

LONDON BOROUGH OF CAMDEN	WARDS: All
REPORT TITLE Update on Standards Matters, June 2022	
REPORT OF Borough Solicitor	
FOR SUBMISSION TO Standards Committee	DATE 29 June 2022
<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 Crowndale Centre 218 Eversholt Street London NW1 1BD 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: 8 June 2022

1. Purpose of Report

- 1.1. This report highlights recent matters concerning standards, which will be of interest to the Committee.

2. Feedback from Recent Complaints

- 2.1. There are very few complaints made about Members in Camden, which is a positive indication of the conduct of Camden's councillors. Since the last report to the Committee on complaints about Members on 29th June 2021, nine complaints have been received. The Borough and an Independent Person decided that none of the complaints required a formal investigation as either the behaviour described in the complaints would not have constituted a breach of the Code of Conduct or the Councillor had stood down before an investigation could take place. As significant number of complaints are not about behaviour but about policy decisions that residents do not like or, on one occasion, about the details of the implementation of policy that could not have been the responsibility of the Member.
- 2.2. It should be noted that Camden has traditionally avoided politically motivated complaints, which has continued to be the case and has contributed to the numbers remaining very low. It remains important that such complaints remain confidential so any comment on them needs to bear this in mind. No decisions by the Borough Solicitor not to investigate those complaints were successfully appealed at the Local Government Ombudsman.
- 2.3. Our Independent Persons continue to be extremely helpful both in constructively inputting into the Borough Solicitor's decisions as to whether or not to investigate a complaint, and generally by making themselves readily available and being quick to provide responses. This outside view is extremely important and helpful in coming to a sensible decision on the complaints that are received.

3. Local Government (Disqualification) Act 2022

- 3.1. The Local Government (Disqualification) Act 2022¹ has received Royal Assent, with implementation from 28 June 2022. The Act identifies the grounds relating to sexual offences for which a person is disqualified from being elected to, or holding certain positions in local government. Secondary legislation is to follow once negotiations with the Electoral Commission are finished to effect change to the nomination form.

¹ <https://www.legislation.gov.uk/ukpga/2022/17/enacted> [accessed 25 May 2022]

4. Committee on Standards in Public Life Update

Review of Local Government Ethical Standards

- 4.1. The Government has published a response² to the Committee on Standards in Public Life (CSPL) 2019 report on Local Government Ethical Standards³.
- 4.2. In summary, the Government has sought to balance public and private life, local decision making and further legislative intervention in its response. It considers that local authorities are best placed to address many of the CSPL's recommendations and highlights that the Local Government Association has updated the model code of conduct addressing many of the points raised.
- 4.3. The Government states that it will not be introducing the power to suspend councillors without allowances for up to six months as recommended but will work with representative bodies on strengthening existing sanctions, including considering in what circumstances councillors may be lawfully barred from council premises.
- 4.4. Lord Evans, Chair of the CSPL, stated:

“While we note the government’s commitment to further work to support local government, the Committee is disappointed that many of its careful recommendations have not been accepted. It was clear from our evidence that the sector backed our call to strengthen the arrangements in place to support high ethical standards, whilst respecting the benefits of a localised approach.

We are pleased that many local authorities have already reviewed their approach as a result of this work and are adopting the best practice points from the report. Across all tiers of local government, decisions are taken about a wide range of local services using public funds, so it is important that there are robust governance arrangements that command public confidence”⁴.

Borough Solicitor’s Comment

- 4.5. Following the publication of the report on Local Government Ethical Standards, Standards Committee reviewed the best ethical practice identified by CSPL that all local authorities were expected to implement. While the Council has a long-standing culture of high standards, it is not complacent and quickly took steps to address identified shortfalls, such as including a prohibition on harassment and a definition of bullying and harassment in the Code of Conduct. Following the development of a new model code of conduct by the Local Government

² <https://www.gov.uk/government/publications/local-government-ethical-standards-government-response-to-the-committee-on-standards-in-public-life-report> [accessed 25 May 2022]

³ <https://www.gov.uk/government/publications/local-government-ethical-standards-report> [accessed 24 May 2022]

⁴ <https://www.gov.uk/government/news/lord-evans-statement-on-the-governments-response-to-the-committees-report-on-local-government-ethical-standards> [accessed 24 May 2022]

Association, the Committee adopted the new Code while strengthening it by taking account of Council decisions over recent years.

- 4.6. The Government's decision not to implement the CSPL recommendations has left the standards regime with very few powers at a local level. In effect, the most severe sanction available to local authorities is a finding of a breach of the Code of Conduct. While in councils such as Camden with already high standards, group discipline and close media scrutiny, this does not have any detrimental effect, in other councils without such controls councillors who have behaved very badly will remain in office.

Review on Leadership and Public Standards

- 4.7. The CSPL has launched Leading in Practice⁵, a review examining the role of leadership in embedding the Seven Principles of Public Life in public sector organisations. It will look at examples of good practice and seek to understand how obstacles have been overcome. Updates will be provided to Standards Committee at future meetings.

5. Standards Cases

Malden District Council

- 5.1. Standards Committee has previously considered the case of Councillor Chrisy Morris who was found to have breached the Members' Code of Conduct at Malden District Council⁶. The standards report had listed complaints that Councillor Morris had been "abusive", "haranguing" and "rude", and that he had disclosed private communications. As a vote was being called on sanctions at a Council meeting to discuss the standards report, Councillor Morris interrupted by repeatedly saying "point of order". However, according to a statement issued by the Council's Leader after the meeting, he did not state which procedure rule his point of order referred to. The Chair of the Council meeting moved that Councillor Morris shall be no longer heard, which was seconded by the majority of fellow councillors. However, the councillor continued to speak, including with a megaphone, stating "At least I have got the testicular fortitude to sit here and speak my truth." The Chair moved that Councillor Morris be removed from the meeting. The police were called to the meeting but no arrests were made. Councillor Morris was subsequently banned from all committees for 18 months. The meeting ended with the Members walking out in protest at Councillor Morris' behaviour. Footage of the meeting can be viewed on the [BBC website](#)⁷.
- 5.2. In update, Mr Morris was recently given a suspended eight month prison sentence for breaching a non-molestation order⁸. He was also given a restraining

⁵ <https://www.gov.uk/government/news/committee-on-standards-in-public-life-announces-review-on-leadership-and-public-standards> [accessed 24 May 2022]

⁶ <https://www.localgovernmentlawyer.co.uk/governance/396-governance-news/48731-police-called-to-council-meeting-argument-over-standards-report> [accessed 25 May 2022]

⁷ <https://www.bbc.co.uk/news/uk-england-essex-59174940> [accessed 3 December 2021]

⁸ <https://www.localgovernmentlawyer.co.uk/governance/396-governance-news/49853-councillor-disqualified-after-receiving-suspended-eight-month->

order and required to carry out 200 hours of unpaid work. The Council confirmed that Mr Morris was no longer a councillor having been disqualified.

Borough Solicitor's Comment

- 5.3. While a Member may raise a point of order at any time during a Council meeting (Section 19.13, Council Procedure Rules), they must indicate the Procedure Rules or law that they consider to have broken. The Mayor will then hear the point of order immediately and their ruling on the matter will be final.
- 5.4. The handling of a Member's misconduct during a Council meeting is addressed under Section 24 of the Council Procedure Rules. In the event of a Member persistently disregarding the ruling of the Mayor by behaving improperly or offensively, or by deliberately obstructing business, the Mayor may move that the "Member be not heard further". If seconded, a vote will be carried out without discussion. The next step, if a Member continues to behave improperly, is for the Mayor to move that the Member leaves the meeting or that the meeting be adjourned for a specified period. Again, if seconded, a vote will be carried out without discussion. If a general disturbance by Members makes orderly business impossible, the Mayor may adjourn the meeting for as long as considered necessary to restore calm. Local authorities have a common law power to exclude those whose disorderly conduct or misbehaviour disrupts or threatens to disrupt the business of the meeting (Laporte and Christian v Metropolitan Police Queen's Bench Division (Turner J) 31 October 2014).
- 5.5. Section 80 of the Local Government Act 1972⁹ states that a person shall be disqualified from being an elected member of a local authority if either within five years prior to the day of election or following the election they receive a sentence of imprisonment for not less than three months, regardless of whether it is suspended.

Vale of Glamorgan

- 5.6. Vale of Glamorgan Council suspended a councillor, who had sat on the local authority's planning committee since 2017, for one month in January 2022 after opening a coffee shop and wine bar without securing planning permission for change of use¹⁰. Councillor Leighton Rowlands stated that he had received training for his position on the committee but had "limited or confused knowledge of planning". He had applied for planning permission but opened the café before the Council had made a decision. While the Council officer had sought advice from a planning officer, he had not spoken to the Monitoring Officer. The Council's Standards Committee found that although the councillor has subsequently sought to withdraw from the situation, the councillor had brought his office and the Council into disrepute by his initial actions.

[sentence#:~:text=A%20councillor%2C%20who%20disrupted%20a,breaching%20a%20non%2Dmolestation%20order.](#) [accessed 25 May 2022]

⁹ <https://www.legislation.gov.uk/ukpga/1972/70/section/80> [accessed 25 May 2022]

¹⁰ <https://www.localgovernmentlawyer.co.uk/governance/396-governance-news/49570-welsh-councillor-who-started-coffee-shop-and-wine-bar-without-planning-permission-found-to-be-in-serious-breach-of-code-of-conduct> [accessed 25 May 2022]

Borough Solicitor's Comment

- 5.7. The standards regime in Wales differs from England. Councillors in Wales are required to comply with the model code of conduct set out in the Schedule to the Local Authorities (Model Code of Conduct) (Wales) Order 2008, as amended by the Local Authorities (Model Code of Conduct) (Wales) (Amendment) Order 2016. Local authority standards committees have powers to censure or suspend members in breach of the code of conduct. In more serious cases, the Adjudication Panel for Wales may suspend or disqualify a Member from holding office. In contrast with the Adjudication Panel for Wales, Standards Committees in England would not be able to suspend a councillor found to have breached the Code of Conduct for similar behaviour. As noted above, the Government has recently confirmed that it will not be introducing this power following recommendations by the CSPL.
- 5.8. All members who sit on planning committee receive mandatory training on planning law, policies and procedures and regular refresher training as required. Councillors are encouraged to raise queries with planning officers and the Monitoring Officer. Camden councillors are similarly required not to bring their role or office into disrepute. The guidance to this obligation highlights that councillors are trusted to take decisions on behalf of their community and so their actions and behaviour are subject to greater scrutiny than that of ordinary members of the public. Acting in breach of planning control could affect public trust in the local authority's ability to discharge its functions.

Hyndburn Borough Council

- 5.9. The Information Commissioner has found the Leader of Hyndburn Borough Council guilty of breaching data protection laws after he named a Freedom of Information (FOI) requester at a Council meeting¹¹. The FOI requester, former borough MP Graham Jones, has called for the Leader, Councillor Miles Parkinson, to resign, claiming the disclosure was part of a bullying campaign. Councillor Parkinson has said that he will not resign but will apologise to Mr Jones.

Borough Solicitor's Comment

- 5.10. Misuse of data can amount to a criminal offence and may also be a breach of the Code of Conduct. Members need to be aware of their responsibilities under data protection laws and training was provided during the initial induction of Members following the election. Members are also obliged in accordance with the Code of Conduct to not disclose information:

"a. given to me in confidence by anyone
b. acquired by me which I believe, or ought reasonably to be aware, is of a confidential nature, unless

¹¹ <https://www.lancashiretelegraph.co.uk/news/20179184.hyndburn-council-leader-breached-data-law-rules-privacy-watchdog/>

- i. I have received the consent of a person authorised to give it;
- ii. I am required by law to do so;
- iii. the disclosure is made to a third party for the purpose of obtaining professional legal advice provided that the third party agrees not to disclose the information to any other person; or
- iv. the disclosure is:
 1. reasonable and in the public interest; and
 2. made in good faith and in compliance with the reasonable requirements of the local authority; and
 3. I have consulted the Monitoring Officer prior to its release.

5.11. This case confirms that, in the processing of FOI requests, the identity of requesters is data protected. Authorities are charged with taking a requester blind approach to dealing with FOI requests and it is rarely the case that, beyond those processing the applications, anyone else has a right to see who has asked the question. This is something that the Council does enforce in its processing of FOI requests.

6. Finance Comments of the Executive Director Corporate Services

6.1. There are no financial impacts resulting from this report.

7. Legal Comments of the Borough Solicitor

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

8. Environmental Implications

8.1. There are no environmental implications.

9. Appendices

None

REPORT ENDS