

LONDON BOROUGH OF CAMDEN	WARDS: All
REPORT TITLE: Update on Standards Matters, June 2021	
REPORT OF: Borough Solicitor	
FOR SUBMISSION TO: Standards Committee	DATE: 29 th June 2021
<p>SUMMARY OF REPORT 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: No documents were used in the preparation of this report which are required to be listed.</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>RECOMMENDATION</p> <p>That Standards Committee notes and comment on the contents of the report.</p>	

Signed:



Borough Solicitor

Date:

11 June 2021

1. Introduction

- 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. Update on Actions From the Previous Standards Committee Meeting

- 2.1. At its meeting on 9th November 2020, Standards Committee agreed to delegate authority to the Borough Solicitor, upon application by Members, to grant a dispensation for four years to Members to participate and vote on a number of specified matters irrespective of whether they have a pecuniary interest. All councillors have since applied and been granted the general dispensation.
- 2.2. Standards Committee also approved a draft response to the Committee for Standards in Public Life's (CSPL) request for an update on progress against the best practice recommendations in its report on Local Government Ethical Standards. The response was forwarded to the CSPL on 10th November 2020. CSPL published [progress from local authorities](#) on 8th January 2021. It found that most of the 213 local authorities who responded to the request had already implemented or were taking steps to implement the best practice recommendations.
- 2.3. At the meeting on 9th November 2020, concern was expressed that there was no transparency around the accounts for Camden Living, which was partly owned by the Council. This feedback was passed to the Executive Director Corporate Services and the Director of Finance. The audited 2019/20 financial statements for Camden Living were considered by Audit and Corporate Governance Committee on 17th February 2021. At the same meeting the Committee considered the 2019/20 audited accounts for Camden Learning Ltd.

3. Feedback from recent complaints

- 3.1. 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 3rd February 2020, ten complaints have been received. The Borough and an Independent Person decided that none of the complaints required a formal investigation as the behaviour described in the complaints would not have constituted a breach of the Code of Conduct.
- 3.2. 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.

- 3.3. 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.

4. Co-opted Members, and Church and Parent Governors

- 4.1. At the Standards Committee meeting on 9th November 2020, it was noted that the Committee's terms of reference gives it responsibility with regard to co-opted members and church and parent governor representatives, as well as councillors. It was suggested that while the Committee could evidence its support for councillors, further discussion could be had as to how the Committee could address its wider role.
- 4.2. When co-opted Members (including Independent Persons and church and parent governor representatives) are appointed to a Committee they are informed that, for the purposes of their membership of that Committee, they are now subject to the Council's Members' Code of Conduct, sent the Code and asked to complete the Register of Interests. All co-opted Members' Register of Interests are published on the Council's website. Co-opted Members are also advised when there are changes to the Code of Conduct, including to any associated documents such as the Gifts and Hospitality Protocol.
- 4.3. A reminder was sent to all co-opted Members and church and parent governor representatives on 14th January 2021 to keep their register of interests updated. There was a good response to this reminder from co-opted Members.

5. Committee on Standards in Public Life Update

Blog Post: Strengthening Transparency Around Lobbying

- 5.1. On 6th April 2021, Jane Martin, an independent member of the Committee on Standards in Public Life (CSPL), published a blog post¹ about transparency around lobbying of policy-makers. She highlights that access to those developing policies and making decisions by those affected by those decisions is necessary for a functioning democracy. However, she questions how "you ensure that decision-makers get to hear a full range of views from those who will be affected by their decisions, while preventing vested interests from cornering the market?" Public concern over whether lobbying is carried out ethically leads to a lack of trust and confidence in political decision making.
- 5.2. The blog notes the importance of transparency obligations of those being lobbied and refers readers to the CSPL's 2013 report [Strengthening Transparency Around Lobbying](#) which recommended more timely, detailed disclosure about all significant meetings and hospitality, widening these arrangements to cover a broader range of public office holders and civil servants.

¹ <https://cspl.blog.gov.uk/2021/04/06/strengthening-transparency-around-lobbying/>

Borough Solicitor's Comment

- 5.3. While there are no specific rules regarding lobbying in local government, there is transparency with regard to financial and non-financial interests in accordance with the Localism Act 2011. In addition, Camden Council requires all Members to register any gifts or hospitality with an estimated value in excess of £25. Any failure to comply could be regarded as a breach of the Code of Conduct. The Gifts and Hospitality Protocol states that if a Member is dealing with Council business at a meeting (or otherwise) where the donor of the gift or hospitality is affected, they need to consider whether to make a declaration of the gift or hospitality to the meeting for the purpose of complete transparency. Declaration will not mean that the councillor cannot participate in the Council business; however they may consider it appropriate not to participate depending on the circumstances.
- 5.4. The Council's Planning Protocol also addresses the need for Planning Committee members to avoid putting themselves in a position where they appear to favour a person, company or groups by meeting objectors, applicants or developers alone; to be transparent over any meetings that do take place; and, if appropriate, declaring an interest and taking a restricted part in proceedings.

The Hugh Kay Lecture: Are we in a Post-Nolan Age?

- 5.5. On 11th November 2020, Lord Jonathan Evans, Chair of the Committee on Standards in Public Life (CSPL), gave the Hugh Kay Lecture at the Institute of Business Ethics². He noted that there was a perception that those in public life no longer felt obliged to follow the Seven Principles of Public Life as articulated by Lord Nolan in the first report by the CSPL in 1995. He argued that the Principles were still critical for the health of public life in the United Kingdom:

"Elections and institutions give us a constitutional framework, but the Seven Principles of Public Life define the character of our political system".

While regulatory mechanisms had been established and evolved to enforce standards, Lord Evans suggested that there was a perception that the culture of public life has resulted in many disregarding the norms of ethics and propriety, with no sanctions levelled at those who contravene ethical standards. However, he countered that perception, highlighting the "commitment of the vast majority of public servants to the highest standards of conduct". He commented that there had never been a scandal-free era in British politics but that the Principles of Public Life were now embedded in most public sector institutions, there were well-established regulators, and transparency with regard to expenses, appointments and contracts.

Lord Evans goes on to argue that there are pressures on the standards regime but that the Nolan Principles "provide the standards and tools we need to find a clear way through". The full speech [can be found here](https://www.gov.uk/government/speeches/the-hugh-kay-lecture-are-we-in-a-post-nolan-age).

² <https://www.gov.uk/government/speeches/the-hugh-kay-lecture-are-we-in-a-post-nolan-age>

6. Standards cases

Liverpool City Council

- 6.1. A report of the findings of a [Best Value inspection](#) by Max Caller CBE was published on 24 March 2021³. The inspection was initiated following:
- a) “The Merseyside Police inquiry into fraud, bribery, corruption and misconduct in public office, which involves a significant connection to Liverpool City Council.
 - b) The response Liverpool City Council submitted to the Ministry of Housing, Communities and Local Government on Friday 11 December 2020 in respect of governance arrangements, oversight and control measures within the Council including details of the measures and controls implemented during the course of the last eighteen months”.
- 6.2. The report finds “serious failings ... in both governance and practice in those areas of the Council subject to this Inspection, and the corporate blindness that failed to pick this up and remedy the position”. The inspection considered a range of council functions and their alignment with the best value duty on local authorities. With regard to the terms of reference of this Committee, the report found the following relating to standards of conduct:
- a) It could be difficult for Members to challenge at meetings and often the challenging behaviour came from the Mayor and prominent councillors.
 - b) Both councillors and officers had a limited understanding of declarations of interest and hospitality registers. Member registers were not monitored, were often incorrect and rarely updated. Officer declarations were hard to examine and cross check. Officers were not required to update their registers and this was not discussed as part of routine management action.
 - c) There was a lack of appreciation of the Nolan principles and the requirements of the Members’ Code of Conduct.
 - d) There was a lack of understanding in how complaints against Members were handled.
 - e) The Standards Committee had last met in January 2012. When the recent LGA model Code of Conduct was considered, it was dealt with at a cross-party Member working group on Member training rather than a formal body that might recommend to Council that its provisions be adopted.
 - f) The officer response to evidence of poor conduct eg Members obtaining pecuniary advantage indirectly, was to implement processes to make it more difficult for Members to take decisions rather than addressing any breaches and providing training on the requirements of the Code of Conduct.
 - g) There was confusion about the roles of Members and officers, with the Mayor undertaking a more active and direct role in the running of the Authority than the arrangements as set out in the Constitution provide for, chairing management team meetings and covering much of the Chief Executive’s responsibilities.

³ <https://www.gov.uk/government/publications/liverpool-city-council-best-value-inspection-report>

Borough Solicitor's Comment

- 6.3. Standards Committee meets regularly with the Monitoring Officer with a remit of promoting and maintaining high standards of conduct, monitoring the operation of the Code of Conduct, arranging training on matters relating to the Code of Conduct and with responsibilities regarding protocols and procedures to ensure a good ethical governance framework.
- 6.4. Officers remain confident that the governance and practice in Camden bears no relation to that uncovered in Liverpool. However, the report by Max Caller CBE offers a salutary lesson that Members and officers need to remain alert and ensure that governance and conduct reflects best practice.

Castle Point Borough Council

- 6.5. The Leader of Castle Point Borough Council, [Norman Smith](#), has stood down from the Council following a standards investigation that raised concerns about his conduct in relation to planning applications lodged by his son and by a personal friend⁴. A peer challenge report on planning in 2019 had identified “a widespread perception concerning weakness in probity in relation to planning decision making”.
- 6.6. The law firm Wilkin Chapman LLP was appointed by the Council's Monitoring Officer following complaints by another councillor in 2020 that Mr Smith had lobbied members of the Development Control Committee on behalf of a relative and a friend. The standards report concluded that Mr Smith had committed two breaches of the Code of Conduct in relation to paragraph 5(a): “You must ... Not use or attempt to use your position as a Member improperly to confer on or secure for yourself or any other person, an advantage or disadvantage”. It also found that he had failed to follow the Protocol and Code of Conduct for Planning Matters.
- 6.7. A Council statement said: “Due to pressing business demands requiring his full and undivided attention which meant he was unable to carry out his responsibilities as a councillor and leader of the council, Councillor Norman Smith has today resigned as councillor representing the Boyce Ward and leader of the Castle Point Borough Council.”

Borough Solicitor's Comment

- 6.8. Camden's Code of Conduct includes the obligation: “F(i) You must not use or attempt to use your position as a Member improperly to confer on or secure for yourself or any other person, an advantage or disadvantage”. The Planning Protocol stipulates that Members should “only carry out any lobbying of their decision-making colleagues in an open and transparent way such as through speaking at public meetings”. It goes on to state “Members must not seek to put undue pressure on officers or members of the Planning Committee to support a

⁴ <https://www.localgovernmentlawyer.co.uk/governance/396-governance-news/46726-leader-of-borough-council-steps-down-after-report-from-external-lawyers-on-planning-issues>

particular course of action in relation to a planning application or other planning decision (although this does not mean that a councillor may not question robustly or argue forcefully for a particular course of action). Putting pressure on in an inappropriate way is likely to be a breach of the Code”.

London Borough of Redbridge

- 6.9. [Chaudhary Mohammed Iqbal](#), a former councillor at the London Borough of Redbridge was sentenced on 4 January 2021 for three counts of making false statements in candidate nomination papers, contrary to Section 65A(1A) of the Representation of the People Act 1983, and one count of perverting the course of justice. The charges related to false declarations regarding his address⁵.
- 6.10. Mr Iqbal was sentenced to nine months’ imprisonment for each of the three electoral offences, to run concurrently, and to eight months’ imprisonment for perverting the course of justice, to run consecutively. He was ordered to pay prosecution costs of £10,422.54, compensation to Redbridge Council of £10,000 for the by-election costs, and compensation to Redbridge Council of £18,368 for the allowances paid to him. Mr Iqbal was banned from holding public office for five years.

Borough Solicitor’s Comment

- 6.11. Section 65A(1A) of the Representation of the People Act 1983 states that:
- “A person is guilty of a corrupt practice if, in the case of any relevant election, he causes or permits to be included in a document delivered or otherwise furnished to a returning officer for use in connection with the election a statement of the name or home address of a candidate at the election which he knows to be false in any particular”.
- 6.12. Section 173 of the Act states that a person convicted of a corrupt practice shall be incapable of holding any elective office for a period of five years from the date of conviction.

Merthyr Tydfil County Borough Council

- 6.13. In December 2020, the Adjudication Panel of Wales suspended the Leader of Merthyr Tydfil Borough Council, [Councillor Kevin O’Neill](#), for seven months for breaching the Council’s Code of Conduct⁶. The Panel had received a referral from the Public Services Ombudsman containing six allegations that Councillor O’Neill had breached the Code. The allegations were that Councillor O’Neill:
- (i) Failed to declare orally the existence and nature of a personal interest in the business of the authority relating to a property at Luther Lane at an inter-agency meeting;

⁵ <https://localgovernmentlawyer.co.uk/litigation-and-enforcement/400-litigation-news/45897-former-councillor-at-london-borough-jailed-for-electoral-offences>

⁶ <https://www.localgovernmentlawyer.co.uk/governance/396-governance-news/45783-leader-of-welsh-council-suspended-for-seven-months-for-code-of-conduct-breaches-vows-to-appeal>

- (ii) Had a prejudicial interest in relation to the business of the authority regarding the property at Luther Lane and was in breach of the Code in not withdrawing from the room when the property was being considered at the inter-agency meeting;
- (iii) Was also in breach by seeking to influence a decision about the business and made oral representations at the inter-agency meeting;
- (iv) Sent an email to the Director of Social Services which failed to include details of his personal interest in the business of the authority in relation to the property at Luther Lane, and that sought to influence a decision about that business and made written representations about that business in which he had a prejudicial interest;
- (v) Had brought his office or authority into disrepute through the alleged conduct; and
- (vi) Had failed to show respect to the former Chief Executive of the Council at a further meeting.

6.14. The Case Tribunal found that the Councillor O'Neill had breached the Code of Conduct with regard to all the allegations. He was suspended from acting as a member of the Council for a period of seven months or, if shorter, the remainder of his term of office. It was also recommended that Councillor O'Neill receive training on the Code of Conduct.

Borough Solicitor's Comment

6.15. The standards regime in Wales differs from England. Councillors in Wales are required to comply with the model 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. The Public Services Ombudsman for Wales has the power to investigate complaints against councillors. 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 office⁷.

6.16. 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. In its report on Local Government Ethical Standards, CSPL has made recommendations to the Government that local authorities be given the power to suspend councillors, without allowances for up to six months⁸.

7. Finance comments of the Executive Director Corporate Services

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

⁷ Briefing Paper: Local Government Standards in England (7 March 2019)
<https://researchbriefings.files.parliament.uk/documents/SN05707/SN05707.pdf>

⁸ Committee for Standards in Public Life, *Local Government Ethical Standards* (January 2019)
https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/777315/6.489_6_CO_CSPL_Command_Paper_on_Local_Government_Standards_v4_WEB.PDF

8. Legal comments of the Borough Solicitor

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

9. Appendices

None.

ENDS