

## RIBBLE VALLEY BOROUGH COUNCIL REPORT TO ACCOUNTS & AUDIT COMMITTEE

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meeting date: WEDNESDAY 28 SEPTEMBER 2022  
title: GOVERNMENT RESPONSE TO THE CSPL REVIEW OF LOCAL  
GOVERNMENT ETHICAL STANDARDS  
submitted by: CHIEF EXECUTIVE  
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### 1 PURPOSE

- 1.1 To inform Committee of the Government's response to the recommendations of the Committee on Standards in Public Life
- 1.2 Relevance to the Council's ambitions and priorities:
- Community Objectives – } Consideration of the response
  - Corporate Priorities –
  - Other Considerations –

### 2 BACKGROUND

- 2.1 In January 2019, the Committee for Standards in Public Life published its report "Local Government Ethical Standards". A copy of this report is enclosed as Appendix 1 to this report. The report made a number of recommendations a number of which have already been acted upon by the LGA including the production of a new model code of conduct, which the Council subsequently adopted. A large number of the recommendations however, required action from Government to amend legislation or take action.
- 2.2 The Government has now responded to those recommendations and that response is enclosed as Appendix 2.

### 3 ISSUES

- 3.1 Committee is referred to the response in its entirety, but the main issues have been set out below:

**Recommendation 1** – *The Local Government Association should create an updated model code of conduct, in consultation with representative bodies of councillors and officers of all tiers of local government.*

The Government noted that the LGA did this in January 2021, but notes that it remains the choice of individual councils whether to adopt it. As Committee is aware this Council did so in April 2021 (with amendments to reflect that this authority operates a committee system).

**Recommendation 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 should be amended to clarify that a councillor does not need to register their home address on an authority’s register of interests.*

This issue was raised as a result of the Committee’s work on intimidation in public life. The Government’s response is that it agrees with the principle behind this recommendation and that amendment of the regulations would be an option to achieve it. The government states that it will engage with interested parties to establish the best means possible to achieve this whilst noting that it is important that home addresses are internally registered with monitoring officers, to help avoid conflicts of interest. It does not appear that any steps have been taken to date to make the amendments proposed to the regulations.

**Recommendation 3** – *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.*

The Government’s view is that it is for Council’s to consider if their code is adequate in addressing the issue of inappropriate use of social media and do not accept that there should be an automatic presumption. Committee will recall that the Council’s code does make clear that communication includes email and social media statements, however it still requires an assessment of whether the conduct complained of relates to their work as a Councillor.

**Recommendation 4** – *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 representative of the local authority.*

The Government’s response is that it agrees that local authority elected representatives should act in good faith in the public interest and not seek to influence decisions for personal gain, for malicious intent or to further the interests of any business or any other organisations which they may be affiliated with. They note that the LGA model code covers this situation and that it is up to Councils to ensure their codes are updated and fit for purpose. Elected members receive the necessary training to make them aware of their personal responsibilities in upholding the code. They further state that they will keep this under review but have no immediate plans to amend the regulations.

Committee will note that all Councillors were provided with training on the Council’s Code of Conduct in 2021.

**Recommendation 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.*

The Government's response is that it will keep with matter under review but has no immediate plans to amend the regulations. These types of interests are however covered as "other interests" in the Council's Code of Conduct.

**Recommendation 6** – *Local authorities should be required to establish a register of gifts and hospitality with councillors required to record gifts and hospitality over a value of £50 or totalling £100 over a year from a single source. This requirement should be included in an updated model code of conduct.*

The Government response is to note that the LGA model code includes the first part of this recommendation but not the second. Government also notes that there is merit in a best practice on thresholds for registering and that registers should be kept and made publicly available. The Council has adopted the LGA Code including these requirements and holds a register. This is to be made publicly available via its website.

**Recommendation 7** – *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".*

The Government's response is that it will keep this matter under review but has no immediate plans to repeal Section 31 of the Localism Act 2011.

**Recommendation 8** – *The Localism Act 2011 should be amended to require that Independent Persons are appointed for a fixed term of two years, renewable once.*

The Government's response is that it does not accept that this recommendation is appropriate for legislation on that basis that it would be unworkable. It would be better adopted as best practice whilst noting that recruitment of suitably qualified persons at this rate would be difficult for local authorities to achieve.

**Recommendation 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's response is that it does not agree with this recommendation on the basis that the Transparency Code is a statutory requirement to publish information; it does not regulate the content of councils' minutes or decision notices. Whilst the suggestion may have merit it would depend on the circumstances of the matter.

#### **Recommendation 10, 12, 14 & 16**

*10 – Local Authorities should be given the discretionary power to establish a decision-making standards committee with voting independent members and voting members from dependent parishes, to decide on allegations and impose sanctions.*

*13 – 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.*

*14 – 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 be binding on the local authority.*

*16 – Local authorities should be given the power to suspend councillors, without allowances for up to six months.*

Government’s response is that 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 regime. The Standards Board regime allowed a politically motivated and vexatious complaints and had a chilling effect on free speech within local government. These proposals would effectively reinstate that flawed regime. Government also notes that Council’s are not without sanctions under the current regime in that councillors can be barred from Committees or representative bodies and may be publicly criticised. They also refer to party discipline if the member is a member of a political group and that ultimately councillors are held to account through the ballot box.

**Recommendation 11** – *Local authorities should provide legal indemnity to Independent Persons if their views or advice are disclosed. The government should require this through secondary legislation.*

The Government agrees in principle but does not see the need for this to be included in legislation.

**Recommendation 15** – *The Local Government Transparency Code should be updated to require councils to public 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 sanction applied.*

The Government believes that this is better addressed through the sector adopting as best practice a regular pattern of annual reporting by Standards Committees of the cases and complaints handled and would encourage this as best practice but does not believe there is a requirement to prescribe the form and content of such annual report. The Council has previously reported on such matters and will produce an annual report going forward.

**Recommendation 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.*

Government’s response is that the criminal law provides more appropriate and effective action against breaches of public order, anti-social behaviour and harassment. The occasions where councils would seek to bar councillors from council premises are thought to be extremely rare. Government will consider this further.

**Recommendation 18** – *The criminal offences in the Localism Act 2011 relating to Disclosable Pecuniary Interests should be abolished.*

Government's response is that the criminal offence is a strong deterrent against corruption and that it does not agree with this recommendation.

**Recommendation 20** – *Section 27(3) of the Localism Act 2011 should be amended to state that parish councils must adopt the code of conduct of their principal authority, with the necessary amendments, or the new model code.*

The Government does not agree that this is necessary and has no plans to repeal this section. They consider this is a matter for local determination. They note that there may be merit in consistency but there may be instances where a parish council may want to add to the code of their principal authority to reflect local circumstances.

**Recommendation 21** – *Section 28(11) of the Localism Act 2011 should be amended to state that any sanction imposed on a parish councillor following the finding of a breach is to be determined by the relevant principal authority.*

The Government's response is that it has no plans to repeal Section (11) of the Localism Act 2011 but will give this matter further consideration.

**Recommendation 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 dismissal.*

The Government agrees in principle with this recommendation and will engage with section representative bodies of all tiers of local government to seek views on amending this order as suggested.

**Recommendation 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.*

Government's response is that it agrees that the principle of openness is essential. The Council's Whistleblowing policy and procedures are published on its website. An annual review is currently taking place and the revised policy will be brought to the next policy and finance committee for approval. This will be reported to this committee as an information item.

**Recommendation 24** – *Councillors should be listed as 'prescribed persons' for the purposes for the Public Interest Disclosure Act 1998.*

Prescribed persons are individuals or organisations that a worker may approach outside their workplace to report suspected or known wrongdoing and still be protected by the rights afforded to them under whistleblowing legislation.

The Government's view is that Councillors would not meet the criteria of being external to an individual's workplace in relation to matters affecting the council and could therefore not be considered as a prescribed person for the purposes of the Act. The

Government however states that it is open to further representations on the matter and how local accountability can be strengthened.

#### 4 **RISK ASSESSMENT**

4.1 The approval of this report may have the following implications:

- Resources – N/A
- Technical, Environmental and Legal – N/A
- Political – N/A
- Reputation – The Council's reputation will be enhanced by its consideration of the Government's response.
- Equality & Diversity – N/A

#### 5 **CONCLUSION**

5.1 That Committee note the contents of this report.

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REF: MJH/Accounts & Audit/29/6/2022