

Democracy and Standards Committee

8th January 2024

Report Title	Code of Conduct – National Learning Case Studies
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Are there public sector equality duty implications?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
Does the report contain confidential or exempt information (whether in appendices or not)?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
Applicable paragraph number/s for exemption from publication under Schedule 12A Local Government Act 1972	N/A

List of Appendices

Appendix A – Speech of Lord Evans

1 Purpose of Report

1.1.1 To inform members of the Democracy and Standards Committee (the committee) of the national picture on standards issues affecting Local Government.

2 Executive Summary

2.1 As part of the ongoing development and awareness of the committee this report details update on national developments and case studies with relates to the work of the committee and may inform future work programme items.

3 Recommendations

3.1 The Democracy and Standards Committee is recommended to:

3.1.1 Note the report and request that officers monitor the progress of matters referred to and keep the committee updated; and

3.1.2 Consider the recommendations it wishes to make arising out of the contents of the report.

- 3.2 Reason for Recommendations – To assist in keeping members of the committee abreast with developments in the application of the Code of Conduct by other local authorities.

4 Report Background

- 4.1 As part of good practice, a report on the national picture is invited to be brought to a quarterly meeting standing agenda item to inform the committee of the national picture relating to Standards and Code of Conduct matters.

5 Chair of the Committee on Standards in Public Life

- 5.1 On the 17 October 2023, to mark the end of his term as Chair of the Committee on Standards in Public Life, Lord Evans delivered a speech at the Institute for Government.
- 5.2 This speech referred to the Committee on Standards in Public Life's previous report on Local Government Ethical Standards in 2019. It also referenced the government's response to the report and is attached at Appendix A for information.
- 5.3 The committee will be updated as to the appointment of the new chair to the committee at a future meeting.

6 Birmingham City Council - Section 114 notice

- 6.1 On 5 September 2023, Birmingham City Council issued a Section 114 notice. A Section 114 notice is issued by the Chief Financial Officer of a Council. It is required under the Local Government Finance Act 1988 if "expenditure of the authority incurred (including expenditure it proposes to incur) in a financial year is likely to exceed the resources (including sums borrowed) available to it to meet that expenditure."
- 6.2 A second Section 114 notice, alongside a Section 5 notice, was issued on the 21 September 2023. According to the Monitoring Officer, this occurred following Birmingham City Council's failure to "secure a decision relating to the implementation of a job evaluation programme".
- 6.3 A Section 5 notice, under the Local Government and Housing Act 1989, is a report made by the Monitoring Officer when the Monitoring Officer believes that a Council is about to engage in maladministration or otherwise contravene the law.
- 6.4 At a meeting on the 12 October, Birmingham City Council (following statutory recommendations from external auditors Grant Thornton LLP) agreed to commission an independent review of how it considers legal advice and whether its Monitoring Officer's legal advice is appropriately considered. This

agreement followed an initial report on the 29 September 2023 by the external auditors Grant Thornton LLP where it had been reported “there is evidence of a growing mistrust between certain officers and members”, with relationships between senior officers and key members becoming “strained”.

- 6.5 Senior officers have indicated that they “have not always felt supported by senior politicians.” Senior politicians have also asked for statutory officers to be subject to investigation “for providing a record of some meetings to external auditors” despite the fact that the officers were legally obliged to do so.
- 6.6 The report by Grant Thornton LLP stated that it is “essential that the Council has appropriate governance arrangements in place to ensure that officers are able to fulfil their functions without concern as to their position. The Council has confirmed to us that it has appropriate processes in place to safeguard its staff”. While the report did not make any recommendations in relation to officers, Grant Thornton LLP will “continue to monitor whether officers are treated fairly.”

7 Cambridgeshire and Peterborough Combined Authority – Dr Nik Johnson

- 7.1 At an Audit and Governance sub-committee meeting on 14 November 2023, the mayor of the Combined Authority was found to have breached Schedule 12A Paragraph 1 and 2 of the LGA 1972, which concern information relating to an individual and information which is likely to reveal the identity of an individual.
- 7.2 The mayor received three complaints against him between October 2021 and May 2022. Two complainants alleged that there was a toxic culture and bullying behaviour within the authority, specifically that the mayor was intent on ousting a senior officer and that other officers should ignore them. The third complainant alleged the mayor failed to respect the role of officers and officer decision-making and that he disclosed information to a journalist to undermine the reputation of officers.
- 7.3 An independent investigator was appointed, and an investigation report was produced. The report found that there was no evidence to suggest the mayor personally supplied information to the journalist and that the mayor did not breach the code in regard to bullying.
- 7.4 The investigator concluded that the mayor breached the code concerning civility and disrepute. His civility finding revolved around the mayor's relationship with an ex-employee who was involved in "much" of the bullying and toxic culture allegations. The mayor told the investigator that he did not witness any inappropriate behaviour on an ex-employee's part, but the investigator found this "implausible". The investigator concluded that the mayor must have known about the person's conduct.

7.5 The investigator also found that the mayor brought the council into disrepute for WhatsApp conversations he had with an ex-employee regarding human resources activity and outcome. It was recorded within the report that the conversation mainly involved the ex-employee sharing updates and their views regarding the process. The mayor was aware such discussions were inappropriate, and he should have intervened to end such discussions. In the independent investigator's view, the failure of the mayor to intervene or call out the bad behaviour showed a lack of respect and leadership that was essential to his office and, as a result, damaged the reputation of the role of mayor.

7.6 The mayor at the conclusion of the sub- committee meeting indicated that he had had a lot of time to reflect on what happened, he had regret for being cause of upset and apologised unreservedly to those whom he gave reason to complain. He also added:

"I wish the organisation we were a part of then was the one it is now as it is so much better in every conceivable way. I say that because I genuinely believe all of these improvements began back then, and I can only hope that the very real, very public progress made since provides something in the way of solace."

7.7 The sub-committee recommended the following:

- i) A written apology and for him to consult with the monitoring officer about the appropriateness of providing a written apology directly to one or more of the complainants.
- ii) For the Mayor to provide an undertaking not to repeat the behaviour and agree appropriate training with the chief executive officer, which should include HR practice when acting in a senior member role.

7.8 The sub-committee made two recommendations for the Council:

- i) A request that the combined authority review and improve the induction process for new mayors taking office.
- ii) The audit and governance committee to review the constitution in regard to the lessons learnt from the panel's process and to provide recommendations to the combined authority's board.

8. Implications (including financial implications)

8.1 There are no implications associated with this report.

9. Background Papers

None.