monitoring Officer to redact details of a "sensitive" interest (as defined in the Act) where the Monitoring Officer, in conjunction with the Member concerned, considers that disclosure of the details could lead to the Member (or a person associated with them) being subject to violence or intimidation. This power does not allow for a blanket redaction of such details for all Members, however. Rather, it requires consideration on a case-by-case basis.

## **5. OPERATION OF THE STANDARDS REGIME FOR THE 2021-22 FINANCIAL YEAR**

5.1. Recommendation 15 of the Committee on Standards in Public Life review of local government ethical standards proposed that the Local Government Transparency Code should be amended to require local authorities to publish, annually, details on the number of Code of Conduct complaints received, what the complaints broadly relate to, the outcome of the complaints and any sanctions applied.

5.2. In its response to the recommendations, the government has indicated that it feels this is better addressed by the sector adopting such annual reporting as a matter of best practice.

5.3. Consequently, this report identifies the current regime operated by the Authority and provides an overview of its operation during the last financial year. It is intended that a similar report should be submitted on an annual basis.

### ***Code of Conduct Complaints***

5.4. Historically, the Authority has not received nor had to process a significant number of complaints relating to alleged breaches of the Code of Conduct.

5.5. It is pleasing to note that, for the 2021-22 financial year, no complaints were received.

### ***Registration of Interests***

5.6. The Act requires that Members register those disclosable pecuniary interests as per the Regulations and any other registerable interests as may be specified by the Authority within 28 days of appointment to the Authority. The Act also requires that such Registrations are made publicly available.

5.7. At the time of producing this report, Registers of Interest have been published for each Member currently serving on the Authority. Annual reminders are also issued to all serving Members to ensure that their published Register of Interests is up to date. It should be noted, however, that – while there is a requirement to publish the Registers of Interest – the onus is on individual Members to ensure that all registerable interests are duly recorded and to notify the relevant officer of any change in interests so published as soon as the Member becomes aware of the change.

5.8. In addition to the published Register of Interests, all Members are required to declare relevant interests in items that may be under discussion at meetings attended. Such interests, when declared, are recorded in the Minutes of the meeting which are published on the website.

## **6. CONCLUSION**

6.1. The Authority has in place a robust Code of Conduct and procedures for dealing with alleged breaches. These are fully compliant with the provisions of the Localism Act 2011 and – where practicable/legal – the recommendations stemming from the Committee on Standards in Public Life report on local government ethical standards.

- 6.2. The Code and associated procedures are kept under constant review. Any changes as may be required will be reported to the Authority at the earliest opportunity.
- 6.3. Code requirements also feature as part of the induction programme for all Authority Members.
- 6.4. Historically, the Authority has not dealt with many complaints and it is pleasing to note that no complaints were submitted for the last financial year.
- 6.5. It remains the case, however, that the duty to promote and maintain high standards of conduct rests with the Authority, collectively and at an individual Member level. The arrangements currently in place are considered robust, proportionate and appropriate to enable the Authority to fully discharge this duty.

**MIKE PEARSON**  
**Director of Governance & Digital Services**  
**(Monitoring Officer)**