



AGENDA ITEM: 7

**STANDARDS COMMITTEE:
20 September 2016**

Report of: Borough Solicitor

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SUBJECT: ETHICAL STANDARDS FOR THE PROVIDERS OF PUBLIC SERVICES

1.0 PURPOSE OF THE REPORT

- 1.1 To consider the report of the Committee for Standards in Public Life (CSPL) on ethical standards for providers of public services, with particular regard as to whether any of the assurance mechanisms it describes should be adopted by the Council.

2.0 RECOMMENDATIONS

That the report be noted.

3.0 BACKGROUND

- 3.1 The CSPL is an advisory non-departmental public body (NDPB) sponsored by the Cabinet Office. It monitors and reports on standards of conduct of all public office holders in the UK, including all those involved in the delivery of public services whether they are from the public, private or voluntary sectors.
- 3.2 In June 2014 the CSPL published a report on the findings of research it had commissioned into the expectation and assurance of ethical standards in the public service market:

<https://www.gov.uk/government/publications/ethical-standards-for-providers-of-public-services>

In particular, it considered the application of the Seven Principles of Public Life to third-party providers of public services.

In December 2015 the CSPL also published a guidance document drawing on the findings of the full report:

- 3.3 The recommendations of the CSPL report are intended for central government only and are not considered here. However the body of the report contains useful pointers towards best practice, most of which are applicable to the wider public sector including local authorities.

4.0 SUMMARY OF THE CSPL REPORT

4.1 Benefits of high ethical standards

The CSPL regards high ethical standards as being important, particularly where public money is being spent on public services or functions, for the following reasons:

- 4.1.1 Outcomes for society are better when the decisions of public office holders are made fairly and on merit and are not influenced by personal and private interests;
- 4.1.2 Avoidance of corruption and providing confidence in the integrity of the trading and operating environment are crucial factors in the functioning of advanced democracies;
- 4.1.3 High standards benefit the economy through their effect on international confidence;
- 4.1.4 Impartiality and objectivity increases predictability, which improves economic efficiency;
- 4.1.5 Governments which are not perceived to uphold high standards have less legitimacy and basic public institutions such as tax and benefit systems rely on public trust to function effectively.

4.2 Research findings

The CSPL-commissioned research showed that:

- 4.2.1 The public want common ethical standards across all provider types regardless of sector, supported by a code of conduct;
- 4.2.2 “How” the service is delivered is as important to the public as “what” is delivered, with a focus on personalisation and user-led definition of quality;
- 4.2.3 Public and stakeholder views of what should constitute ethical standards are broadly in line with the Seven Principles of Public Life;
- 4.2.4 Commissioners (i.e. purchasers) expect providers to conform to ethical standards but rarely explicitly articulate this;
- 4.2.5 Commissioners want guidance on how to embed ethical standards in the commissioning and procurement process.

4.3 Examples of assurance mechanisms

The CSPL report describes a number of mechanisms by which purchasers may seek to provide assurance of ethical standards in the delivery of public services:

- 4.3.1 Design and tendering:
- Pre-qualification questionnaires (PQQs) to pre-screen suppliers, e.g. whether suppliers should be excluded because of existing convictions for offences such as fraud or bribery; or consideration of supplier statements of Corporate Social Responsibility.
 - Supplier due diligence might implicitly cover ethical expectations.
 - Procurement assurance boards provide independent assurance that decisions have been made fairly and transparently.
- 4.3.2 Contractual requirements and methods:
- Governance and accountability arrangements
 - Anti-bribery and prevention of fraud and corruption
 - Relevant convictions requiring the contracting authority's written consent to the employment/engagement of a person with a relevant conviction
 - Whistleblowing policy
 - Conflicts of interest requiring the contractor to take steps to ensure neither contractor nor contracting authority is placed in a position where there may be an actual or potential conflict of interest and behaviour of the contractor is not in the authority's best interest or might adversely affect the authority's reputation
 - Transparency including open book data
 - Internal Audit
 - Key performance indicators might implicitly cover ethical considerations through performance and service requirements
- 4.3.3 Non-contractual methods:
- Ethical procurement guidelines for commissioners and providers
 - Ethical codes for providers
 - Standards for and assessment of supply chains
 - "Mystery Shopper" (operated by Crown Commercial Service to respond to suppliers' complaints about individual public procurement exercises)
 - Analysis of user complaints
 - Maintaining an effective commissioner-provider relationship
 - Process of Corporate Renewal and development of "good corporate citizen"
 - Publication of contracts on Contracts Finder
- 4.3.4 Capability of commissioners/contract managers:
- Professional Accreditation of the Chartered Institute of Procurement and Supply which includes adherence to their code of conduct
 - Codes of Conduct for procurement staff and online training
 - Annual self-assessment and maintenance of gift and hospitality registers and registers of interest

5.0 CURRENT POSITION

- 5.1 The Council already has in place many of the mechanisms described in the report, examples of which are provided below.

- 5.2 Design and tendering:
Where pre-qualification processes are not prohibited by legislation, the Council uses the government's standard questionnaire which pre-screens potential suppliers for a range of relevant convictions and breaches of legislation.
- 5.3 Contractual requirements and methods:
The Council's terms and conditions of purchase include anti-corruption and anti-cartel clauses.
- 5.4 The Council has a Whistleblowing Code.
- 5.5 Non-contractual methods:
The Council's procurement processes and reporting requirements are designed to increase transparency and accountability:
- The Council's Contracts Procedure Rules require all contracts over £50,000 in value to be advertised and competitively tendered. Legislation requires that such contracts are advertised nationally on Contracts Finder (a UK government website), and that contracts which exceed the EU tendering thresholds are advertised throughout the EU.
 - The Council is a member of the CHEST which provides a web portal for the advertising of tender opportunities within the north west region.
 - The Council's website includes a Contracts Register detailing all contracts over £50,000 in value, a Transparency Register detailing all contracts over £5,000 in value, all payments to suppliers exceeding £500, and a list of future contracting opportunities.
- 5.6 Capability of commissioners/contract managers:
Staff in the Central Purchasing Unit are members of the Chartered Institute of Procurement and Supply, and are subject to its code of conduct. The Council has codes of conduct for members and officers, covering conflicts of interest including relationships with contractors. Registers of gifts and hospitality are maintained. The Council has an anti-fraud, bribery and corruption policy, and an anti-money laundering policy, guidance and procedures.

6.0 ISSUES

- 6.1 In common with most public bodies, the Council's procurement processes currently focus on the ethics of the purchaser rather than the supplier. The CSPL report encourages public purchasers to take a wider view by placing a greater emphasis on the ethical performance of suppliers. The actions identified in 6.2 below are intended to develop the profile of supplier ethics with officers and to provide practical guidance on how to include ethical considerations within the Council's procurement processes.
- 6.2 Actions to be implemented by the Borough Solicitor under delegated arrangements are:-

- Standard wording should be developed and included in tender documents to set out the Council's ethical position and the standards it expects from suppliers;
- All tender documents should include checking questions to elicit information about supplier convictions and breaches of legislation (see 5.2);
- Guidance for officers should be produced on the inclusion of ethical considerations in tender evaluation, contract management processes and key performance indicators;
- General procurement guidance and procurement training for officers should include sections on ethical considerations in order to raise its profile with purchasers.

7.0 SUSTAINABILITY IMPLICATIONS/COMMUNITY STRATEGY

- 7.1 There are no significant sustainability or community strategy implications associated with this report.

8.0 FINANCIAL AND RESOURCE IMPLICATIONS

- 8.1 There are no significant financial or resource implications arising from this report.

9.0 RISK ASSESSMENT

- 9.1 The recommendations of this report will improve the Council's position with regard to ethical standards, and will provide greater assurance that ethical standards are being adhered to, thereby reducing the risk of reputational damage.

Appendices: None.