

Report to Standards Committee

Agenda
Item:
A.1

Meeting Date: 26 June 2013
Portfolio: Cross Cutting
Key Decision: Not Applicable:
Within Policy and
Budget Framework YES
Public / Private Public

Title: Code of Conduct: Principles in Public Life
Report of: Director of Governance
Report Number: GD.33/13

Purpose / Summary:

This Report reviews the first twelve months' operation of the City Council's Code of Conduct and proposes amendment to the seven principles of public life in accordance with the January 2013, fourteenth report of the Committee on Standards in Public Life.

Recommendations:

The Standards Committee:

- i. Note the operation of the new Standards arrangements during their first twelve months;
- ii. Approve and endorse the Committee for Standards in Public Life's recommended updating to the wording associated with the "seven principles of public life"; and
- iii. Recommend to Council that its Code of Conduct be amended to incorporate the said updated wording.

Tracking

Standards Committee:	26 June 2013
Council:	16 July 2013

1. BACKGROUND

- 1.1** As Members are aware, since 1 July 2012 the Council has been operating under revised arrangements as regards the Standards Committee and Code of Conduct. The changed arrangements have operated well; two matters have been raised which have been dealt with informally, one formal complaint has been made which was duly considered in accordance with the approved procedures and held to be unfounded.
- 1.2** In January of this year the Committee on Standards in Public Life (“the CSPL”) (a non-departmental public body, established in 1994, sponsored by the Cabinet Office) published its fourteenth report (the CSPL is the committee formerly chaired by Lord Nolan). The CSPL’s work relates standards of conduct of all holders of public office and its reports and recommendations formed the basis of our existing standards framework and, in particular, the principles of conduct.
- 1.3** The full report is available on request from the Director of Governance and covers topics such as the promotion of high ethical standards; ethical regulation; public confidence, trustworthiness and ethical standards; and, risks to ethical standards. Of particular relevance for the purpose of this Report, the CSPL document also recommends a revision to ‘the seven principles of public life’ which, as Members are aware, are incorporated into our Code of Conduct. For ease of reference, the relevant extract (Chapter 3) of the CSPL report is shown as Appendix 1.
- 1.4** In summary, the CSPL has decided that the principles should remain the same as promoted by Lord Nolan but recommend that the descriptions be updated. Again for ease of reference, a table showing the existing wording and the revised wording is shown at Appendix 2.

2. PROPOSALS

- 2.1** It is proposed that the Council revise the seven principles of public life as per the recommendation in the CSPL’s fourteenth report.

3. CONSULTATION

- 3.1** The existing Code of Conduct and Guidance was formulated and approved on a Cumbria wide basis. The revisions to the principles have been discussed by the

Cumbria Monitoring Officers' Group and the member officers will be reporting back to their respective Council to update the Principles.

- 3.2 The Council's Independent Person, Dr Peter Tiplady, has been consulted and has advised that, "the seven principles of public life are still highly relevant and to be supported. The Code of Conduct regime has been promoted by the Committee on Standards in Public Life since it first established the said principles. The updated wording as suggested by the Committee should be accepted and endorsed by the Council and its Code of Conduct updated accordingly."

4. CONCLUSION AND REASONS FOR RECOMMENDATIONS

- 4.1 The Council should note the recommended changes to the seven principles wording as promoted in Chapter 3 of the CSPL's Fourteenth Report and agree to amend its Code of Conduct accordingly.

5. CONTRIBUTION TO THE CARLISLE PLAN PRIORITIES

- 5.1 The Code of Conduct exists to provide Members a clear ethical framework in which they may work and, secondly, instil confidence in the public in the ethicality and transparency of the conduct of elected Members activities.

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Appendices Appendix 1: Chapter 3 – CSPL Fourteenth Report
attached to report: Appendix 2: Revised, recommended wording of 7 principles.

Note: in compliance with section 100d of the Local Government (Access to Information) Act 1985 the report has been prepared in part from the following papers:

- Committee on Standards in Public Life: Fourteenth Report, January 2013

CORPORATE IMPLICATIONS/RISKS:

Chief Executive's - None

Community Engagement – The Code of Conduct engenders public confidence in the Council's activities.

Economic Development – The ethicality and transparency that the Code of Conduct requires is fundamental to the Council’s economic development and development control activities.

Governance – Contained within the body of the Report.

Local Environment – The Code of Conduct engenders public confidence in the Council’s activities.

Resources - The Code of Conduct engenders public confidence in the Council’s activities.

EXTRACT FROM THE COMMITTEE FOR STANDARDS IN PUBLIC LIFE – FOURTEENTH REPORT

Chapter 3: **The seven principles of public life****Introduction**

3.1 Any values system needs to be based on clear, broadly expressed principles which are aspirational, rooted in the core purposes of an organisation or profession and easy to communicate and understand. These values should underpin an organisation's governance and be embedded in all its processes:

"A hallmark of good governance is the development of shared values, which become part of the organisation's culture, underpinning policy and behaviour throughout the organisation, from the governing body to all staff. These are in addition to compliance with legal requirements..."²⁶

Seven principles of public life

3.2 The seven principles of public life have been an influential example of the values with which organisations seek to underpin their ethical framework. They have been adopted by a significant proportion of public sector organisations in the UK.

3.3 Many of these organisations have chosen to adapt the principles for their own purposes. We welcome this development as evidence of active consideration by those organisations of the way in which key values can best be expressed to be most relevant to their own work. In all the cases of which we are aware the underlying sentiments are recognisably the same.

3.4 The civil service, for example, has chosen to promote four values – integrity, honesty, objectivity and impartiality.²⁷ The Scottish Commission for Ethical Standards in Public Life has nine principles, adding "duty and public service" and "respect". They have also amended "accountability" to "accountability and stewardship".²⁸ The Welsh code of conduct for local councillors has ten principles, adding "duty to uphold the law", "stewardship" and "equality and respect" and amending "integrity" to "integrity and propriety".²⁹ The detailed definitions are recognisably similar in both the latter two cases. The voluntary code of conduct for local councillors in Northern Ireland does not make any reference to the seven principles as such, but includes versions of a number of them in its description of the "general duties" of a councillor (including "accountability and openness", "selflessness and stewardship", "objectivity and propriety" and "integrity". Honesty and leadership are not mentioned specifically.³⁰

3.5 The fact that other organisations have felt the need to adapt the seven principles raises the question of whether the principles should be reformulated. A number of participants in our seminars suggested that they should.

3.6 Our view is that changing the principles now would be both pointless and unnecessary. It is clear to us that they can be criticised on a number of philosophical, semantic or other grounds. We

doubt that if we were inventing them for the first time today they would look exactly the same. But we see no advantage, and the risk of some possible confusion, in seeking to alter them now. As with many ethical principles, their value lies not in their exact formulation but in the behaviour which they stimulate when – adapted or not – they become part of an organisation’s culture.

Amending the descriptions

3.7 Leaving the principles as they are does not mean that we cannot change the words used to describe them. Since the seven principles were first formulated our understanding of the meaning of certain words has developed. This does matter. As the Chair of the Committee’s Research Advisory Board has put it:

“Most people are not professional philosophers and while they may have very strong intuitions about certain things, those intuitions are not easily turned into analytically precise principles. But that is one reason why principles in the public domain should be clear, and should depart as little as possible from their ordinary meanings. Too much divergence breeds misunderstanding, and misunderstanding exacerbates mistrust.”³¹

3.8 Comments made to us during the course of this review, and previously, suggest there are a number of areas where the descriptions of the seven principles could usefully be brought up to date.

- The description of the present formulation of honesty refers to holders of public office having a duty to declare any conflicts of interest. The avoidance of conflicts of interest fits more obviously into our current understanding of integrity. Most people today would expect honesty to have a much broader meaning, focusing on truthfulness. This has particular resonance at the present time since a number of issues of current concern have involved allegations of inappropriate behaviour being covered up.

A focus group participant demonstrated a nuanced understanding of honesty:

“It may not be appropriate to give complete truth on something, as long as you’re not directly lying or misleading... Like you wouldn’t necessarily want to hear about the complete plans for anti-terrorism in the run up to the Olympics, so concealing that is appropriate to do so, but you wouldn’t lie about something.”³²

- Discussion around the importance of public office-holders making decisions on merit, including in our focus groups, tends to refer more frequently to impartiality than to objectivity. We think it would be helpful to include impartiality in the description of the meaning of objectivity.
- Equality of opportunity has become even more of a central tenet of thinking about ethics and values in the period since the principles were first established. We think it would be helpful to make clearer that objectivity requires giving full regard to the importance of equality of opportunity and fair treatment, irrespective of individual characteristics such as disability, race, gender or sexual orientation.

- Public office-holders sometimes need to show courage in speaking up about difficult issues, speaking “truth to power” and making or sticking by difficult decisions.³³ We see this as a key element of ethical leadership and have amended the description of leadership accordingly.

3.9 In the course of our review a number of people suggested to us that a public organisation could have high standards yet deliver neither an effective service nor value for money. This may be true in principle. But we doubt that an organisation delivering poor service or value for money could really be described as having integrity. We also suspect that there may often be a positive empirical relationship between high ethical standards and high service standards. More to the point perhaps, while public office-holders should certainly be held to account for their use of public money, it is not the role of ethical regulators to do so.

3.10 The revised descriptions of the seven principles which the Committee will use in all future publications are set out in figure 4 (for the original descriptions see appendix 6). The revisions include some clarifications reflecting earlier research carried out for the Committee.³⁴

Figure 4: The seven principles of public life

Principle	Revised description
<i>Preamble</i>	The principles of public life apply to anyone who works as a public office-holder. This includes all those who are elected or appointed to public office, nationally and locally, and all people appointed to work in the civil service, local government, the police, courts and probation services, NDPBs, and in the health, education, social and care services. All public office-holders are both servants of the public and stewards of public resources. The principles also have application to all those in other sectors delivering public services.
<i>Selflessness</i>	Holders of public office should act solely in terms of the public interest.
<i>Integrity</i>	Holders of public office must avoid placing themselves under any obligation to people or organisations that might try inappropriately to influence them in their work. They should not act or take decisions in order to gain financial or other material benefits for themselves, their family, or their friends. They must declare and

resolve any interests and relationships.

Objectivity

Holders of public office must act and take decisions impartially, fairly and on merit, using the best evidence and without discrimination or bias.

Accountability

Holders of public office are accountable to the public for their decisions and actions and must submit themselves to the scrutiny necessary to ensure this.

Openness

Holders of public office should act and take decisions in an open and transparent manner. Information should not be withheld from the public unless there are clear and lawful reasons for so doing.

Honesty

Holders of public office should be truthful.

Leadership

Holders of public office should exhibit these principles in their own behaviour. They should actively promote and robustly support the principles and be willing to challenge poor behaviour wherever it occurs.

To whom should the seven principles apply?

3.11 There is a growing area of ambiguity occupied by people contracted to deliver public services who may not be public office-holders. We strongly believe that the ethical standards captured by the seven principles should also apply to such individuals and their organisations. Like traditional public servants they are being paid public money to provide services on behalf of the community to individuals who may not have a choice about going elsewhere.

3.12 Principles are what matters in determining what people “should” do as opposed to what they might “get away with”. But the more ambiguous the circumstances (that is the less the principles might seem to an individual to be clearly applicable) the less purchase they are likely to have. This seems likely to be particularly important in the case of non-traditional suppliers of public services. Unless the principles are clearly translated into contracts and clear guidance, it is unlikely that private contractors in particular will believe that they are unambiguously applicable to them (given the likelihood of conflicts between the motives of private profit and public service), or spend time deducing from the principles how they are supposed to behave. There is therefore a responsibility on public office-holders to specify particular and proportionate ethical requirements in the contracts they let on behalf of the public sector.³⁵ This is a difficult area, the implications of which will require some effort to work out in practice. It is an issue of possible future inquiry for the Committee.

The private behaviour of public office-holders

3.13 The seven principles specifically apply to public life. Public office-holders do, of course, also have private lives, which are affected by a whole range of emotions and other factors in which the seven principles of public life are unlikely to be a major consideration.

3.14 It is important both for reasons of principle and to prevent unnecessary inhibitions on willingness to perform public roles that the privacy of the personal lives of public office-holders should be respected. The legal protection of the right to privacy under the Human Rights Act 1998 applies to public office-holders as well as to other citizens.

3.15 On the other hand, the separation between the public and private lives of public office-holders can never be absolute. There are circumstances in which private behaviour can legitimately affect an individual's employment in public office because of its impact on the reputation or integrity of the organisation concerned.

3.16 Some of these circumstances are recognised in law. If an individual is declared bankrupt or insolvent, for example, they cannot stand as a Parliamentary candidate and can be denied employment in a wide number of public posts. Others are incorporated in specific codes. The General Teaching Council for Scotland's ethical guidance to teachers, *Code of professionalism and conduct*, states that:

*"You should avoid situations both within and without the professional context which could be in breach of the criminal law, or may call into question your fitness to teach... you must uphold standards of personal and professional conduct, honesty and integrity so that the public have confidence in you as a teacher and teaching as a profession... you should maintain an awareness that as a teacher you are a role model to pupils."*³⁶

These guidelines are clearly intended to apply to teachers' private as well as public lives. The code is not statutory. But any serious breach or series of minor breaches of it could lead to an adverse "fitness to teach" finding and possible sanctions.

3.17 Whatever the law or principle might imply, the public are likely to draw conclusions about an individual's public behaviour from what they know of their private behaviour. History provides numerous examples of apparently scandalous behaviour, usually of a sexual or financial nature, casting such doubt on the suitability of politicians or others for public office that they have resigned or been removed from their posts. This is not necessarily an irrational reaction to media pressure – though it can sometimes be. It is not unreasonable for people to think that individuals who display poor behaviour or bad judgement in their private lives are at risk of doing the same in their public lives. Moreover, people's own willingness to behave well can be critically affected by what they see of the behaviour of those in leadership positions. There is no reason to think that in doing so they discriminate between behaviour in public and in private roles. One focus group participant expressed this as follows:

*"At the end of the day, if you're in a place of power, you've got to be honourable no matter what – whether you're at home in bed, or sitting and having tea with the Queen."*³⁷

3.18 We are not seeking to impose public morality on private life. But it is important to recognise that there are occasions when public and private lives can overlap and where private acts that become known can damage public confidence in office-holders and institutions. There are

therefore circumstances in which it is appropriate to take account of the private behaviour of public office-holders in judging their suitability for office. Such intrusions should be exceptional, always proportionate, and only happen where the public interest clearly requires it. The Parliamentary Commissioner for Standards recently expressed it thus in recommending a revision to the code of conduct for MPs:

“I recognise the House’s concern about any intrusion into a member’s private and personal life. Like anyone else, Members are entitled to a private and personal life and for that to remain private. Any intrusion into that should be both necessary and proportionate. There needs to be a very clear public interest in such intrusion, recognising, as a rule in the Code says, that any conflict between the private and public interest must be resolved in favour of the public interest.”³⁸

3.19 In our view instances where an individual’s private behaviour might affect their public life need to be looked at case by case. They should be addressed not by a lengthy philosophical debate but by clarity about acceptable behaviours and possible sanctions.

Summary

■ ■ The seven principles of public life remain broadly relevant, but there is scope for updating what they mean in practice, particularly in respect of honesty and integrity.

■ ■ There is a growing area of ambiguity occupied by people contracted to deliver public services who may not be public office-holders. The ethical standards captured by the seven principles should also apply to such people. There is therefore a responsibility on public office-holders to specify requirements about standards of behaviour in the contracts they let on behalf of the public sector.

■ ■ Public office-holders are entitled to privacy in their personal lives. But it is important to recognise that there can be circumstances in which private behaviour can affect the reputation and integrity of a public institution, and which require an appropriate response. Such intrusion should only happen where there is a clear public interest to justify it, and should always be proportionate.

26 The Independent Commission on Good Governance, *The good governance standard for public services*, 2004, p.13.

27 *Civil Service Code*, paragraph 3.

28 Commission for Ethical Standards in Public Life in Scotland, *Annual report 2011–12*, September 2012, inside front page.

29 Public Service Ombudsman for Wales, *The code of conduct for members of local authorities in Wales: Guidance from the Public Service Ombudsman for Wales*, March 2012, pp.8–9.

30 Department of the Environment, *The Northern Ireland code of local government conduct: A code of recommended practice for the guidance of local councillors*, April 2003, pp.3–8.

31 Mark Philp, *The seven principles of public life: What they say and what they mean*, report to the Committee, 2002 (revised 2012), p.10.

32 *Qualitative research on public perceptions of ethical standards in public life*.

33 One focus group participant described the resignation of a Chief Constable because he felt that due to spending cuts he was no longer able to provide an adequate level of service as a courageous act which he attributed to the individual’s high level of personal ethical standards: “He was ambitious in the –shire police and he was a very, very fine police officer, now he’s recently stepped down because he has decided that with the money that I’m now being given I can’t provide a service to the people of –shire and he said I’m not putting my name to this... he’s walked away from it and all credit to the guy for doing that” (*Qualitative research on public perceptions of ethical standards in public life*).

The seven principles of public life (revised descriptions)

Principle	Current description	Revised description
Preamble	None	The principles of public life apply to anyone who works as a public office-holder. This includes all those who are elected or appointed to public office, nationally and locally, and all people appointed to work in the civil service, local government, the police, courts and probation services, NDPBs, and in the health, education, social and care services. All public office-holders are both servants of the public and stewards of public resources. The principles also have application to all those in other sectors delivering public services.
Selflessness	Holders of public office should act solely in terms of the public interest. They should not do so in order to gain financial or other material benefits for themselves, their family, or their friends.	Holders of public office should act solely in terms of the public interest.
Integrity	Holders of public office should not place themselves under any financial or other obligations to outside individuals or organisations that might seek to influence them in the performance of	Holders of public office must avoid placing themselves under any obligation to people or organisations that might try inappropriately to influence them in their work. They should not act or take decisions in order to gain

Principle	Current description	Revised description
	their official duties.	financial or other material benefits for themselves, their family, or their friends. They must declare and resolve any interests and relationships.
Objectivity	In carrying out public business, including making public appointments, awarding contracts, or benefits, holders of public office should make choices on merit.	Holders of public office must act and take decisions impartially, fairly and on merit, using the best evidence and without discrimination or bias.
Accountability	Holders of public office are accountable for their decisions and actions to the public and must submit themselves to whatever scrutiny is appropriate to their office.	Holders of public office are accountable to the public for their decisions and actions and must submit themselves to the scrutiny necessary to ensure this.
Openness	Holders of public office should be as open as possible about the decisions and actions that they take. They should give reasons for their decisions and restrict information only when the wider public interest clearly demands.	Holders of public office should act and take decisions in an open and transparent manner. Information should not be withheld from the public unless there are clear and lawful reasons for so doing.
Honesty	Holders of public office have a duty to declare any private interests relating to their public duties and to take steps to resolve any conflicts arising in a way that protects the public interest.	Holders of public office should be truthful.
Leadership	Holders of public office should promote and support	Holders of public office should exhibit these principles in

Principle	Current description	Revised description
	<p>these principles by leadership ad by example, and should act in a way that secures or preserves public confidence.</p>	<p>their own behaviour. They should actively promote and robustly support the principles and be willing to challenge poor behaviour wherever it occurs.</p>