

# Committee on Standards in Public Life

## Review of Local Government Ethical Standards

### Roundtable

24 April 2018

#### **Participants:**

*Lord Paul Bew, Chair, CSPL*

*John Cade, Institute of Local Government Studies, University of Birmingham*

*Professor Colin Copus, Local Governance Research Unit, Leicester Business School*

*Ellie Greenwood, Local Government Association*

*Paul Hoey, Hoey Ainscough Associates*

*Dr Jane Martin CBE, Member, CSPL*

*Megan McKibbin (observing), Ministry of Housing, Communities and Local Government*

*Jacqui McKinlay, Centre for Public Scrutiny*

*Mark Norris, Local Government Association*

*Dame Shirley Pearce DBE, Member, CSPL*

*Jane Ramsey, Member, CSPL*

*Brian Roberts, The Chartered Institute of Public Finance and Accountancy (CIPFA)*

*Rt Hon Lord Stunell OBE, Member, CSPL*

*Daniel Thornton, Institute for Government*

*Professor Tony Travers, Department of Government, LSE*

#### **Lord Bew**

If it is agreeable, I will try and start the meeting now. We are one or two short, but I think they will understand and I do not want to hold you up anymore because I know how busy you are.

Can I just say, on behalf of the Committee on Standards, that we are really happy that you have come today? We know that you are all very busy and we really offer you the warmest possible welcome because we do need your help. The Committee has had a longstanding interest in local government and, indeed, it was the subject of the Nolan Committee's third report, I think, in 1997. On a number of occasions, it has addressed local government standards. At the point that I became chairman, more or less, you will all be aware that there was major legislation on this subject and I incline to the view that once Parliament, in its wisdom and 650 people, has decided to do something, it is ridiculous for a small committee somewhere in Whitehall to start immediately rewriting, revising and challenging.

That issue, to some degree, has not been quite as at the forefront of the Committee's work as it sometimes has been in the past. However, we have always kept a brief; we have always kept a

conversation going with those who have a specialist interest in this area and an engagement. We now think that enough time has elapsed since the legislation to look again at these issues. Ethical standards in local government, let me remind you, are not quite the same thing as delivery, in the broad sense of the word. At certain points, the two issues do become very intimately connected, but not always and not in all iterations of a subject.

This is the second roundtable we have had; we had one with the monitoring officers last week in Birmingham, which I thought went very well. We really are looking forward to your contributions; this will be valuable evidence for us.

Thank you all for coming. Jane chaired last week's meeting as well. I think most in the room will be aware of the role that she has played, so you will find that a great deal of what goes on today will involve an engagement with some of the issues which we all feel emerged from last week's discussion. Thank you, Jane.

### **Dr Jane Martin**

My thanks to all of you for taking time this morning. Just by way of some further introduction, we started the review at the end of January. The consultation is still ongoing and will close on 18 May, so there is still plenty of time to contribute or, indeed, to invite others to contribute. It is really important that we get the best possible evidence base we can.

We have started to do some individual interviews with key players and, as Lord Bew has said, we had a roundtable last week with monitoring officers (MO) and independent persons (IP). When the consultation closes, we do intend to then do some work with a number of local authorities as appropriate. We will certainly make sure that we hear the voices of councillors as well as part of that work, so we hope we will cover the landscape effectively.

It is my job today to try to chair this around four general themes, which I am sure you have seen from the agenda. We really do want to hear from you; we have members of the Committee here who I know will also want to contribute, and of course that is understood, but we also want to hear from you. Perhaps your contributions will be based on your individual professional experience, but you might also want to share the research and the other work that you may have done.

I will not go around the room and invite everyone to introduce themselves now, because that will probably take a long time and you probably all know each other better than I do. However, if you feel that you would like to make a brief introduction when you first speak, please of course do so.

*[Housekeeping remarks]*

Perhaps I could then kick off with the first part of this session. I should also say that we have invited Colin Copus, who is advising us on this particular review, to say a few words on each of these sections of the session, to try to sum up some of the issues that have been coming out. I hope everyone is happy with that.

The opening question, really, is about structures. You hopefully will have seen from the consultation that we have gone into this piece of work very open-mindedly, as is the right way to do it. We have begun by asking people questions about the structures, very much recognising that these issues are now delegated to local government, and that is right and proper. We will go into processes in a moment, but we are interested to know how the structures are working. Are they working effectively? Is the variation proving to be a good thing or are there boundaries to that?

Independence is a particular issue, so I will start my opening question there. However, I am very much in your hands as to where you would like to take the discussion. In terms of the structures,

my opening question is simply, 'Is there sufficient independence in the regime as it stands?' Do we need to have a look again at the question of independence, and if so, at what point in the system? Are there any questions about the role of the MO and, in particular, the role of the IP? That is my opening gambit and I am very pleased to hear from all of you on that one. Who would like to start?

### **Paul Hoey**

Can I introduce myself? I am the one with probably the least familiar job title, looking around the room. I can work out what everybody else does. I am Paul Hoey, Hoey Ainscough Associates. I was director of strategy at the Standards Board for England from 2001 to 2012. Prior to that, I used to be in the civil service at the DCLG and its predecessors.

Since 2012, we have run a private company, essentially a private version of the standards board. We go up and down the country investigating, training councillors and doing all sorts of things. We have worked with about 400 councils on the local standards arrangement, so we deal with a lot of these issues on a day to day basis; this is essentially all we do for a living. Part of me would say, 'It is all perfect because I get a living out of it,' but on the issue of independence, there are clear issues around the way that councillors have to deal with these things.

The role of the IP is very underplayed. We do training every year; we have IP roadshows every year. In fact, we are doing one in London tomorrow with, I think, 60 IPs coming. The perception that we get from them is that they seem very side-lined in a lot of these things. Because their role is essentially advisory, there is a feeling that they are not consulted enough or involved enough in the process, and that actually, it is the decision making that needs some sort of independence.

We are working with two councils, for example, who are very high-profile at the moment. For very different reasons, they have had major issues. They are both very concerned at the public perception, at least, of the lack of independence of a process in which matters have to be decided by committees of councillors without any independent input into the decision-making. This is true to such an extent that one of them has now moved their position so that they now have an independent standard committee. However, because it has no decision-making power, it is completely advisory and is merely then making recommendations to the full council. It seems they are going about things in a different way.

My view is that there needs to be much more relaxing, to allow councillors, if they choose, to bring some more independence into the decision-making role because at the moment, it is very restricted in the role they have. There needs to be some loosening around the independents to allow them to be involved in the decision-making and not just there as an advisory commentator on the side.

### **Lord Bew**

Thank you very much, Paul.

### **John Cade**

I am John Cade. I am at the Institute of Local Government Studies at Birmingham University, but I was also director of scrutiny with Birmingham City Council for over 10 years. If I could go back to the MPs' issues around their expenses, whilst I was really concerned about that, as a local government officer I was more concerned that officers seemed to be accepting them going through.

My focus is particularly on the MO and I would be fascinated, Jane, about the feedback you have received from MOs. I would be interested to know: have we moved away from a situation where it has to be a legal person? Is there a recognition that the calibre, the strength and the robustness of

the individuals who undertake these roles are more important than the profession that they come from? My experience in Birmingham with some quite interesting issues is certainly that the calibre of the MO is absolutely focal and pivotal to so much. I will be fascinated if over the course of it, we do talk a little about the role of the MO.

**Dr Jane Martin**

Could I just ask you to say a little more about that if you are willing to? The MO clearly does play a clear role in these arrangements in any local authority. You raise the point about legal background etc., but is there perhaps anything to do with where that role sits, the seniority of the role or the corporate organisation around the role? Would you have any comment on that?

**John Cade**

Absolutely. As one of the three statutory officers, along with the head of the paid service and the section 151 officer, the MO has to have that protection right at the top of the organisation. Frankly, they also have to have the strength and conviction to be able to stand up against quite a strong leader sometimes, in terms of the pressures coming through. They also have to be very conscious of bullying issues there. For me, it is absolutely crucial that person is strong in standing. That person preferably gets good support from the head of paid service as well, but has to be a really strong individual.

**Mark Norris**

Just picking up on the comments that Paul was making on the independent role, that what John was just saying was interesting. Having spoken to some of our councillors as a councillor-led organisation, the issue of bullying is also felt in the reverse instance. It is felt that MOs exert, in some instances, a bullying attitude in terms of councillors in terms of investigating it.

Paul's point about the role of the IP is quite important within this process in terms of having something that provides that balance between the two sides of the equation; this applies to the role of the MO and how strong that might be against councillors who are on the receiving end, or people being complained about. There is probably something in what Paul says about looking again at the role of the IP in this and what role they play going forward; they could balance off some of the things that are going wrong with regard to local authorities and how the complaints process itself works.

**Ellie Greenwood**

The feedback we have had from some of our members around the role of the IP is that some councils are clearly struggling to get people that they feel are able to fill that role effectively. That has come from back from some areas.

**Dr Jane Martin**

Is that just a general problem in just getting people to volunteer for things, or is there something specific about that? Do you know?

**Ellie Greenwood**

It is kind of an issue as to, 'Are you able to attract people of a calibre to do a role that is sometimes unpaid?' The feedback is that that is mixed. I have certainly spoken to some councils who clearly

have really excellent people in that role. However, I think that difference is felt in those authorities where they perhaps have not and they may have struggled.

**Jacqui McKinlay**

It is interesting that, in our conversation about structures, we have quickly moved on to culture and behaviour. In our experience, the right structures and processes are often in place, but then human beings are asked to operate them.

Obviously, scrutiny is our area and we have recently had the CLG report into the effectiveness of local government scrutiny. That is a very mature system that has independence and scrutiny at the heart of it, and I think that struggles to have its voice heard in decision-making processes. An IP is then applied, or someone else is asked to operate in this ever-more-complex system. It is also a system where it is difficult if there is no senior buy-in into independence, valuing of transparency or insight derived from complaints and others.

It is interesting to talk about structures, and I am sure the conversation will move on to that. What changes can we make to structures which will tackle some of the issues we have talked about, which are very often about the pressures people are dealing with and the culture that comes from that?

**Dr Jane Martin**

I am sure you are right and I will make sure we do not miss some further discussion on that. Just sticking with the structural, broadly speaking, you have been looking at scrutiny process; John has already referred to that. Is there anything we can learn from scrutiny in terms of how independent voice is brought to bear, and have you any observations as to how we might think about that for ethical standards? I do not want to put words in your mouth.

**Jacqui McKinlay**

No. The main things that we find are the importance of making sure people have the right level of support and not just dropping a structure in and then expecting it to operate by itself, essentially taking someone off the street and putting them in. We need to make sure the right organisation support and the right focus is there. The other thing we find is around access to information and that information being correct, but also being in a form that people can then make the right sort of decisions about. I think that to take on that role, be confident and carry out the role to the level that is needed, if an organisation does not have that, it has failed.

**Dr Jane Martin**

Is that is an onus on the officers' support?

**Jacqui McKinlay**

It is an onus on the organisation, but it is an onus on the confidence of the committee and the structures themselves to drive that. That does not always happen. There are examples where it is brilliant, particularly if it is very member-led. However, those two elements, for us, are where less impact tends to be seen.

**Dr Jane Martin**

Brian, can I put you on the spot for a CIPFA view on all of this? Your organisation is involved, from an independent point of view, from an audit perspective.

**Brian Roberts**

Yes. Just looking at the IP, it is right to have somebody independent involved. I understand the dynamics of it, and maybe there is an argument that we should have at least one of those on the committee that is considering it. It could be part of the decision-making process; that is worth looking at.

To me, the Monitoring Officer is the right person to take the lead. This gives a clear reference point for councillors, the public and others on all matters relating to standards. This applies both in terms of the formality of it, if there is something that has happened. More importantly, however, it provides a point for clarification and advice. If the quality of advice is good, there is generally no issue going forward, so good authorities say: 'Talk to the MO very early. If you have any concerns or anything like that, please talk to them and then we will not have a problem going forward.' It is a real focus for the public as well. Therefore, I would argue to keep it. There is a key role, working with the head of paid service and 151 officer to strengthen the overall governance around standards of ethics.

My view is that the IP is absolutely vital and I think their role should be strengthened as part of the process in terms of that. I still feel that, on balance, the MO is probably the right point of contact.

**Lord Bew**

Thank you very much, Brian. Thank you.

**Dr Jane Martin**

Thank you. Does anybody else want to come in on this point about independence, etc.?

**Paul Hoey**

I just wanted to pick up some of the points that other people have made. Just on the MO, we have done a survey which shows that around 30% of MOs are now not legally qualified, which has been a big change over time. That is absolutely fine. We do some work with MOs; we run training events for new MOs and it is much more about the skills that they need.

We are more concerned that the MO role tends to have been slightly downgraded these days, so governance has become less important because some governance services have been hollowed out in local government as an inevitable result of reductions in funding, etc. It was one of the first things to be looked at; a lot of senior people took redundancy. MOs need to have greater support within an organisation, which comes back to some other points we were making.

I was interested in what Jacqui was saying about the scrutiny function. One of the important things is outcomes, so that it is shown to actually make a difference. I know we will move on to this issue later, but one of the frustrations that people have is that there are no particular outcomes to this. An effective scrutiny can point to things and say, 'We were independent, we had made recommendations and they were sensible recommendations and it has led to change.'

I think another problem is that IPs and MOs are feeling that there are no outcomes and, therefore, there is not much point in putting any effort into this. This is true to the extent that we are dealing with places where they just say, 'We do not deal with these issues; there is no point.'

**Dr Jane Martin**

I wonder if anybody else wanted to comment on independence as a key element of governance, if you like. The way in which corporate governance is played out in local authorities looks different in different types of authorities and at the different layers of the process. We might come to this when we start talking more about culture in a little while, but I just wondered if any of you had any observations about the notion of independence. Perhaps you could shed some light on, or breathe some oxygen into, what local authorities do and how that is important for public trust and confidence.

**Daniel Thornton**

Perhaps I could make a couple of comments. The first is that, while structures, processes and ethical culture and standards are all analytically separable, they obviously come together in action and when there is a given crisis, scandal or whatever.

**Lord Bew**

Yes. Fair enough.

**Daniel Thornton**

You can separate them, but you also need to bring them back together; I am sure that is obvious.

The other thing is that I used to work in DCLG, but I have spent more of my time worrying about these issues in central government. By contrast to central government, I think it is harder for local government for several reasons, including that it is necessarily local and that people are engaged with their local areas. That is good and proper, but it means that independence is a different thing in a local context, particularly if it is a small local authority. It is obviously easier being in a county with several million people, and I think that creates a challenge.

The other thing is about the structures, and I do not know whether this is structures or process, but looking at an average local authority and checking out their website, it does not leap out at you that there are processes in place to check these things. I think transparency is very helpful, in many different ways, in all of this. If the purpose is partly to maintain public confidence, then I do not think that, at the moment, local authorities go out of their way to advertise what they are doing. It is possible to come to registers of members' interests reasonably quickly, but the data is not available in a machine-readable format and that means that nobody can aggregate it very easily without doing a massive research project of individually clicking on every councillor's profile and capturing the information that way. In contrast, expenditure by local authorities is presented in a machine-readable format, so it possible to create big databases and all the rest of it, or at least do that more easily.

I am also struck by the difference between officers and members. It is reasonably obvious where the registry of members' interests is when looking at local authorities, but it is not obvious for officers. That information may be somewhere, but I must say I have not come across it very easily. There may be issues raised, say about people travelling to MIPIM in Cannes, having a nice time in Cannes and doing all these deals and all the rest of it.

**Dr Jane Martin**

Possibly lunch.

**Daniel Thornton**

Possibly lunch, possibly a bit more than lunch. It may all be good stuff in the interests of local people, but questions are certainly raised by the media and so on about the number of people who go. A member has to say in their register, 'I went to MIPIM.' For an officer, it comes out through FOI, so there is not an automatic process that draws that information out. That seems like the sort of thing that should come out automatically rather than it being something that requires people to think, 'I am going to ask this local authority how many people went.' I do not know whether that is structures or process.

**Dr Jane Martin**

It does not matter. Do not worry. I will work around it.

**Daniel Thornton**

From my experience in the central government, it is much easier to say to a minister, 'This is going to come out under FOI,' without having an argument afterwards than it is to say, 'I really do not think you should do that, Minister; it would be bad.' They do not like sort of challenge, whereas, just saying, 'Look, it is going to come out under FOI, so it is up to you' makes it much easier for officials to have the conversation with ministers. It is worth looking at transparency, and some of the guidance within legislation that requires certain things to be produced in certain formats could have an impact.

**Dr Jane Martin**

Thank you for that. The key point in there is about transparency.

**Jane Ramsey**

I hesitate to step in because I am a former MO in a previous life, albeit under the old law 20 years ago, or slightly less than 20 years ago, in two local authorities. I am very interested in the relationship between structure and culture, which I think is very different now. Everyone in this room will know much more about what it is like in local government than I do, having left in the early 2000s. However, what was important for me as a monitoring officer was the support of the head of paid service. I was on the board, so it was a senior, and I had a suite of other responsibilities as well as being director of law. I was something called 'public services', so I think my life was easier. I cannot imagine having done that job as a more junior person in the structure, but I could be wrong. That is interesting.

The second thing was that I got the support of the leader of a council where they were in a majority. In another council that was much more difficult because, when investigating actions of a member of the majority party as a monitoring officer, if it is barely a majority, that just makes it more complicated for the leader. This meant that the political environment was very important; it was just much easier where there was a significant majority. I just make that point, and that is obviously just for me in two local authorities.

The second point I wanted to make is that in my circuit of the world of public sector, I have also been a senior independent director on a big London teaching hospital foundation trust. I am also chair of an out-of-London big teaching hospital with a senior independent director whose services I highly valued. I think about what occurs in the NHS, which has a whistleblowing structure that is now incredibly elaborate and may be familiar to others here; anybody can phone and speak to the CQC as a regulator. It is a whistleblowing hotline, and a director has to be designated to deal with



whistleblowing complaints of the sort that might be dealt with as a monitoring officer in a local authority. I would say that this elaborate structure has not particularly helped the NHS. It has not helped structurally and it certainly has not helped culturally, although I am not commenting on whether it is a good thing or a bad thing. I simply think, in terms of where something of the sort that needs investigating needs investigating, a large infrastructure that is incredibly expensive and well supported does not necessarily produce cleaner decision-making or a lack of inappropriateness. I am just making the point that something that is simple but clear and well supported, in my experience, works better than something that is more elaborate culturally.

**Jane Martin**

Thank you. Is there anything more we can learn about that senior independent director role?

**Jane Ramsey**

That is a non-exec director role on a unitary board and you do not have those in local authorities. I think of the times that I, on a number of boards, have either been or used the senior independent director. It is a very powerful tool, but the equivalent in local government, of course, would be a senior member of the ruling party, an elected member. I do not know whether that is a model that is workable. I found that highly beneficial in this other part of the public sector.

**Jane Martin**

Yes, that is very interesting.

**Jacqui McKinlay**

I have two points, one stimulated by Jane. The first is on structures and looking at the context in which local government now operates since the change in the regulations. Commissioning, delivering looks very different and transparency, accountability and independence therefore looks different. Now you are looking at a councillor who can be sitting on a board of a joint venture, on a LEP, on a health and wellbeing board, on a combined authority. Not everywhere in the country is affected by all of those different levels, but there is something about that complexity, which will only grow, that we need to have a look at as part of this, both from a commissioning viewpoint and how councils themselves are evolving.

The second point is around the independent voice within the governance structure. We do work in the private sector, work in housing and the NHS where there is that independent non-exec role and it has never been seen as compatible with democracy and democratic representation. I wonder whether that is an area that we need to start to challenge, because it does put undue pressure on councillors to be both representative and independent, and you see it sometimes in how the whip is used. It has never been an area where local government has had that conversation, as far as I am aware, whereas lots of other parts of the public sector have welcomed it. Indeed, even government has tried non-exec independent monitoring and it worked out well, from a department point of view.

**John Cade**

I will just make one observation on this issue around culture and structure. We have referred to the select committee review of local government scrutiny and there can be no dubiety, if the culture is right that is the right thing. The question, for me, though, if the culture is not right, what can you do about it? As Jacqui and I know, that is when you get poor scrutiny and poor standards. That is

where I come back and say, yes, the culture is critical, but if you cannot get that in an organisation, that is where you have to fall back on the structure. That is where the role of the monitoring officer, at the right level within the organisation, with the right respect, is absolutely crucial, to try to set that right culture.

### **Jane Martin**

Thank you very much. I hope you will bear with me if I just bracket that again, just for a moment, but I do understand we need to cover some of those issues.

I want to ask Colin to give us a few remarks on what we have heard so far. Would you do that for us?

### **Colin Copus**

Yes, sure. What seems to have come out quite strongly is how independent is independent and what is the role of any independent input to a structure. It has been very interesting listening to some of the debate about who monitors whom and who is independent from whom and what the role of those policing the system is and those who are policed. Of course, the interesting thing is the role of officers, as was raised by people from the LGA. We often look at this as a problem for councils when there is a parallel issue of standards and the monitoring of officers and, I suppose, who monitors the monitoring officer is a pertinent question to ask.

It seems to me that there is a message coming out that maybe there is a need to draw standards away from allowing councillors and councils to police themselves. I am just beginning to pick up a tone from some of the debate that there is a need for greater independence and that might be not just what the independent person does, but what processes can be put in place outside of a council.

I am very taken by the point that you were raising, about how things were when there was a big majority and how things were when there was a smaller majority for the ruling party. The realities of party politics will play a big role in whether the majority party can afford their members being investigated and whether they will, therefore, support that or whether they prefer to deal with it through their internal party disciplinary systems, which are not necessarily the same or set up to do the same sort of work.

Daniel, you made the point that you can separate out structures, processes and cultures, but eventually they all come back into the mix at some point. That also is an issue to be aware of, particularly because of the quasi-judicial nature of what we are exploring, the way of getting the right mix of structure, process and culture and in the right people within the right particular positions. Sometimes holding the role of monitoring officer is not enough. There has to be something else there and, again, it all comes down to people; does the monitoring officer have the support of the head of paid service or do they not and what happens when they do not? What happens when the monitoring officer is isolated? An independent process outside of the council is less likely to feel those sorts of tensions.

### **Jane Martin**

Thank you. I am trying to help us seamlessly flow through this and I do promise you we will come to culture in a moment, absolutely, but let us just deal with questions around we have called it 'process', but around sanctions and safeguards. Daniel has raised the issue of transparency and there are arguments either side as to whether transparency has proved and will prove to be a good thing or not; I am sure we all have our own views on that. Nonetheless, transparency and the oxygen of publicity is clearly something that we are aware of in the local government landscape,

but should there be any further changes to sanctions available? Paul, you were saying that people can get the process right but, at the end of the day, so what? What can we do here? We heard last week, from monitoring officers, I grant you, a particular constituency, that the criminal sanctions, for example, does not seem to be the right tool for the job, for a lot of reasons. I will not go into it, because I do not want to lead you into that discussion, but it just raised the question for us of should there be something more going on. That might be something that is independent of the local authority, given what we have already, perhaps, recognised, but should there be both sanctions and also safeguards for members who are subject to investigation? I am interested in your take on any of that.

### **Tony Travers**

The reason I have stayed quiet is this is not a field I have looked at in any great detail and, therefore, the one thing I am aware of is how little publicity all this gets, if you see what I mean; I am just coming at this relatively cold, in my case. That is clearly germane to the question of transparency, because if something is going on in hundreds of places separately without much media or other interest or coverage most of the time, of course there are occasional exceptions, then it is less considered than other issues about local government that do get a great deal more coverage. If you look at issues that occasionally are discussed that are in this territory, the conduct of elections will occasionally hit the headlines if it is perceived as being badly done; certainly section 151 officers and, now, 114 notices are suddenly national news because of Northamptonshire, begging a question about the underlying audit. The truth is one of the difficulties for all the processes that we are discussing here is that they do not receive much attention, other than by inquiries of this kind or when something locally goes badly wrong. There is not an ongoing interest in it, in the way there is an ongoing interest in other things, at scale. It is simply not on most journalists' radar. It is too difficult. The very words 'monitoring officer', 'head of paid service', 'section 151 officer' immediately make you switch off. There is a cultural issue, which is that even if all of this worked quite well, it does not get much attention beyond the people involved in the process and that is a real problem.

### **Mark Norris**

I disagree with that. Tony is right that it is at national level, but having been a district and a parish councillor for a number of years and under the Standards Board regime, my experience personally was that it played out very much in local politics, because local politics makes it important. If there is a complaint against a fellow councillor and you have by-elections and other elections coming up, then that provides you with quite a bit of material to put in local campaigning things that you will put out as a councillor. From that point of view, there is quite a bit of a way that some of this plays out very locally and does have an impact. It has an impact when you have a continual run of stories about members' behaviour on a particular local authority and especially by a political group, which then has an impact on public perceptions in that locality about how a group is working or not working and what the administration of a local authority is like. Yes, it may not get a great deal of attention at a national level, but it certainly plays out, in my view, at a very local level in terms of perceptions when you are knocking on the door as a councillor, that is what people say to you. This includes comments about, 'Well, you are all con artists, why are you taking money?', in terms of councillors' allowances and stuff like that. You get all of that to the councillor when you are knocking on doors and that perception is reinforced by some of the stories you will see in the local press, which people pick up on and that gets fed back to you. Councillors and campaigners will make an issue of that when it comes to the election as well, about how a political group on a local

authority and how members of that political group may have strayed into inappropriate and wrong behaviour. That gets picked up and is used against those people, so it does play out in that context.

**Jane Martin**

You referred to your own experience, but is that still the case?

**Mark Norris**

I think so. Certainly when talking to our elected members that is reflected. The other bit that they drew out – and again drawing on personal experience, but also on those from the LGA – is the issue around safeguards. The sanctions have obviously changed between what they were when the Standards Board for England regime was operating, but they were quite severe at that point and Colin made the point about it being a quasi-judicial process. From a councillor's point of view and from some individuals, this is an attack on their reputation and they feel that very strongly. The way the system is weighted, from a councillor's perspective, feels very much on the side of the process and the structures rather than on the individual.

The degree to which the length of time some of the investigations carry on has been an issue for some local authority members. There is an issue about access to advice and support when being interviewed by one of the officers and others. Again, this is personal experience, but I know that on the Standards Board one of the issues that came up was whether or not members were able to afford to take legal advice before going along to a Standards Board committee hearing that was going to make decisions about whether or not they were disqualified. Obviously, the sanctions were considerably greater then than they are now, but that was very much a key issue for those members who were going through that. That played out in terms of you have a diversity of members with a range of backgrounds, but also in terms of financial wherewithal and you see an issue where those members who are better able to afford it can better navigate, in some senses, the complexities of the safeguarding and the standards regime since they have access to legal advice as and when they need it, even at the fairly substantial cost of doing it, because they have to pay for it out of their own pocket rather than, for example, getting legal aid, which has never been available. There is an issue and it still feeds back from our members, who feel that, from a councillor's perspective, on the receiving end of an investigation, you feel very much alone and it is entirely up to you to represent yourself in this process. You do not have support and help to do that and when you are on the receiving end of an investigation from a monitoring officer, it feels as if the pressure of the organisation is against you, as an individual. That obviously impacts on a person's ability, in some ways, to be able to present the best case that they can in relation to the charges against them.

**Jane Martin**

I see. For clarity, you mentioned the Standards Board, but in the period since then are you still aware that this is the situation?

**Mark Norris**

Yes, it is still an issue that members are raising with us when we have been discussing internally in the LGA over the last few weeks.

**Jane Martin**

I see. I just wanted to know, because we are interested in that point.

**Tony Travers**

Just to come back on that, of course I can see that a process, if it exists, will be used in a political way – we are going to come on to politics – and it will be used politically. That is not quite the same as the point I was making, which is to do with whether the process is understood and operates in a way that would, for and of itself, as audit must, discipline people's behaviour, because they are not aware of it being there, which is a completely different point. Of course it will be used politically.

To take another, vague, parallel, there is a debate going on in public life about how the CPS works, because it is seen and understood. Now, of course, it is a national body with local manifestations, but there is, therefore, a debate going on about it, whereas this process, as opposed to the way it is used, is not subject or understood in anything like the same way. That is simply the point I am trying to put across.

**Jane Martin**

Yes, and it may come to the point about what we mean by 'media coverage', i.e. understanding public awareness of the whole landscape, which is different from but alongside the examples you were giving, rightly so, about what can happen in the local press, particularly around election time.

**Jane Ramsey**

I emphatically agree with the point Tony made. I have watched with great interest, I do not know if anyone else here has, about what has happened with Lewisham Council in recent months and the developments with Millwall Football Club and the arguments between its American-owned developer and the council, which involved the head of paid service, the chief exec, who is now at Kensington and Chelsea – I am only mentioning that as in he has gone on to another important job – and the outgoing elected mayor, Steve Bullock. All criticisms of them have been entirely exonerated via the former Master of the Rolls, Lord John Dyson, who they brought in. The fight was very visible to the public, the argument between local community groups, those who had vested interests and politicians. It was getting incredibly unpleasant and, not the decision-making, but a lot of it was public. What the council decided to do, presumably, was outsource the scrutiny and the investigation in a way that, had the light not been shone in a public format, it would have been dealt with by the monitoring officer, which it may have been at some point. The council obviously felt that it needed to be out there in the highest profile way and that they needed that independence to demonstrate that they had behaved properly, which they were being accused of not doing. My understanding is that they behaved properly, from a legal perspective. When the lights are being shone, I guess, the public so little understand or appreciate this process of monitoring officer that they needed to find an independent, external process in that example. That may not be a very good example, but it was a very interesting one, because it had coverage in *Private Eye* and the *Guardian*.

**Jane Martin**

What has just popped into my head is for local determination read cosy corners or confusion, but we will leave that for a moment.

**Brian Roberts**

I have a few points to make. I do not think sanctions should be criminal. If there is an investigation and it looks as if there is a criminal element to it, it will be referred to the police fairly early in process and that will take prominence going through the process.

We should not lose sight that this is one element of a series of checks and balances that make up the governance of the authority, including audit committee, scrutiny, code of standards, member conduct panel and I would be reluctant to hive off parts of the process to independent arrangements and start to lose that overall structure and integrity of how the organisation operates. However, I can see the benefit of bringing some independent element into some of those formal structures the authority has.

Transparency is important too, but it needs to have an element of natural justice in it for the councillors, because a number of complaints can be dismissed very early on as just being political knockabout type stuff. In my view, it would be grossly unfair on a councillor for that to play out in the public domain, so it is about when the transparency is triggered in the process. In my experience, it tends to get triggered when a panel has been formed. At this point an investigation has been completed, panel papers will be in the public domain and be open to scrutiny, but the earlier process would be in private. There should be transparency, but when is the appropriate point.

**Jane Martin**

Yes. As someone who used to deal with quite a lot of complaints, that mirrors very much what we see when good systems work well, in that there is a lot of triaging at the early stage. Even so, that has to be subject to some kind of transparency, because otherwise we do not know who is making decisions and assessing what goes where in the fullness of time.

**Paul Hoey**

There are a number of points I wanted to pick up. To follow on from what Mark said on the LGA, the other element you missed out around support for members is it does depend how far their party supports them as well. A lot of councillors will obviously get support from their party, but equally, some do not and some do not have parties and therefore have no means of support going through the process. What you described, in effect, is what anybody feels when they are going through an investigation, whether they are an employee or a councillor, and it is about the support you get. If you are an employee, you feel exactly the same, the whole world is against you, but you have the support of your trade union or whatever. The party is very important in the way that they support these structures.

On the issue of transparency, one of the issues is this is for the local electorate to deal with, this is a ballot box issue. It is very difficult for us to find the outcome of a lot of cases, including cases that we ourselves have investigated. You talked about council websites. If you go on to a council website and try to find the outcome of a standards committee hearing, after 25 clicks you might get a report that says 'at this point the committee went into private session'. We, ourselves, have not been told the outcome of some cases that we have dealt with and we cannot find them, so we struggle with the issue that this is about transparency. Transparency needs to be built in much more if it is to rely on the public to form judgements. Often, many of the misconduct cases are things that are not transparent at all. If it is internal bullying and harassment, that is never going to be transparent and that never plays out in the public domain.

I was very struck by the discussions at the end of last year about MPs' assistants and all those sorts of things and very much saw a parallel between that and what goes on in some local authorities, particularly at the parish council level. You are talking about people who are, essentially, having to complain about the very people who are responsible for their employment. To say to those people, 'Just put up with it for three years and then the ballot box will come along' is not of the greatest comfort to a number of people out there. This interface between democracy and independence is all very well, but if you are having to rely on democracy four years hence on matters that nobody knows about, it is just –

**Jane Martin**

It is a blunt instrument.

**Paul Hoey**

Yes, it is a very blunt instrument and there are, frankly, cases of gross misconduct that if you were in a normal workplace your feet would not touch the ground, and to allow those sorts of things to go on is – we struggle a lot with some of the cases we deal with that there is no outcome. You talked about systems that, of themselves, discipline members in terms of you do the right thing because you know, if you do not, the system will deal with it. In these cases, the system does not deal with it and therefore there is no internal discipline put on people. They are free to do as they like, in many ways.

**Jane Martin**

I want to stress we have more evidence to take, but at this moment in time, we do seem to be hearing quite a lot about parish councils from both sides of the story. We have heard quite a lot from monitoring officers about, perhaps, a disproportionate time and effort being put into some of the issues that are coming their way, rightly or wrongly, about parish and town councils. We have heard that a number of people working in parish and town councils in a clerk role do not stay, because it is the easier route to take than to try to deal with a matter that they are subject to. I want to stress that we are mid-way through, but I am just reporting that because it has come through quite strongly.

**Jacqui McKinlay**

I have held back because it is very anecdotal, but if you are in a room of democratic services officers, behaviour and standards will be a topic of conversation that will come up quite frequently. This probably reflects the flip side of what you were talking about, Mark, in that, from an officer perspective, there is a sense that, as the arrangements have become more localised, decisions are being made by people who are very close to them. There is a sense that it is a bit more difficult to tackle some member behaviour and some of the ethical issues than maybe it was previously. Even if it did not end up with the Standards Board, there was a threat that that was there. That is caveated by democratic services people spend a lot of time complaining about members. It is your world and it is a topic of conversation, but John, we have found in some of the training that we have run, how do you operate in these worlds where you are, again, dealing with human beings, so you are dealing with difficult and nice people and what systems are there.

**Tony Travers**

Notwithstanding the fact that Birmingham is physically represented here, but generally there are more observations in local government, obviously, than in national government, so you will get

wider behavioural extremes. That does beg the question whether bigger requires more formality, therefore, we tend to be more likely, other things being equal, to get this stuff right. Simply, big institutions have to have more rules and formality and, on some occasions, that is a better thing.

**Jane Martin**

Yes, and we have heard that point. It will be interesting what Colin has to say in a moment, because I feel what we are swirling around here is the issue of informality as well as lack of transparency and where you get that right, if you see what I mean.

**Tony Travers**

There is a piece of research, unusually, which I can bring for this issue. It was not really research, but when the Greater London Authority was set up and the London Assembly came into existence, it was deliberately chosen to have fewer members than normal. It has 25 members and it has a form of proportional representation. The biggest party group is never greater than 12 and, on average, the biggest party group is 10 or nine. It is just going to be informal and, by the way, it too does not have a traditional committee system to make decisions about spending either, so it is two stages away from formal. Whereas if you have party groups of 50 or 60, you have to have formality in the way they work. I can see, for all sorts of reasons, bigger leads to formality and formality may be an important thing, given what we are discussing. That is not to say they will not play politics, of course.

**Jane Martin**

Thank you.

**Lord Stunell**

We are gathering evidence and one of the pieces of evidence that I have noticed is that a large number of respondents report that a high proportion of complaints are, in some ways, spurious or vexatious or minimal or whatever. I am interested in how we deal with transparency in relation to that, because I am well aware that certainly in the days of the Standards Board, it was common currency to be able to say 'Councillor X has been referred to the Standards Board', which only meant that a complaint had been made, not anything about the outcome or the validity of it. The level at which transparency kicks in has already been discussed, but I would be interested to hear some more.

I would also be interested to understand whether, in your view, the number of complaints has gone up or gone down or a period of time, both the vexatious and real complaints. Vexatious complaints might go up, because it is exciting and there is social media and all sorts of things, but real complaints would be something this Committee would take very seriously, because it would suggest there were declining standards absolutely, rather than just increased excitement about local government.

I wondered if you could throw any light on either of those two points.

**Jane Martin**

I have to go to the LGA first.



**Mark Norris**

I cannot give Andrew a simple answer on that, and it picks up on something in Jane's example about Lewisham and on Tony's point about understanding. The first bit you need to unpick is the question about what is genuine political decision-making versus poor standards and conduct of behaviour. To Andrew's point about what is a vexatious complaint as against a genuine, substantive complaint against someone, my experience of being on a large-ish town council was that people could make complaints that were upheld by the Standards Board for England, which I would have termed vexatious, broadly, a great number of them, on the authority that I was on for eight years, because it was tit for tat; it picked up on the potential transgression that anybody did, whether that was deliberate or inadvertent and, mostly, it was inadvertent and people picked up on it. We do not keep detailed records of it and, of course, without the Standards Board for England keeping that catalogue of information it is difficult to tell. However, my broad sense is the case of bad apple councillors that you find who do things that everybody would turn around and say, 'That person should not be a councillor and they should be removed from their authority' and if you speak to fellow councillors, they would say that as well, is that that number ticks along at roughly the same level that it has done historically.

I do not think there has been a decline in standards as a result of the change from the Standards Board regime to the current one. I have not picked up a sense that there is greater reporting of instances. I can think of specific ones. I worked on the London Borough of Lambeth and we had one councillor who was found to be fraudulently claiming housing benefit, for example, and those kind of instances where you think genuinely that is criminal behaviour. If you make complaints about those sorts of people, that is the sort of thing where it is a serious case of the breach of the code of conduct, etc. Those sorts of cases, I do not think have increased, but this is anecdotal rather than any hard evidence, because we do not have any hard evidence of the number.

On the point that Daniel was making about the conflation of structures, processes and culture, they very much do play out at a parish and town council level and, picking up Tony's point, as soon as you get to a district council there is a degree of formality about how the council operates that provides you with a structure, both on the officer side and on the member side, which provides for clarity and also in terms of expectation. The parish council I was on was a large one, within the top 10 of parish and town councils in England in size both of budget and number of population that it served. We had a staff of about 10, of which the clerk was the person who would be dealing with monitoring and code of conduct-related issues. In Surrey, where I live and where I was serving, in the bit where we are there is a range of very small parish councils covered by parish clerks, who may do two or three parishes, who are the authority. There is a huge range of difference in pressure and about what kind of experiences they are under and that plays out in terms of why you get so many more complaints at a parish council than you will do at any other level.

**Daniel Thornton**

On Tony's point, obviously there is a minimum cost to establishing an independent process and an appeals process and all those sorts of things and the smaller the council the bigger that cost is, as a total of the council's budget. It may well be the case that there are more problems in smaller councils, just as probably there are more problems in small businesses, because they do not have HR departments and everything comes down to the chief executive and if the chief executive takes against somebody, then there is a problem. The same goes in MPs' offices; they are effectively the chief executives of small businesses. There is a general problem, but there is also a problem about proportionality in establishing a very elaborate system in a small place, because it is just a bigger part of a small budget.

**Paul Hoey**

I just wanted to come back on Andrew's point. We have been involved in two separate surveys, one a year into the Localism Act and one very recently, which have asked that specific question: has the number of complaints risen, fallen, stayed the same, etc. Both showed exactly the same figures really, which is not surprising, because you have different situations in different councils at any one time. Some places will say that things have got better, some will say things have got worse. It is a bit like one of those fairground games where something pops up here and you hit it and then there is a problem over there. The conclusion was that about 70% of respondents said that the number of complaints had stayed roughly the same, about 15-20% said that it had got worse, and about 15-20% said it had got better, it would depend on the area.

On the issue of spurious complaints, when we deal with councils and when we train standards committees, we are very clear that transparency kicks in when a matter is coming to a conclusion on if a complaint has been justified and taken forward. If you get a complaint, at the triage stage that is very much a private matter, because if you decide there is no case to answer, there is no case to answer. That does not stop it being played out in the press by the politicians, of course. Even at the Standards Board we used to read in the press 'a complaint has been made to the Standards Board' and we never received the complaint. We still see it now in the press, 'a complaint has been made to the monitoring officer' and we know the monitoring officer has never received that complaint. The transparency is when there has been a formal investigation, public money has been spent on it or what have you, or monitoring officer time, and there has been no conclusion one way or the other on a more considered matter or the facts. That is when the transparency element needs to kick in and that is where we see transparency still not applicable in a lot of cases.

**John Cade**

On the question of scale and quality of advice, Worcestershire have a common standard practice for both the county and for the districts, so you might want to look at that. Instead of going to different ones, they have one standard.

On vexatious issues, I am going to sound a bit like a record stuck in a groove, but so much can depend on the good judgement of the monitoring officer, like Brian said, at the very early stage, about whether it develops and festers or whether it can be headed off, in many cases, at the pass. In my experience, the monitoring officer will come under a lot of pressure in terms of the tit for tat issues that go on, with councillors wanting to go and say, 'You do know about this and you do know about that' and it is about holding firm. Again, for me, it is a lot about the quality of the monitoring officer at the early stage.

**Tony Travers**

I am not sure if this is the right point to mention this, but Daniel and Jacqui have also referred to it. It may be that the next section is the best place, so let us do it now. It is linked to Andrew's question about whether there is uptick or a downhill trend and it is that local government is now becoming a very different thing from what it was. Not that long ago, local government was a kind of mini welfare state; it bought some services in here and there, bought goods from the private sector, would occasionally build something with the private sector on contract. It has almost reversed completely now, where, for some local authorities, they are really development companies that happen to run social services and that is a huge cultural change. Contracting out massive amounts of contracting of adult social care in a way that if it happened in the NHS would be considered unimaginable. I am particularly intrigued by – it goes to the MIPIM point – the fact that

some urban authorities, effectively, the biggest single thing they now do is regeneration and renewal and running other services is now important but less relatively important. That changes the entire dynamic and, as I have asked elsewhere, does the chair of social services get invited out to as many dinners as the chair of planning?

**Daniel Thornton**

Not in Cannes anyway.

**Tony Travers**

You only need to ask the question in that way to see that even if everybody behaves inside the rules – and I think overwhelmingly councillors do, they really do – the rules themselves do not look great any longer, which is a much broader issue than today, in some ways. Just declaring everything is not good enough, it really just is not good enough. I will leave it there. This, too, gets into *Private Eye* all the time.

**John Cade**

Birmingham City Council was one of the first to go to MIPIM and, in the first year they went, the *Birmingham Post* and the *Evening News* splashed out about the cost and ‘this jolly’ and so forth. If you go to the *Birmingham Post* this year, they carry a 10-page spread, including the Mayor of the West Midlands, about how important it is for the West Midlands in relation to it. It is interesting reflecting upon what you say and how those things have changed over that period of time.

**Tony Travers**

The public mood might change and ‘growth coalitions’, as American academics are fond of calling them, will be built up. In a sense, that will not affect the issue, which is to the public, so in fact, in some ways, it is worse if the local media are onside. I am not saying people should not go to MIPIM, absolutely not, they should do this stuff. It is just a question of how it is policed and understood, the declaration of all the dinners and all the freebies and everything, which I am sure councillors do very, very well and they get that all right. All I am saying is that, in terms of public perception, it is never going to look great. That is not to say they are doing anything wrong at all, they are really not, we just have to think about it in a different way, because local government now is doing a different job from the one in the past. Ministers are doing trade deals and flying around the world and you will rack up a lot of air miles – who keeps the air miles, by the way? – and so on.

**Jane Martin**

Interesting point. Colin, forgive me, but I am going to run this on now and ask you to make some comments at the end, if that is alright.

**Colin Copus**

Yes, that is fine.

**Jane Ramsey**

Having listened to that bit of the debate, is it more difficult for a monitoring officer to do their job if elected members and officers are, effectively, behaving in the same way, if it is problematic or at least needs investigating? I was just thinking about your and others’ points and about a friend of mine, who is a director of housing and regeneration or something like that in a significantly large

local authority, and has recently been hosting swathes of Chinese folk to do a massive housing deal. I was struck by the description – I am not able to put it as elegantly as you did, Tony – of the changing nature of local government, when that is what they are doing to pay for being able to do anything else type thing. Their motives are all fine, but the officers are behaving in the same way. There is no difference really in terms of hospitality, trips, connectivity, almost quasi-socially now, fact-finding; it is officers equally with the elected members. I do not want to go down the route, which is very interesting, of how different is local government, which I would love to debate, but how difficult would that be? I do not think anything that I ever did as a monitoring officer, in my several years at two authorities, involved something where there was a complete mirroring of behaviour. I am not saying that anything is wrong in this particular authority, by the way. I just think it is interesting, because if it were, it would be very, very difficult for a monitoring officer to get any purchase, because everyone is doing it, whatever it is.

### **Tony Travers**

I was, by chance, in this very building, next door, yesterday, talking about section 106 and the Community Infrastructure Levy. Section 106 is, effectively, using development to negotiate taxation. Need I say more? There is nothing wrong with that, it is the way we do it and it is the way the government has willed local authorities to pay, but that means that members and officers are under a lot of pressure, particularly because of the reductions in spending, to negotiate with large companies to get things that otherwise will not be available locally. That immediately puts councillors and officers, both, in the position of being ace negotiators with big corporations with big budgets and not just consultants. You only have to describe all of this process to see how it is not quite the same as running the education department in 1967. It is just not the same thing.

Then there is the social world that we all exist in, which I, personally, was intrigued by; the extension of the beginning and end of day social events, which combine work and social activity. All I am saying is this is a massive issue that, more generally, local government is now, in some places, very significantly involved in. Overwhelmingly, 99.9% of people are doing great stuff, all above board. The question is are the rules strong enough even to protect councillors and officers, even if they are inside the rules, from public perception? That is a big challenge.

### **Jane Martin**

You make a very interesting point about the changes and therefore should we be looking at different rules.

### **Lord Stunell**

I just want to widen that a little bit. One of the ways this discussion has gone is to move from consideration of individuals' behaviour to consideration of corporate behaviour. There is clearly a whole set of issues about what is the corporate behaviour model that a local authority should follow and then how do individuals contribute to that when performing their governance role. The prior starting point was to consider the individual behaviour of individual councillors; that is where we were. One of the challenges for the move from one model of local government to the current model is that the representative function of councillors is being increasingly pushed to one side. One of my challenges to any monitoring system is: how far does a monitoring system facilitate, encourage or even require, perhaps, in that representing the people who elected you becomes more and more of a declarable interest and something that you should set to one side in taking these corporate decisions? As a Committee, in drawing up our report, we will want to give some thought to the

individual nature of representation and the corporate governance model for local government as a whole and make sure we have an understanding of that.

**Lord Bew**

Thank you.

**Jane Martin**

Hurrah, we can talk about culture now, if you had not already spotted that. This is the time, I am opening the floodgates, because that is clearly where we are and we have already started to raise issues about the political context and political nature – we could call that democracy, if we wanted to – and the role of political parties in all of this. It strikes me that as well as what has been said about corporate versus individual, just to summarise rather crudely, I do also wonder whether a complaints model, which is what we have all been focusing model, is also where we should still be looking. Rather, should we be trying to generate some thinking much more around how you develop an ethical culture in local government? This brings me to my third section here, which is that of course there will always be – and I would say this, would I not? – an opportunity for members of the public or, indeed, colleagues to raise complaints, but we are all well aware of the advantages and disadvantages of complaints systems. We should be developing our thinking around how we get really strong leadership around a good ethical culture, particularly bearing in mind what Tony has mentioned about the changing role of local government. We are about to publish our work on private providers, for example, and some of that rather chimes a bit with this.

**Lord Bew**

You just took the words out of my mouth. I was about to put in a plug for our second document on this subject.

**Jane Martin**

Yes, but it chimes in a bit with that, does it not?

**Lord Bew**

Yes, it does.

**Jane Martin**

One piece of evidence we have already had in, from someone who knows about these things quite well, talks about that at least we have a compliance culture at the moment. In my words, the lowest common denominator, what do I need to declare here, what do I need to not do here in order not to get somehow caught out in a terrible way? Ethical standards of good behaviour, good officer-member relationships, taking on board the increased responsibility for negotiating complex contracts for huge swathes of public money and keeping a handle on that. We could all talk about Sheffield and trees, for example, could we not? Perhaps in our report we should be thinking much more outside the complaints box, around what we would expect to see in terms of leadership for ‘this is the way we do things around here’ in order that we can support one another, as much as ‘give the public confidence’. I put that in quotes, because as everyone has heard in the past, the public are not lying in bed at night worrying about their local councillor and what their local government is doing. They are just not doing that.

**Daniel Thornton**

I do.

**Jane Martin**

Do you? Well, good. That is good to hear. In fact, it is not, because we do not want you lying in bed at night worrying, but you take my point. It is about generating a mutually supportive and constructive environment in which to get on and do the work.

The other point that has been well made and gives us pause for thought is, inevitably, the different levels of council – the parish, town, district, county, etc – because the nature of the work then will look very different, a propos your point. Inevitably, a parish council is a much smaller enterprise and, therefore, is perhaps more amenable to I am going to say mischief. At the same time, though, it is probably much more amenable to intense local scrutiny. If there is a small group of people in a small area and they are all worried about what is happening to the parish, then you might get greater scrutiny in any event.

That is me just trying to whet the appetite for these issues of culture. How do we create the best ethical standards culture we can in local government? Perhaps we are doing it already and we do not need to worry about it anymore.

**Tony Travers**

Well, having walked past an inquiry into fake news on the way here, I suppose another element in all of this – which builds on Mark's point earlier on about the way in which people in politics can be badly treated by regimes of this kind just because of the way they are used in political culture – is that of course the coming of the new media and social media has, in effect, created open season for all manner of things that are outside the law, in effect, in terms of the way in which complaints can then be ramped up and made far more powerful, unfairly. I do not suppose that the Committee on Standards in Public Life can discipline the internet.

**Jane Martin**

We tried.

**Lord Bew**

We have just made quite a serious attempt.

**Tony Travers**

Okay. I mean that in a friendly, loving way. The point is that, in a sense, there are other things going on out there that make all the things we are discussing rationally just a bit less easy to be rational about, because for individual councillors I can see this stuff is absolutely destructive. The fact is that somebody is referred to the monitoring officer and then it is all over Twitter and God knows where, or anonymously over the internet. In a sense, it is a broader issue than it, too, would have been five, 10 years ago, for that very reason.

**Mark Norris**

Just to pick up on that point entirely, that is something that our members are very clear about. Particularly, interestingly, women councillors and the whole issue about trolling and the way that plays out on social media. There is a broader debate, in a sense, which encompasses the country

and the public about what is acceptable behaviour on social media about how you express your political views and how you critique somebody else and argue with them. It is playing out in a very destructive way, as we have seen with women MPs, but women leaders of authorities and women councillors feel the same way. It is not just the women, it is the men, but it particularly was highlighted by a couple of women councillors that they feel, perhaps more so than the men do, very much on the receiving end of quite vitriolic Twitter campaigns and commentary about them at a very personal level. This is not being played out just in councils; it is being played out in how do we engage in public debate and how do we treat our elected politicians and what standards do we expect from everybody engaging in a public debate and not just our politicians.

**Jacqui McKinlay**

There is also a positive view to take on this as well. The nature of public trust is changing. We have seen it with Carillion and with Oxfam, we are seeing it with Facebook at the moment. People now are more concerned with the 'how' as well as the 'what' and the impact that organisations have. We should be looking to proactively looking to raise the bar and we should be proactive, as local government, to say, '99% of what we have done has been great. You do not get the scandals, we have worked hard and we are flexible'. There is something about how we, as a sector, say we set ourselves the highest standards. Nolan is central to what we do and we will create the right culture, structure, processes.

The other bit around culture is a lot of organisations expect that just to happen naturally. They expect that or they will see it as 'we have created this process at the end here, when it goes badly wrong'. We did some work around combined authorities where we were saying, 'What a great opportunity to create standards of accountability and transparency, everything that you would want to see in your public organisation. Forget the process that got you there, because it was very closed and none of that'. There is a real opportunity moving forward where we can say we want to go beyond compliance, we are spending public money, we are serving people, and then how do we put the right steps in place to make that happen. That is everything from staff induction to who we recruit, everything that is part of a cultural system, but we should not accept that just getting by without a scandal is a good measure of success.

**Lord Stunell**

Did you say you were doing a piece of work or you had done a piece of work?

**Jacqui McKinlay**

We did work around combined authorities and the way their governance was being set up and saying they were mature and they will be flexible, but you cannot expect that stand and that culture just to appear naturally because you have good people in a room who are making good decisions. You really need to work hard at it and doing that is set from the top, straight away, and followed through, and not just expecting a democratic services officer or someone to manage a system.

**Lord Stunell**

Could you share that with us?

**Jacqui McKinlay**

Yes, we can share that.

**Daniel Thornton**

I very much agree with that. Culture is not a thing you can drop on the floor, it is something that emerges. People try to act on it as if it were a thing when you get consultants with five arrows pointing at things on PowerPoints and so on, and it can sometimes lead to formal statements of values, which are okay, but amongst the many skeletons in my closet is I used to work for Enron and, inevitably, Enron has as its values integrity and these kinds of things. Volkswagen has a bunch of wonderful values, but it did not stop their engineers cheating the diesel tests. You can have your formal statements, but very much as you were saying, you need to work through them, what they mean in practice, in general and in this place. Given the issues that we are dealing with, whether it is mega property developments or whatever the hotspots are in this area, work through with the people involved what that means in terms of our behaviour. Since culture emerges rather than being a thing, there is a lot of continuity and a lot of past dependence. If you want to change it, you have to really make a break with the past and that might include changing a number of the people involved, which happens naturally politically over time, slower among officers, or find other ways of breaking with the past and saying, 'This is going to be different'. That will probably not only be about a formal statement, it will be much more about, 'We are going to introduce some new procedures. We are going to change the way we are transparent about this', not expecting that the change in procedure is going to do all the work on its own, but that it will symbolise a change that people need to pay attention to. When I have worked in other organisations on cultural issues, that is the sort of thing that I have seen have traction.

**Jane Martin**

Would that include looking at the way things are done around here in terms of governance?

**Daniel Thornton**

Yes.

**Jane Martin**

I know 'governance' is a loaded word, but how the rules are made, how we observe the rules. To bring this down to brass tacks, let us take declarations of interest, which are very, very important. My observation is that local government generally is pretty good at that. Those in it understand what it is and abide by it and officers support members in making sure that happens, although you do hear also people sometimes saying, 'It is not as good as you think it is'. It just strikes me that some of the practice and the process that we expect to see, if that is properly applied, appropriately, but it is the warp and weft of governance, every meeting, every discussion, then that is how you create culture. It is not about waiting for the complaint to hit you in the face.

**Daniel Thornton**

No, absolutely, and there are some important things that exist, I hope, in every local authority, like the officers are going to go through a competition to be appointed; they will be appointed on merit. Those are really important processes, which feed through to and contribute to the culture or should support an ethical culture. Absolutely, governance is really important and the biggest high profile decisions, which will be the most controversial, are the ones that need the most attention in terms of governance, because those are the ones that everybody will talk about subsequently by the water cooler. Just as when I shout at my children they pay much more attention to what I do than me shouting at them, in terms of their behaviour, what people notice is what gets done and the formal statements do not change that.

24 April 2018



**Brian Roberts**

Your points are very well made. I read the review undertaken by Max Caller on Northamptonshire and the sentence that stood out to me, which might surprise people, was his statement that you need to do the boring things well. That really stood out to me and, in a complex world, doing the basic governance and processes well, is really powerful and we do not lose sight of this. Okay, they are going to come under greater strain, so they have to be robust, and you have to go back and continually review and challenge them, but if those basic processes are in place and working well, they can handle complexity and correct issues when they start to go wrong. I just thought that was such a powerful statement by the inspector.

**Jane Martin**

Is there anything that CIPFA would be able to help us with around governance? I know, in the past, CIPFA has done a lot of very good work on codes of governance, etc. I am not suggesting another code, but I am sure you have learnt a lot over the years of the way in which leverage can be had from governance processes. Is there anything that you are aware of at the moment that we need to know about?

**Brian Roberts**

We are revisiting and updating the guidance on the role and responsibilities of the 151 officer and how this fits in with the wider governance of a local authority. Particularly in the world that Tony was outlining, the responsibility of the 151 officer is to the authority. They are accountable to the authority to do the right thing and that decisions are being taken in the proper way. We have been working with Jacqui at the Centre for Public Scrutiny as well on this. The basics are there, but we need to continually review them and offer more guidance and we are working on that, particularly coming out of the Northamptonshire's financial situation.

**Dame Shirley Pearce**

All that you are saying about what makes a culture ethical absolutely resonates and it is the same everywhere, is it not? It is not just local councils; it is the leadership and the skills and getting the right people in the right place. I expect that across the patch there are councils that are already doing this extremely well, where they have the right people in the right places, and there are councils and, we know from submissions, there are also parish councils where that is not happening. My question is how do you identify where the problems are before there is some big crisis? What support do you have in place to try to help those councils that identify that they would like to do more about this, to be supported to do it and to grasp the nettles that they will have to grasp in order to make that cultural change, because it is very difficult? We heard from Paul earlier that he is working with a number of councils, I guess, doing some of these sorts of things, but what about those councils are not asking for that support, are not investing in that? What does the system have in place to identify that and then 'do something about it'?

**Jane Martin**

Do you want to shed any light on that?

**Paul Hoey**

The light I would shed on it is we only get involved when it is too late. We get called in because there has been big problems, when they should have been addressed a lot earlier. We find that, in

the places we deal with, it is because the culture has already gone down the wrong route, as it were, and we have to try to get it back on track.

What you were saying about the section 151 research absolutely goes with the monitoring officer as well; they need exactly the same support. It comes back to the point John was making as well, the monitoring officer has seen their role downgraded and degraded over the years and if they are to be as responsible for governance as the section 151 officer, ably supported by CIPFA, that is something that clearly needs to be looked at and how robust the monitoring officer role is within a local authority. Some of the monitoring officers we deal with are very new, very inexperienced and are having to deal with some very difficult issues without the support of the leadership and without political support. That is a real challenge that many of them face.

**Jane Martin**

Okay. Can I put Shirley's question about what happens when to the LGA? Do we know about that?

**Mark Norris**

While we run a whole range of leadership and training programmes, from the LGA's point of view, identifying councils where they have problems, we spend quite a bit of time trying to do that, on a variety of issues. Particularly, looking at the circumstances in Northamptonshire, where we know there are broad structural issues within a local authority that may be having problems, we spend quite a lot of time trying to identify that. Do we have a fool proof method of doing that? Probably not. More fundamentally, when you get down to the issues around culture within a local authority, it is quite difficult to spot that transition. If you take any local authority, over a period of time you will find instances where they are good at ethics and culture and that is good, and then something will change in the organisation – a change of chief executive, a change in the political makeup – and then things will deteriorate. However, the point at which things start to deteriorate is quite hard to pick up and I am not sure there is a suite of things that you would necessarily be able to identify that would enable you, as Paul was suggesting, to get in early to be able to pick them out and say, 'That is one that is on the way down' in terms of the way the behaviour is going. It is quite difficult to do that. From the LGA's point of view, we do not have the mechanisms in place to be able to pick that kind of thing up.

**Jane Martin**

Are there any peer review type arrangements in place at all?

**Mark Norris**

We run a whole range of peer review processes and the aim is, for each of the authorities in membership, but it is a voluntary membership organisation, to try to get them to do a corporate peer review that looks at the way the authority is run overall.

**Jane Martin**

That is all entirely voluntary, yes.

**Mark Norris**

It is entirely voluntary so we are dependent on councils taking up the offer.

**Jacqui McKinlay**

Mark has picked up on the nature of it. We can all look back fondly to the Audit Commission days, and I am not at all suggesting we go back to that, but there was an element of regulation around the corporate aspects of how a council ran, whereas what we are left with now is Ofsted over here, CQC over here and a very informal, self-regulated, self-improvement system. It does not happen very often, but I may be more positive than the LGA about how that informal network works. You generally do know when things are going wrong. You might not have the power to step in publicly, but there seems to be this very good network that links into the LGA, into SOLACE, into Lawyers in Local Government. There is an informal network, but it does feel as if there needs to be more of a formal element to it. From our perspective, we have been very public that you should have to have a peer review, because the councils that do not have peer reviews are those that do not welcome independent scrutiny of what they are doing, full stop. They may come up with lots of different reasons that do not articulate it in that way. I do appreciate that would change the dynamics, but mostly it is self-regulation, which generally works well, but when it does go wrong, we tend to find that those organisations – and Kensington and Chelsea is probably a good example – have stepped away from peer support and from inspections and reviews.

**Brian Roberts**

The loss of the Audit Commission has left a vacuum in terms of regulation. There is no formal external corporate assessment of the authority, which used to happen. That is a significant loss, because it made the authority review its governance and other processes to ensure they were up to date and effective. The National Audit Office has taken on some of the role and done remarkably well. However, the NAO role is not as wide as the Audit Commission's was.

**Jane Martin**

No.

**Brian Roberts**

That leads us into the issue of external audit and where that sits in this process. An authority is required to complete a governance statement every year. The statement sets out the checks and balances and how they work and identifies any major governance issues and this is reviewed by the external auditor. Whether this is robust enough is open to debate, but there is an element of independence there, and as you know, the public can go directly to an external auditor to raise issues and concerns. Without starting a whole new debate, there is the issue of whether the external auditor is adding value in this space.

**Tony Travers**

I am not sure I even agree with what I am about to say here, but I am thinking aloud. In Parliament, the way in which the NAO, just mentioned, and the Comptroller and Auditor General have independence of government is that they are appointed by Parliament. They are creatures of Parliament, not of the government. Now, begging the question, which I have ill thought through and, as I say, I might disagree with the point I am making, but whether at least one of the officers within a local authority and whom we keep referring to might be given a quasi-independent source of accountability beyond simply being appointed by the local authority. The reason I am not sure I agree with that is it slightly runs against local democracy, in fact it quite extensively does, but I think I am right in saying that some of the chief officers of crown dependencies are subject to Home Office approval or something. I am genuinely thinking aloud here. I do not want to erode

local democracy at all, but I can see that the idea of approval by an external independent body of this person, or appointed by the council but subject to the agreement of something externally, might be, thinking aloud, a way of enhancing the capacity to operate of one, at least, of the officers we are referring to. As I say, I am just thinking aloud.

**Jane Martin**

Yes, sure. Surely you want to come in on that.

**Jacqui McKinlay**

A nice segue. A few years ago –

**Tony Travers**

You have proposed it already.

**Jacqui McKinlay**

No, we talked about local public accounts committees.

**Tony Travers**

Right, yes, yes, of course

**Jacqui McKinlay**

We pushed them to the side when the result of an election came out, but we have recently brushed it off, because it just feels like there needs to be another mechanism. As someone who works for a scrutiny organisation, I am against mechanisms and structures, but particularly if you look at where money is now being spent and where decisions are now being made, something that mirrors all the benefits of the NAO and its independence and how it is funded, but operates locally and is responsible for overseeing and scrutinising decisions locally feels as if it could be part of an answer here. We are just having a look at it at the moment.

**Jane Martin**

We are aware of your work, absolutely. We are in the last 15 minutes and we are into improvement territory now and innovation, but Mark, you wanted to come in.

**Mark Norris**

I am slightly cynical about the role of audit in all of this. I appreciate Brian's comments about it, there is a role for audit, and there was a comment about governance. How much is that able to change culture and govern ethics within an organisation? It provides you with an indicator where something may be going wrong, but does it change things? My argument would be not a lot, and that is on the receiving end as one of the poorest performing authorities that I worked in under the Audit Commission. We had zero stars when the Audit Commission came around and inspected us.

**Jane Martin**

That must have been a bad day.

**Mark Norris**

Three years later, we managed to claw our way up to two stars or whatever it is, the definitions change over time. Did that change any of the culture within the organisation? No. How did we do that? We gamed the system. What was the Audit Commission looking at? It was looking more at service delivery and how services were being delivered by the local authority. Its commentary about governance was about how decisions were made in respect of delivery of services, which gets into Tony's point about how, even 10 years ago, there was a fundamental difference about what local authorities do to where they are now. Yes, the audit can look at those sorts of things and the National Audit Office looks at, in a whole variety of things, how services are delivered and is money well spent. Does that change the ethics, accountability and culture within an organisation? Not necessarily. You can be good at delivering services, you can be good at spending public money well, but that does not necessarily mean that you have moved away from having a completely toxic environment in terms of relationship between members of different political groups, of members within a political group, between members and officers within that authority, which means that it is not a nice place to work in and the way it operates is not a good one. Might audit enable you to identify where things are starting to go wrong? Yes, it might do, I would pick up entirely Brian's point there. An annual audit making commentary about governance may start to pick up on those things. Is that the solution? I do not know that it is. There is a broader question and it comes back to Jacqui's point about the scrutiny. It is about culture and behaviour rather than anything else and that is the key bit that we need to get into and I do not know that audit is the right way to do that.

**Jane Martin**

Okay, thank you for that.

**Lord Stunell**

I want to strongly endorse what Mark said. Harvey Weinstein made very good films, but it was a toxic environment. It is a question always of what you are measuring.

On Tony's point, I did not find myself very strongly in agreement with that.

**Tony Travers**

Neither did I.

**Lord Stunell**

I just wonder whether we should not spend a little more time looking at something else we have discussed several times, which has been the scrutiny process and nearly always to say it is not very effective. Is there something that should be done to make the scrutiny process more encompassing of this point and more effective, rather than having centrally appointed chief officers like they do in France, which I did not find very attractive at all?

**Daniel Thornton**

I did not necessarily understand Tony's proposition was including a centrally appointed officer.

**Tony Travers**

It was not that it was centrally appointed.

**Daniel Thornton**

Yet.

**Tony Travers**

No, no. It is a way of trying to give an individual who is in the monitoring officer type role, perhaps that one, a second level – they would be appointed in the normal way by the local authority, but subject to the agreement of an appointed agency, itself independent, let us say. It would not affect who made the appointment. As I say, I am thinking aloud and I know this contravenes all principles of local government that I completely sign up to, but as with all things in public life, we are always looking at ways of trying to protect the things that we like and we think are good. I am not doing this, as it were, lightly. I am trying to think of a way of ensuring that local government is protected from the potential assumption that people have that ‘well, it is all corrupt’ or something. I am not saying anyone does think that, but there is a risk, especially with planning, that people come to that conclusion wrongly. That is why I was just thinking aloud.

One other thing while we are on this subject, a separate issue. I think we are moving towards, here and there at least, more one party state councils, which does not make the idea of scrutiny, with due respect, as easy as it would be if they were all neatly 51:49. I will just park that further complication.

**Jane Martin**

We can do no more than just note that, at 12.25, but we will note it.

**Daniel Thornton**

I was going to defend what I thought you were saying previously rather than what you just said, which is that there is a naming effect if you say, ‘This person is responsible for this stuff’ and then they form a network across the country and then you have another culture.

[Crosstalk]

**Daniel Thornton**

Yes, and that is community practice and so on and that does not undermine local democracy.

**Tony Travers**

That is cyclical.

**Daniel Thornton**

Yes. I think that could function.

**Jane Martin**

It may have legs, as somebody once said. We are into the last few minutes and I do want to give Colin at least two minutes at the end to say something erudite.

**Mark Norris**

Just briefly then, the one bit that we have not really touched on is the role of political parties within this. There is a link between national political parties and Paul’s point about the support that is given at national level to local parties about how local parties operate. Quite often, some of the

ways they operate and the culture within them spills into what happens in groups that are elected onto councils and then how that works with monitoring officers and the culture within the local authority. I could say quite a bit about how those things interact, but there is an interaction there and we have not explored it, but we probably need to.

**Jane Martin**

What is your top tip for us? Where would you start?

**Mark Norris**

There needs to be a conversation at national political level about what the national political parties can contribute to this, with the caveat that, of course, within local government there is a whole range people who are not supported by a national political party. There are genuine independents who are independently –

**Jane Martin**

You think it is something that should be at least considered though.

**Mark Norris**

It needs to be something that is considered, because there is interaction between how political groups operate at a local level and how constituency parties work, about individual relationships in constituency parties, about how those work and how those then play out on behaviours in local authorities as well, having seen all that happen. That needs to be picked up, because some of the issues around ethics and culture that you see in a local authority can start to be addressed if you also have some of that going on in the right way within national political parties as well; with the big caveat that, from a local authority perspective, you get people who are from small political parties and from none who need to be supported as well.

**Jane Martin**

Sure. I am sorry that we are running rapidly out of time, but we certainly note that point and we are going to be talking to other folks at LGA, so maybe we can explore that.

I am conscious I have not given much airtime to this whole notion of freedoms. We have a system at the moment that is deliberately designed to be delegated local, gives maximum flexibility and freedom to local authorities of all different complexities, types and sizes. I have not heard any plea coming from anybody around the table, one way or another, on that issue, but I just want to raise it.

**Jane Ramsey**

I just want to make one quick point. Having had the benefit of having read the written evidence that people have submitted so far, it looks like one of the pleas from lots of people who are monitoring officers in district councils who are also having oversight of standards in town and parish councils, they seem to be quite desperate, so far, for one code of conduct. They are sometimes responsible for looking at about 300 councillors, in Hertfordshire, say, and so one code of conduct rather than several would be of benefit to everybody, including councillors themselves, who are sometimes councillors on more than one body.

**John Cade**

Just quickly on that, that is why I suggested earlier Worcestershire, because they have one code of conduct there.

**Jane Martin**

Yes, absolutely, that came out strongly last week when we spoke to monitoring officers.

**Jane Ramsey**

One excellent submission we received to our consultation references almost exactly the points you made about Carillion, Facebook and Oxfam, in that local government was more regulated than almost anyone and now, with deregulation, it is almost less regulated, in terms of standards, than anything else. The submission points out that the police, the NHS and doctors' professions all have an independent element involved, which I thought was interesting. The respondent posits – in the spirit that you did, Tony, as in he is not even sure he agrees, but 'what about...?' – that what some areas of quasi-public life are doing is having something that is a sort of general counsel. Does the behaviour and decision-making fit with the values of the organisation?

I am not saying I necessarily agree with that and the submission was not necessarily suggesting it, but I thought that would be one thing to discuss. Rather than it being one person's responsibility, and it may be that one person's responsibility in the council, with the support of the triumvirate – the head of paid service, section 151 and an external – might do it. I just mention it because I thought that he had done a very thoughtful trawling through the history and the flaws and positives and not throwing out the baby with the bathwater.

**Jane Martin**

We are going to talk to the author of that submission a bit more about some of those issues. Okay, I am afraid I have to wrap up. Colin, it will be very brief, please. What gems do you want to leave us with?

**Colin Copus**

There are a number of choices and there seem to be a number of issues around what we do next and in what way the system develops. Some of those choices are – and the last point did come up last week – about the variation in codes and whether there is need to move towards a standardised, centralised system or whether we can tolerate some localism and diversity within the system. I am always left with the question who is it a problem for to have lots of different codes? If it is only a problem for those who are administering the system, well, tough, really. If it enables local authorities to be able to deal with their own specific circumstances differently, maybe there is a strength in that, which we risk throwing out if we are not careful.

The other top-level issues are about the level of detail within codes or within the whole standards regime, or whether it operates on the level of principles that we expect to see operationalised within behaviour.

The nature of the processes and the effectiveness of processes. Again, we have spoken about getting processes in place, but there needs to be a way of ensuring that those processes are effective and achieve what we want them to achieve.



The other choice is between complexity and simplicity. This is linked to the last point. Do we go for high levels of detail and complex systems and procedures and codes, or do we try to keep this at a top-level, simple basis?

The issue of culture comes out very strongly and what underpins that culture and how it can be nudged in a desired direction, presumably towards a more ethical basis. Jacqui's point about a public accounts committee I am really interested in and I have just written something also about that. The issue with that is, of course, whenever you hear it referred to in parliamentary terms, it is always 'the powerful Public Accounts Committee' or 'the influential'. I am not sure we will ever hear that said about local ones, unfortunately, within the confines of local government and there is an issue there.

The other issue that came over, just very quickly, was the question of transparency; public awareness of the system, public perceptions of wrong or right doing and public confidence and trust and creating the system that generates that. One thing I would say is from another piece of work I have just done called 'The voice of the councillor'. Councillors are very, very aware of the need to get that right and they do buy in to systems that enhance public confidence and public perceptions, because they do not want to operate in an environment where those perceptions are inaccurate, and largely they are.

### **Jane Martin**

Good. I might cut you off there, if that is alright, because that is a really good place for you to finish.

### **Lord Bew**

I want to thank you. We need your expertise advice and it has been very helpful today. You should know that from the Committee on Standards virtually all the lay members are here, which shows how seriously we are taking this and the depth of gratitude we feel towards you. Our view is that we would like to have a transcript of this published, but I want to maintain the commitment that you edit it. You get it and if you think 'I was a little bit too abrasive or insightful at that point and too truthful' or whatever, you then let us know. It has been so important for us that we really do want to have a proper sense and a record of what you have said today. I want to say thank you to my own Committee, but thank you, above all, for coming and giving us advice, which only you could have given us. Thank you very much indeed.

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