

Speech: Dr Jane Martin CBE speech to Lawyers in Local Government Annual Monitoring Officers' Conference

Thank you very much for inviting me to address your Annual Monitoring Officers' Conference.

I'm here to speak mainly about the Committee's current review of local government ethical standards, which I'm sure many of you will be aware of.

But I think it would be helpful to begin by introducing the Committee on Standards in Public Life and its work to help set the context in which we work.

The Committee was established in 1994 by the then Prime Minister, John Major, to address concerns about declining standards in public life. This was at the time of cash for questions, and worries about the politicisation of public appointments and relationships between politicians and businesses.

The first Committee, chaired by Lord Nolan, was asked to: "Examine current concerns about standards of conduct of all holders of public office, including arrangements relating to financial and commercial activities, and make recommendations as to any changes in present arrangements which might be required to ensure the highest standards of propriety in public life."

The Committee's First Report set out Seven Principles, often now called the Nolan Principles: Selflessness, Integrity, Objectivity, Accountability, Openness, Honesty and Leadership.

These have been accepted by the public and those in public life as the baseline standard for conduct in public life, and remain the cornerstone of the UK's ethical landscape.

The Committee is independent, non-partisan and non-statutory. The Committee looks across public life at emerging or potential standards issues, and reports directly to the Prime Minister.

We don't have any formal powers or sanctions, and we don't investigate individual cases. Our influence and credibility is founded on rigorous reports based on the best available evidence, that make clear, well-argued recommendations.

History of the Committee's work

So, our work on local government. I'd like to spend a couple of minutes reviewing our past work and then consider some key themes that have emerged from our public consultation around the current system; the roles of Monitoring Officers and political parties; culture; and councillors'

behaviour in all this.

It's fair to say that the Committee on Standards in Public Life has 'form' when it comes to local government standards.

The Committee's Third Report, Standards of Conduct in Local Government in England, Scotland and Wales was published in 1997, and made a range of recommendations to improve ethical standards in local government.

These included introducing codes of conduct, public registers of interests, and rules on declaring interests. The Committee proposed that codes of conduct would be enforced by local standards committees with powers to suspend councillors, with national tribunals to hear appeals.

The government responded to the Committee's report in 1998. Whilst the government agreed with a number of the Committee's recommendations, they did not agree that local standards committees should have the primary responsibility for enforcing standards.

The government created the Standards Board for England, and the government issued a model code of conduct, which the Standards Board advised councils at the time not to supplement.

The Committee considered all these reforms in 2005. Its report criticised the centralised method for handling complaints and argued for substantial reform of the Standards Board. The government agreed, renaming the Standards Board, 'Standards for England' and changing its role and remit.

Our current inquiry is the first full review of local government that the Committee has undertaken since then. The time feels right for us to look again and particularly in an environment where so much has changed.

A new context

Local government has always had responsibility for delivering significant public services, that citizens rely on day-in, day-out.

But it's undeniable that councils are now involved in more outsourcing and commercial decision-making. They are also involved in more partnership working, for example, as part of Local Enterprise Partnerships.

This new environment creates new opportunities. But there are also potential risks: where lines of accountability are unclear, and where the best way of scrutinising complex arrangements hasn't necessarily been established.

Those potential risks are heightened in an environment where there is diminished regulatory oversight of the sector, and where officers feel less able to challenge elected members. I'll come back to that.

When it comes to the standards system, of course the Standards Board has been abolished, and responsibility for local standards has been given to local authorities.

I want to be clear that no-one during the course of our review has made a serious case for turning the clock back and returning to a centralised system.

Councils have told us that they value the flexibility of the current system, and the discretion to be able to resolve a issues informally.

What we are hearing from councils is that they want to be given the framework, tools and guidance to be able to maintain high standards in their own authority.

The standards framework

I want to spend some time now reflecting back some of the different views we've heard on the nuts and bolts of the current system.

Let me put some of you out of your misery and start with sanctions. We've heard loud and clear, in meetings, roundtables, and through our consultation: the current sanctions are not enough.

Monitoring Officers will know better than anyone else that without robust sanctions, councils can't deal effectively with serious and persistent misconduct. This is the major gap in the current system.

As a Committee we're going to be looking carefully at the evidence we've received, and the wider legal issues involved, as we consider what sanctions it would be appropriate for councils to have available.

When it comes to codes of conduct, we've been hearing that the variation in codes can be a problem for two groups in particular. First, dual- or triple-hatted councillors, who might have different requirements for registering or declaring interests, for example. And second, for principal authorities investigating breaches of parish codes.

Of course, some unitary authorities can have responsibility for 150 or 200 parishes, all of which – in principle – could have unique codes of conduct. But we've also seen that in some of these cases, town and parish councils have agreed a single, standard code.

Codes of conduct also vary in quality – with some codes relying on very broad provisions, which are difficult to adjudicate on and which can easily generate disputes over interpretation.

We're going to be looking at best practice in this area and any guidance that could be given to councils when drawing up a code of conducts.

When it comes to declaring interests, we've heard that the current requirements don't match the public's expectations and don't work for councillors either. Any system of declaring interests needs to have clarity for those who have to use it – so that you can know if you are keeping within the rules – and also needs to show that it's protecting the public interest by preventing undue influence.

The Nolan Principle of integrity is clear, public office holders must avoid placing themselves under any obligation to people or organisations that might try inappropriately to influence them in their work, and need to declare and resolve any interests or relationships. The evidence we've received is that the current system could be tightened up and, at the same time, made clearer for councillors and officers.

Independent oversight is crucial to upholding the Nolan Principle of objectivity, the principle that decisions need to be taken impartially, fairly and on merit. Independent checks on the process make sure that those decisions are taken impartially and fairly – which is just as important for councillors as it is for complainants. We've heard a range of views on the role of standards committees and we'll be looking carefully at that issue.

It's also clear to us that the Independent Person plays a valuable role. At the moment, as you will know, it's an entirely advisory role with no formal power. We've heard some encouraging cases of good practice in how local authorities use their Independent Person and the insight they can bring, and we'll be carefully considering the case for strengthening that role and putting it on a more formal footing.

The role of the Monitoring Officer

Let me turn now to your role: Monitoring Officers.

Monitoring Officers really are the linchpin of the current system. As the Monitoring Officer, you have the overall responsibility for standards in a local authority.

But we know that Monitoring Officers need the support of the other senior and statutory officers in order to maintain ethical standards, and that those other senior officers need to recognise a joint and corporate responsibility for maintaining high standards in an authority.

We've been hearing about cases where Monitoring Officers face undue pressure in their role, or don't feel able to challenge elected members.

In senior officer roles, there are undoubtedly going to be cross-pressures and potential conflicts of interest.

But we've heard that senior officers feel less secure than they have previously, and as a result, less empowered to speak out when they need to.

Local government has a tradition of propriety and carefully managing competing pressures. That tradition is extremely valuable and needs to be protected.

So we're going to be looking at how Monitoring Officers can be protected from undue pressure, as well as the broader role of senior officers in maintaining the integrity of the standards system.

Monitoring Officers also play an important role in the interface between Principal Authorities and town and parish councils when it comes to

standards, particularly investigating complaints about parish councillors.

That relationship can be a difficult one, or a very positive one. We've heard examples of good practice, and examples of when that relationship has not been as effective as it could be. We will be considering carefully all the evidence we've received on this issue, and if there are any recommendations that can be made.

Political groups

Whilst Monitoring Officers and Standards Committees might be the visible face of the standards system, it's become clear to us that political groups are an unseen but important influence on standards in local authorities.

After all, it is political groups that hold some of the most effective sanctions under the current regime, like removal from committees or the threat of having the whip withdrawn.

Of course, how political groups operate varies from council to council. Some councils will have a heavily partisan culture. Other councils will see political groups cooperating on a range of issues – including on ethical and conduct issues.

We're gathering evidence at the moment on the workings of political groups, and the relationship between national parties and local parties, and we'll be thinking carefully about their role in the standards framework.

Culture

As Monitoring Officers, you will know that whatever codes of conduct or values statements say – important as they are – it's ultimately the culture of an authority that determines how people will behave.

It might be a culture of secrecy, that resists being open to scrutiny and engaging with the public.

Or a culture that accepts bullying, where over time officers are expected just to be able to 'cope with it'.

Or a highly charged partisan culture that sees everything through a political lense.

Or – perhaps – a culture focussed on the public interest, that is open and transparent, values evidence in decision-making, recognises and manages conflicts of interest, and challenges poor behaviour when it occurs.

People quickly learn 'how things are done around here' – and will usually fit in accordingly. It is hard to swim against the tide of a prevailing culture, for good or for ill.

So a driving question for us throughout our review has been 'what shapes an ethical culture in local government'?

In many ways, it's not a new question for us as a Committee.

The original Nolan Committee, besides framing the Seven Principles of Public Life, argued that there were three 'common threads' in inculcating the Seven Principles in organisations: Codes of Conduct; Independent Scrutiny; and Guidance and Education.

And in our report *Ethics in Practice* in 2014, the Committee looked at this issue head-on: how do you raise awareness and understanding of ethical issues? And how do you embed ethical standards in an organisation's culture?

That report, as well as the Committee's research since then, identified induction and training as the crucial elements, alongside leadership, in creating and sustaining an ethical culture.

Organisations need to learn from good practice, and consider ethical issues right from recruitment through to ongoing training, and see it as a fundamental aspect of leadership in the top levels of an organisation.

That might answer the question of culture in principle. But looking at local government, we're going to be asking: who needs to be showing leadership? Which roles are the ones that shape the culture most decisively? And what sort of induction and training is most effective?

They are important questions, because whatever framework is put in place – robust codes, genuine independent oversight – can only be sustained and made effective if it is part of a culture where ethical issues are a normal part of thinking and decision-making at every level.

Councillors

There's one group I haven't talked about yet: councillors.

It's ultimately the behaviour of councillors that we are interested in. Their conduct and probity in council business, their professional relations with officers and the public, and their decision-making when they have executive responsibilities or are serving on a committee.

Councillors play a hugely important role in local communities, one that can often be under-appreciated. They need guidance, training, and support to carry out that role.

Lots of those we've spoken to have been clear that the vast majority of councillors stand for election because they want to serve their local communities, and they want to do so by observing the highest standards of conduct.

We want to celebrate the good work that goes on in councils up and down the country. Maintaining high standards are vital to ensuring that good work isn't undermined or put at risk.

We want to hear directly from councillors themselves to get their view on the current system, and to get their perspective on what a standards regime needs

to achieve. So we'll be conducting site visits to a number of local authorities across England over the coming months.

Conclusion

As I close, I want to offer some final reflections on the importance of ethical standards in local government.

Ethical standards are partly about protection. As Monitoring Officers, you are at the frontline protecting your local authorities – protecting their hard-won achievements from legal or governance risks, protecting their reputation, and, ultimately, playing a key part in protecting their future.

Getting standards right is vital to protecting an organisation and the individuals within it from conflicts of interest, reputational risks, or legal challenge.

Ethical standards are also about the ordinary, day-to-day interactions. Maintaining professional conduct and respect for others, and standing up against bullying and harassment, may seem so obvious that it does not need spelling out.

But an organisation that doesn't have this embedded in its culture, at every level, can become toxic, and, in time, won't retain good people and will struggle to carry out its core functions effectively.

And lastly, ethical standards are outward-looking. Having a culture of openness, scrutiny, and objective decision-making enables an organisation to take advantage of new opportunities, and to take effective decisions for the future that will have an impact on local communities.

So ethical standards are not just about avoiding scandal, or narrow compliance, but about having the public interest at the centre of everything that a local authority does and what it values. That's what underpins the Nolan Principles. Out of that comes everything else – selflessness, integrity, honesty, openness, accountability, objectivity, leadership.

As a Committee, we hope that our review will play a part in helping local authorities to build that culture and maintain the highest standards of conduct.

We've been listening to Monitoring Officers throughout our review – at roundtables, through our public consultation – and we want to continue to listen to you as we draw our conclusions and form our recommendations to the Prime Minister.

Because ultimately it's not about us – the Committee on Standards in Public Life – but about you, and the work that councillors and officers do every day for the benefit of local communities.

Thank you.