

**LGA**

# **Taking stock**

**Where next with**

**Sector-led**

**Improvement**

**March 2015**

Committee on  
Standards in  
Public Life

## RESPONSE FROM THE COMMITTEE ON STANDARDS IN PUBLIC LIFE TO THE LOCAL GOVERNMENT ASSOCIATION CONSULTATION “TAKING STOCK WHERE NEXT WITH SECTOR-LED IMPROVEMENT”

### Introduction

1. The Committee on Standards in Public Life (‘the Committee’) is an independent advisory body to the Government, which monitors, reports and makes recommendations on all issues relating to standards in public life. The Committee promotes high ethical standards in public life in the UK and works to ensure that the Seven Principles of Public Life - selflessness, integrity, objectivity, accountability, openness, honesty and leadership – underpin all aspects of public life.
2. In 1994, when the Committee was established by the then Prime Minister, its terms of reference were ‘To examine current concerns about standards of conduct of all holders of public office, including arrangements relating to financial and commercial activities, and make recommendations as to any changes in present arrangements which might be required to ensure the highest standards of propriety in public life.’<sup>1</sup>
3. Those in public office were originally defined as ‘ministers, civil servants and advisers; Members of Parliament and UK Members of the European Parliament; members and senior officers of all non-departmental public bodies and of national health service bodies; non-ministerial office holders; members and other senior officers of other bodies discharging publicly-funded functions; and elected members and senior officers of local authorities.’<sup>2</sup> In 2013, the Committee’s remit was extended so that it ‘*can examine issues relating to the ethical standards of the delivery of public services by private and voluntary sector organisations, paid for by public funds, even where those delivering the services have not been appointed or elected to public office.*’<sup>3</sup>

### Background

4. The Committee has a long standing interest in local government and has maintained a watching brief of the standards regime in local government and the changes resulting from the Localism Act implemented in 2012. Having emphasised at the time the need for a mandatory code of conduct, strong local leadership and effective independent persons, and expressed concern at the lack of sanctions, the Committee also recognised the need for the new arrangements to bed down.

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<sup>1</sup> First Report Standards in Public Life CM 2850-I May 1995

<sup>2</sup> Hansard (HC) 25 October 1994, col 758

<sup>3</sup> Hansard (HL) 28 February 2013, col WA347

5. In 2014, as part of the research for the Committee's *Ethics in Practice* report, the Committee conducted a snapshot survey of Local Authorities' approach to induction and training. 90% of those who responded to the survey stated that their Local Authority provided an induction programme for newly elected councillors. Coverage and awareness of the Seven Principles of Public Life in local government was also high, with 68% of respondents saying their induction covered the Seven Principles of Public Life, 88% saying it covered their Code of Conduct and 83% of respondents saying that councillors at their Local Authority were familiar or fairly familiar with the Seven Principles of Public Life<sup>4</sup>.
6. Despite these positive results, however, the Committee remains alert to the challenges to ethical standards arising changes to the Local Authority standards regime. Members of the Committee participated in a round table discussion in Westminster in January to discuss how effective the local standards framework has been in practice. There was a recognition at that meeting that individual cases of inappropriate conduct by Local Authority members, if not dealt with effectively, can erode public confidence and trust in local government.

#### *Public perceptions and research*

7. The Committee has commissioned independent quantitative surveys every two years to track changes in the public's understanding of and attitudes towards the seven principles of public life in order to:
  - a. Establish what the public sees as acceptable and unacceptable behaviour on the part of holders of public office;
  - b. Assess how far the public believes that the behaviour of holders of public office conforms to these standards; and
  - c. Assess public confidence that holders of public office are effectively held responsible and accountable for any unacceptable conduct.

Some of these findings provide useful context to this consultation.

8. Our research has shown that there has been a continuous and substantial decline in the number of respondents rating standards in public life as high or very high. Furthermore, public trust in Government Ministers and MPs to tell the truth rates just above tabloid journalists at the bottom of the scale.<sup>5</sup> Across all our surveys though, respondents have consistently viewed their local MP much more favourably and in our most recent survey local councillors also score much more favourably than Ministers and MPs. However when we asked the public about attitudes to front line staff with whom the public are likely to have more personal contact, a large majority of respondents thought they would be treated fairly when, for example, receiving medical care at their local doctors surgery or applying to the local council for planning permission. Responses indicate that attitudes towards front line staff with whom members of the public are more likely to

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<sup>4</sup> *Ethics in Practice: Promoting Ethical Conduct in Public Life* Committee on Standards in Public Life July 2014

<sup>5</sup> *Survey of public attitudes towards conduct in public life 2012* (London: Committee on Standards in Public Life, 2013).

have had personal contact, such as local council workers, reveal high levels in the confidence in the fairness in which people will be treated.

9. Finally our research also showed that the public support the use of external scrutiny and audit mechanisms and the development of a strong internal culture fostering standards and openness as means for improving professional integrity and increasing confidence in public institutions.
10. We have borne the results of this research in mind when responding to the consultation. The Committee has not addressed all the questions asked in the consultation but limited itself to commenting on issues of principle and the proposed model of assurance and support. The Committee's focus is on how this approach can be used to provide assurance of high ethical standards in local government.

## Response

11. The Committee has previously welcomed localism but has acknowledged that this presents a big challenge to an essentially self-regulated sector. Public trust and confidence depend on leaders and elected mayors being able to demonstrate good governance locally, through leadership behaviours and effective processes, and on the LGA providing the necessary support and challenge across the sector.
12. The Committee supports the principle of sector-led improvement and peer review. In its last Annual Report, the Committee called on the Local Government Association (LGA) to support strong leadership and continue to use its peer challenge process to offer sector led improvement in this area<sup>6</sup>. The Committee continues to emphasise that the LGA has a major responsibility to provide leadership and peer support across the sector to ensure councils and councillors live up to the public's expectations of high standards of ethical behaviour in those whom they elect. The Committee considers that there is more that can be done to strengthen the sector led improvement and to increase local accountability.
13. Accountability, for the Committee, means that *'Holders of public office are accountable for their decisions and actions to the public and must submit themselves to the scrutiny necessary to ensure this'*. The concept of scrutiny, which is integral to accountability, is not one of the Seven Principles, but is specified in the First Report as one of the 'common threads' to ensure that the Seven Principles of Public Life were properly understood and would become integral to the culture of organisations. These threads are 1) codes of conduct, 2) independent scrutiny, 3) guidance and education. In Lord Nolan's words: *"It requires those in senior positions to set a good example: and it requires organisations to monitor the awareness of those standards and take remedial action where necessary."* The First Report envisaged that that 'Internal systems for maintaining standards should be supported by independent scrutiny'. This remains the Committee's view.
14. In relation to the operation of corporate peer challenges, the Committee considers there should be a commitment that all authorities should have a corporate peer challenge every four years, with the peer challenge reports being published together with a commitment to a published action

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<sup>6</sup> Committee on Standards in Public Life Annual Report 2013-14 September 2014

plan. There should be an expectation that the challenge panel will be credible, comprising members selected through transparent processes, and will bring rigour and challenge to the process. The Committee consider it preferable that the panel should always include an independent member from beyond the local government sector, and, where appropriate, relevant specialist expertise.

15. To provide transparency to the public and to aid comparability, the Committee consider there should be some greater standardisation in the format of the peer challenges, for example by some common themes and narrative findings, notwithstanding local needs and policies. Such reports, in addition to being published on the authority's website, should be published within one month of the LGA website, in an easily accessible format, to enable comparison. The LGA in its role in maintaining an overview of the performance of the sector should publish an annual review of peer challenges. This should be made publicly available capture best practice and highlight any areas of risk or areas for improvement, and how these are being mitigated.
16. The core areas of the corporate peer challenge include a) political and managerial leadership and b) governance and decision - making. These components must, in the Committee's view include taking account of the hard and soft behaviour of key individuals and the culture of the organisation. High ethical standards should be deeply embedded in governance and all organised processes so that they become an integral part of "the way things are done" and so that individual or corporate behaviour which does not meet these standards is challenged and supported when they do. In this context the importance of a good quality whistleblowing policy and process is important, together with the skills and culture to support it. We note that the recent report by Public Concern at Work on whistleblowing records an overall 17% increase in individuals contacting them for advice and whilst the largest proportion came from the health and education sectors, 6% of cases were from local government where 21% of those cases were in relation to financial malpractice.<sup>7</sup>
17. Sector led improvement and peer review is predicated on Councils taking responsibility for their own improvement. This can only happen if Councils, councillors and officials consider it their collective and individual responsibility to continuously improve. Recent interventions, inquiries and reports into several local authorities, such as Rotherham, Tower Hamlets and Birmingham have questioned the effectiveness of scrutiny and challenge in those councils, lack of transparency, and culture of failing to listen and poor behaviours. We note that as recently as last week some of these issues were also raised in the context of a Serious Case Review in Oxford.<sup>8</sup>
  - a. The Communities and Local Government Committee report on Child Sexual Exploitation in Rotherham referred to evidence from Professor Jay that Rotherham "had no shortage of policies, procedures or plans. There were mountains of them but the weakness was that nobody checked whether they were being implemented, or indeed whether they were any good".<sup>9</sup> The Committee concluded "As with policies

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<sup>7</sup> Public concern at work The UK Whistleblowing Report 2013

<sup>8</sup> Serious Case Review into Child Sexual Exploitation in Oxfordshire: from the experience of Children A, B, C, D, F Approved by the OSCB February 26th 2015

<sup>9</sup> House of Commons Communities and Local Government Committee Child sexual exploitation in Rotherham: some

Rotherham as on paper a scrutiny structure that appears comprehensive and councillors sat on these scrutiny bodies but child sexual exploitation has tragically shown the actuality of scrutiny to be lacking. In our view, the circumstances found within Rotherham Council – policies divorced from reality, single party supremacy and a dominating personality with a predominate influence – are likely to be found in other local authorities, In the face of these conditions it is essential that scrutiny arrangements are effective and e separate from the executive functions and that the executive needs to be challenged when there is evidence of an acute problem which it has failed to take into account or address.”<sup>10</sup>

- b. Louise Casey’s inspection into Rotherham also found evidence of reasonable arrangements on paper for governance such as “a constitution, codes of conduct, agreed decision making processes and arrangements for undertaking statutory, scrutiny and regulatory functions.”<sup>11</sup> However that inspection also found that since 200 Rotherham had been the subject of regular inspection and judgements by external assessors which had indicated significant failings and weakness and “The Council had not used inspection as a tool to drive improvement” and Cabinet and Scrutiny committees did not provide “effective challenge” and the “conduct of some senior officers and leading members was at times, inappropriate but went unchallenged.” There was a “pervading culture of sexism, bullying and silencing debate.”
- c. Sir Bob Kerslake’s review of the governance and organisational capabilities of Birmingham City Council adopted the methodology of the peer challenge model and considered the five components to be essential to a successful and effective council. The review identified that the Council had to change its corporate culture “that has too often swept deep rooted problems under the carpet rather than addressed them.”<sup>12</sup>
- d. The PwC Best value inspection of Tower Hamlets considered the identified failures to comply with the best value duty had occurred under the Authority’s governance arrnagments which “have weaknesses which have resulted in these failures not being prevented” and there was “a tendency towards denial or obfuscation rather than an inclination to investigate concerns raised.”<sup>13</sup> The report highlighted that public perception of misconduct (actual or potential) or poor governance will impact on the public’s confidence in the authority’s integrity and stewardship of public monies.

18. These reports recognised individual staff and achievements that were worthy of praise, and the Committee has always recognised that there is much commitment and good work done by all councils in the face of very great challenges. Nevertheless these cases have attracted much

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issues for local government HC 648, page 11

<sup>10</sup> Ibid page 12

<sup>11</sup> Report of inspection of Rotherham metropolitan borough council February 2015 HC 1050 pages 62, 65 and 67

<sup>12</sup> The way forward: an independent review of the governance and organisational capabilities of Birmingham City Council: Sir Bob Kerslake December 2014 page 7

<sup>13</sup> Best Value Inspection of London Borough of Tower Hamlets 16 October 2014 page 17

Parliamentary and public concern and raise serious questions for all other authorities. Thus for the public to have confidence in sector led improvement, it must have demonstrable evidence that those in positions of leadership – both political and managerial - have listened, learned and improved. The use of regular and credible external challenge has great potential to strengthen the behaviour and personal responsibility of individuals, but is not enough by itself. Those individuals need to be supported by the culture of the organisation of which they are a part.

19. It is the leaders of every council who are responsible for setting an appropriate tone and promoting the right culture. The LGA and its leaders have a responsibility to ensure that this aspect is squarely faced in sector led reviews and that councils are effectively supported to deliver improvements.

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