

# Hoey Ainscough Associates Ltd

Supporting Local Governance

## **A REPORT FOR THE SOCIETY OF LOCAL COUNCIL CLERKS ON THE RESULTS OF A SURVEY ON STANDARDS ISSUES**

### **BACKGROUND AND METHODOLOGY**

1. We were commissioned by the Society of Local Council Clerks (SLCC) to survey their members on issues relating to council governance, the Code of Conduct and standards arrangements under the Localism Act 2011 over December 2020-January 2021. This broadly repeated a survey carried out 3 years earlier although some questions were new and other questions dropped from the previous survey due to changing policy landscape.
2. The Localism Act arrangements, which deregulated standards arrangements, are now ten years old. The initial 2017 survey had been done partly to inform SLCC's submission to the 2018 enquiry into the local standards framework by the Committee on Standards in Public Life (CSPL). CSPL published their finding in January 2019 and SLCC have been receiving increasing anecdotal evidence from their members that in some places standards are deteriorating and incidences of bullying in particular had risen. That report made some significant suggestions for improvement of the standards framework and reflected much of the evidence SLCC had put to them in making clear that in its current form the standards framework was not fit for purpose for dealing with some of the significant standards failings in parishes the survey had identified. The Government is yet to respond to those recommendations so the legislative landscape remains unchanged.
3. SLCC had been hearing anecdotally that matters had deteriorated yet further for the sector as a whole in the intervening three years and therefore wanted to carry out a repeat survey to see what if anything had changed over the intervening time.
4. We therefore sent out a survey in December 2020 to all SLCC members with a series of questions designed to identify what clerks felt about certain key standards issues. In parallel we sent a shorter questionnaire to the Monitoring Officers (MOs) of the principal authorities who have oversight of parishes under the legislation to see what impact, if any, parish governance issues were having on their role. We received 863 responses to the clerk questionnaire – up from 801 previously and 51 responses to the Monitoring

Officer survey, compared to 55 previously. This paper reports back on the results of the questionnaires and draws some initial conclusions.

5. It is important to note that the survey covered England and Wales which have separate legislative frameworks. Broadly the Welsh framework is analogous to the English framework prior to the Localism Act so makes a good comparison as to whether the Localism Act arrangements have been an improvement, damaging or made little difference to the standards problems faced by parishes.

## **ABOUT US**

6. Hoey Ainscough Associates Ltd was set up in April 2012 to support local authorities in managing their arrangements for handling councillor conduct issues. The company was co-founded by Paul Hoey, who had been director of strategy at Standards for England from 2001 until its closure in 2012, and Natalie Ainscough who had worked as his deputy.
7. We have now worked with over 400 authorities in one form or another through reviews of local arrangements, provision of training, investigative support and wider governance advice. Our submission was the most-widely cited in the CSPL report. We have recently worked with the LGA to develop a new model Code of Conduct and supporting guidance and also worked with SLCC and others to develop the parish council toolkit which was launched earlier this year.
8. Of particular relevance to this survey we have worked with a number of parish councils which have had particular difficulties with standards issues to review their governance arrangements and help develop an action plan to improve their situation. We also run a support helpline and website for subscribing authorities and county associations and run national and regional conferences on standards issues.

## **LEGISLATIVE BACKGROUND**

9. In England, prior to the Localism Act 2011, all councils, including town and parish councils, had to adopt a national Code of Conduct. Complaints that the Code may have been breached were made to the relevant principal authority who had to have a statutory standards committee, chaired by a non-councillor independent member, and where appropriate, a co-opted parish council member. These standards committees had powers to suspend a councillor for up to six months for serious breaches of the Code.
10. The Code and related national arrangements were overseen by a regulatory body, the Standards Board for England, who could also investigate cases referred upwards by local authorities and in return refer concluded cases to a national tribunal which had the power to disqualify councillors from public office for up to five years.

11. The Localism Act abolished the national Code and the national regulator for England, and although it retained a requirement for councils to have a code, what was to be included in this code was left to local discretion, provided it included statutory requirements relating to Disclosable Pecuniary Interests (DPIs) and was consistent with the seven principles of public life (the so-called Nolan principles).
12. In parallel, while principal authorities retained responsibility for handling complaints against parish councillors, the requirement to have a standards committee was repealed and the powers to suspend or disqualify councillors was removed from local authorities. Instead for breaches of the Code councils were merely allowed to impose administrative sanctions (such as a censure, a recommendation a member received training, a recommendation they are removed from a particular committee or appointment or some restriction on access to council resources). In parish cases the principal authority has no power to impose a sanction but simply makes a recommendation to the parish council as to the action to be taken.
13. Failure to register or declare a DPI was made a criminal offence (though there has only been one successful prosecution) and councillors would still automatically be disqualified from public office if they received a custodial sentence of three months or more (suspended or otherwise) but aside from these criminal sanctions, the Government left it up to the electorate at a future election to pass judgement on councillors as to whether they should continue in office or not rather than allowing their removal midterm through administrative means for misbehaviour.
14. The situation is different in Wales (which was also covered by our survey of clerks) as the Localism Act applied only to England, so the national framework remained in place in Wales, including a national Code and powers to suspend and disqualify councillors, overseen by the Public Services Ombudsman for Wales.
15. The CSPL report made a number of significant recommendations. Chief among these was that the Government should legislate to reintroduce a power of suspension for the most egregious breaches of the Code of Conduct. This proposal is widely supported by the sector but Government has yet to respond to the report. The Committee also recommended that the LGA should develop a new model Code with as a minimum more comprehensive arrangements relating to declarations of interest; and that the same Code (preferably this model Code) should apply to councils across all tiers within a geographic area. The LGA published an updated model Code just before Christmas. Consultation on the Code had included with the parish sector and the Code was broadly welcomed by representative bodies.

## **HEADLINE FINDINGS**

16. The rest of this paper analyses the results of the survey and some of the themes that emerge, together with making comparisons where appropriate with the findings of the earlier survey. However, our headline findings from the

survey are as follows (with the caveat of course that only around ten percent of the sector responded to the questionnaire):

- The number of **formal** complaints against parish councillors made to principal authorities appears to have dropped significantly since the previous survey;
- That said the number of councils reporting that they have serious standards issues had increased (up from 15% to 18%) albeit most parish councils still do not have issues with member behaviour;
- There was a reported increase both in poor member-member relations (16% described them as negative versus 13% previously) and member-officer relations (13% as compared to 8%);
- There has been an increase both in the numbers of members and officers who had resigned because of the poor behaviour of other members (up respectively from 32% to 42% and 15% to 26%)
- Clerks generally believe they are well supported by the principal authority's Monitoring Officer in helping them deal with issues though that number has again fallen slightly and a sizeable minority remain dissatisfied with the support they receive
- There has also been a decrease in the number of grievances (as opposed to Code of Conduct complaints) made – 83% now reporting there had been no grievance compared to 75% previously but 14% said their authority had incurred employment dispute costs as opposed to 10% previously.
- 98% of clerks would support having the power to suspend.
- Disruption generally seems to be either because of personal animosities between councillors or else because individuals or small groups of councillors are challenging the 'status quo' and see themselves as outsiders who wish to change the way that the parish council has traditionally been run
- There is a small minority of councils where the behavioural issues are aimed directly against the clerk or other staff, but more generally the clerk tends to get caught in the crossfire, either as part of the general targeting of the way the council is run or because they are having to manage the behaviour or reconcile the factions.
- The number of councillors who had received training on the Code of Conduct or on their wider role remained broadly static. Fewer councillors were reported as having received no training (22% down from 31%). However that is still a significant minority and some councillors (particularly longstanding councillors) were reported as resistant to receiving training, either because they see no benefit or feel they have received training in the past, or simply because they are volunteers who cannot commit the time.
- If you just looked at the Welsh responses the picture was very different. Far fewer councils reported significant standards issues – only 5% in Wales compared with the 18% in England and it was a similar picture in all categories.

## **ANALYSIS OF QUESTIONS**

17. The survey of clerks consisted of 64 questions. The following sections look at each question or group of questions in turn with the results and some observations.

### **The make-up of respondents**

18. The first eleven questions were all aimed at getting a background to the council and the person filling in the survey. Thus they covered the name of the council (optional), how long the individual had worked at the council and in the sector in general, what their role and their contracted hours were, whether they also worked for other councils, how many other staff might be at the council, whether they had formal clerk qualifications, how many councillors the council had, and whether the council had 'traditional' party political representation.
19. These were designed to help us see whether, for example, there were likely to be greater standards issues at smaller councils or where the clerk was part-time or inexperienced or was a 'sole worker'.
20. Over 70% of respondents had been with their current council for 3 years or longer with only some 7% having been in post for less than a year. Nearly all respondents were clerks although some deputies had filled in the questionnaire (as it had been sent to all SLCC members) and some respondents were past-service members.
21. In turn some 70% had been in the sector for upwards of five years even if not in their current role, with only some 3% completely new to the sector this year and 16% in total in the sector for fewer than three years. So the respondents represented on the whole people with a wide experience of the town and parish sector which helped when asking people to think about how things had changed, if at all, over the years.
22. We also asked if they were SLCC members and, if so, what form of membership they had. 652 were Full Members; 111 were Principal Members; 50 were Fellows; 19 were non-members; 7 were Affiliate Members; 5 were Past Members; and 1 was an Affiliate Fellow Member.
23. Around a quarter of the sample worked full-time and in total over 70% worked full-time or at least 15 hours per week at their council. However 30% worked for less than fifteen hours at their council (or at least were contracted for those hours – later comments clearly showed that a number of clerks are expected to work well beyond their conditioned hours with some comments that councillors essentially treat some clerks as volunteers who just happen to get paid in certain places). When asked if they were the only employee, it was almost exactly a 50:50 split.
24. Only 6% of respondents had fewer than seven councillors in their authority with nearly 60% saying they had more than 10. This strikes me as slightly

higher than the sector average so suggests that responses were slightly more likely to come from bigger (and hence better-resourced?) councils.

25. Most of these analytical breakdowns were near-identical to the previous survey so gave us reassurance that comparisons between the two were reasonable.
26. We had not asked about political parties previously but some 23% said that they were a 'party political' council. That again strikes me as higher than I would have expected but may reflect a skewing towards bigger, better-resourced councils
27. We feel that a response of 864 questionnaires represented a good sample size and the size of councils who responded covered a considerable spectrum of the sector. However it is likely that those clerks working at the lower end of the hourly scale would inevitably have less time available to complete the questionnaire. Nevertheless we believe the sample sizes are robust enough to allow breakdown of different parts of the sector if required.

### **Atmosphere and relationships**

28. Questions 12 to 21 then explored the general feel of the Council. We asked respondents to grade the overall atmosphere in the Council, what relationships were like between councillors in general and between councillors and the clerk (and other staff where appropriate). We also asked how long the current chair had been in post as we would be interested to explore whether on the one hand an experienced chair means that the council would run more smoothly or on the other hand whether a chair who had been in post for a long time meant a council might be run in a more autocratic way, was stagnating and/or might lead to greater challenge from councillors who were dissatisfied with the way the council operated. We also asked people to compare those matters to three years ago and to comment, if appropriate, on these questions to elaborate on their answers. Figures in brackets represent results from the earlier survey.
29. Some 82% (85%) of respondents described the atmosphere as generally positive within their council and some 18% (15%) described it as generally negative. This is a relatively small shift and about 22% said matters were better than three years ago while 21% said it was worse. This showed that there is not a 'stagnation' in that it is the same councils who are causing problems and this chimes with our general experiences that councils can emerge from 'dark times' and similarly some places will hit standards issues unexpectedly after a period of stability. 45% said matters were much the same as in previous years and these generally tended to be councils that reported good relations with only a very small number saying matters were much the same in being very poor. That is 385 councils said there had been no change, with 39 of those being 'no change' from there being a negative atmosphere. That is, just under 5% of councils responding had significant standards issues which had lasted 3 years or more. In our previous survey we had concluded a similar number were essentially then dysfunctional in not

being able to operate effectively so this figure seems to have remained stubbornly the same.

30. Of those who were positive, some commented that nevertheless they had one or two councillors who detracted from the positive atmosphere, or they had experienced a less positive atmosphere in the past either at their current or a previous council. So it is not immediately true to say that the majority of councils that responded run smoothly at all times. However, it can certainly be said that at this moment in time nearly one in five of the respondents feel they work in a generally difficult environment. This is of course only a snapshot in time and there may be some sample bias, as one could argue that people are less likely to take the time to fill in the survey if they do not see the subject matter as an issue. Nevertheless this 18% number, even if it only represents every single council with issues still means that 158 clerks believe that their council operates in a negative atmosphere.
31. Where people had said that they were generally positive and things had improved this tended to be because of resignations of councillors or because a new effective chair had taken over. Conversely of course where things had deteriorated this was put down largely to new councillors coming on who were disruptive or because of poor chairing skills. These statements would seem a truism but the more 'stable' a council was, then in general the less negativity there seemed to be.
32. One of the issues we have encountered in our work with individual councils is that certain individuals have issues with the way the chair runs a council and the chair in turn is the focus of much of the frustrations aimed at the council in general. The relationship between the chair and the clerk is clearly pivotal in ensuring good governance in any council, and it may not be surprising that it is only a small number of clerks who see the chair themselves as the problem (whereas some councillors may give a different answer) but that can be the most difficult situation for a clerk to manage. In response to our question about the relationship between the clerk and the chair over 90% said they had a good working relationship with the chair which was identical to last time but 9% described the relationship as negative, a slight increase from 5% previously. In those 9% we make no judgement as to whether the fault lies with the chair or the clerk of course, given that responses were being made by the clerk, but we do note that given how pivotal this relationship is, it is vitally important to get it right and those councils where there has been that breakdown would need particular help to manage the way they operate and it is likely to have a significant impact on the community. Of those who commented on a negative relationship with the chair they were largely because the chair was seen as a bully (and indeed had been before being elected chair so had got themselves into a position of power). A much smaller minority commented simply that the poor relationship was because of 'incompetence' or not understanding the role. Previously the vast majority of 'negative' comments about the chair had been more about perceived incompetency, so this may show a slight shift towards 'bullying councillors' seizing power in councils rather than highlighting a training gap.

33. We should say however that the vast majority commented positively about their chair so clearly the majority of chairs are doing a good job as supported by the raw data and there are some exemplary role models out there, so there are clearly opportunities for sharing and spreading good practice.
34. In most councils, the chair has been in post for only one or two years, which generally reflects the practice of re-electing the chair at each annual meeting and indeed the custom of wanting to rotate the chairing between councillors. However, at the other end of the scale a minority of chairs were said to have been in post for over 20 years. There did seem to be some correlation between the longer-serving chairs and positive relations with the clerk and in the Council generally, but that may of course reflect the willingness to keep a good chair in place and conversely new chairs have come in because relations are difficult..
35. On the wider question of relationships between councillors in general, responses again reflected the general thrust of other responses, with 84% (87%) saying relationships were generally positive and 16% (13%) describing them as negative so a slight increase in negativity on previous years. Of the comments received, again they reflected the balance above about the general atmosphere. Of those who regarded relationships as negative most said this was caused by one or a handful of councillors rather than that relationships had broken down between all councillors.
36. With regard to councils where there were political parties around 25% claimed that there was a negative atmosphere which is higher than for 'non-political' councils. Of those around two-thirds saw the problems as being mainly between members and one-third as between members and officers. It should of course be borne in mind that party politics is of its nature adversarial and again that the majority of 'political' councils work well and with good relations.
37. When we asked about relationships between councillors and staff 87% (90%) described them as positive but 13% (10%) described them negatively. Most comments blamed poor relations on one or a handful of councillors rather than all the council for the poor relationships, highlighting that most councillors are supportive and appreciative of officers but some of the challenging behaviour is clearly directed at the clerk, either as an individual or because they are the key contact and seen as the representative of the organisation which the member is taking on. Again in a small minority it was specifically the chair who was seen as the problem. Very few comments compared to last time said that the problems were caused either by councillors not understanding the role of a clerk (and treating them as glorified admin or somebody at the beck and call of the council at any time) or because of the unrealistic workload expected of the clerk in relation to their actual contracted hours whereas such comments had been significant previously. This may highlight a greater understanding of the role of clerk among members than previously.

### **Training and understanding of roles**



38. We then asked a series of questions (22 to 29) which covered whether councillors had received training, both on the Code of Conduct in particular and in understanding their roles and responsibilities more generally; whether the respondents thought their councillors understood their role as an employer and questions relating to grievance procedures. In the light of the CSPL recommendation and subsequent LGA Code we also asked whether they had the same code as their principal authority.
39. On that first issue, 72% said they had the same Code as their principal authority while 13% said they had a different Code (and 15% didn't know). Of those with a different Code we didn't explore that further as to whether that was a unique Code to their parish or whether their local parishes in general had a different one (for example, the NALC Code). It would be interesting in future to trace whether that figure decreases in light of the call for a more unified geographical approach.
40. On Code training, around 30% said all or most of their councillors had received training on the Code of Conduct since the last election. This was identical to the previous survey result. By contrast 40% said none of their councillors had received training on the Code while 30% had received no training on the general role, which was again identical to last time. I note in passing that the new LGA Code would make it an offence not to attend Code of Conduct training if offered so there is clearly quite a large gap to be bridged.
41. However we then explored the reasons why councillors had not had training as the Code says you must accept it if 'available'. For those who said not all members had undergone Code training the biggest reason given was unwillingness (46%) and then lack of availability (35%). Only 7% said it was an issue of cost and 7% that it was a location issue. So there seems to be a big scope for increasing availability of training particularly if it can be driven by adoption of the Code.
42. On training on the wider role of the parish councillor, only 25% said all or most had received this, with just over 50% saying a few had, and a quarter saying none had. We didn't explore the reasons for that but again it highlights that there is a significant training gap to be tapped into.
43. We then asked some questions about the councillors' role as an employer and grievance policies. We had asked last time whether councillors understood their role as an employer but had not asked specifically about grievance policies although we did ask questions about numbers of grievances (see below). We wanted to test understanding of grievance policies in particular to reflect a 'post-Ledbury' world as we were interested to know how well clerks felt these areas were now understood given the anecdotal confusion there seemed to be. Previously around 80% had felt their councillors understood their responsibilities as an employer. Now only 17% said all their councillors did, with 67% saying only some did and 16% saying it wasn't understood. This seemed to show a slight decline which is perhaps not surprising given the confusion there has been.

44. On the grievance policy itself, 77% said they felt they had an up-to-date grievance policy whereas a quarter didn't. That latter figure seemed surprisingly high to me given the emphasis that has been placed in recent years on updating a grievance policy post-Ledbury. Two thirds were confident their council would deal with a grievance effectively, whereas a third were not – again this seems a high figure than I expected and included councils who have an up-to-date grievance policy so clearly shows another training gap which may need filling. Reasons given for that lack of confidence typically included 'real' experience where they had been through a grievance which had not been handled well; the fact that certain members rode roughshod over processes anyway; and the lack of any HR experience on the Council.
45. We looked at a correlation between those councils where none or only a few councillors had had training and how they would describe the atmosphere in their council. There were 618 councils in all where members had had little or no training but only around 12% of those councils described the atmosphere as 'generally negative' which was fewer than the percentage in the survey population overall so there did not seem to be a clear link between lack of training leading to poorer behaviour. It may however indicate that those councils which had had training were because there had been issues of conduct which prompted the training and so it was training 'after the event' as it were.

### **Complaints handling**

46. We then asked a series of question specifically in relation to complaints under the Code of Conduct (30 to 45). We asked how many complaints had been made in the last year to the best of their knowledge and how this compared to three years ago. We then asked how many had been investigated or otherwise resolved and how many had resulted in a breach of the Code of Conduct being found. We also asked how many were about behavioural issues (as opposed to say failure to declare interests or a misuse of resources), and whether the complaints were from councillors, officers or the public. We also asked whether the clerk had considered making a complaint but decided not to. We finally asked about whether the parish council itself had spent money on dealing with behavioural issues and views on the current range of sanctions.
47. 92% said there had been no or only one complaint made compared to 60% previously – a major drop in the number of complaints made. At the other end of the scale only 4% had had four or more compared to 10% previously. When asked how this compared to previous years around a quarter of people said they didn't know (60% previously). 60% said it was about the same, 10% said it was higher and 8% said it was lower. This difference between places where there were fewer and where there were more is not surprising as councils and councillors change over time and problems can flare up for several years and then die away so we would expect this churn but the figure saying it was about the same seemed surprising given the actual reported complaints seemed to have dropped off considerably.

48. When it came to how the complaints were handled around 75% felt some or all had been investigated or otherwise resolved satisfactorily. That compared to only 50% saying that previously. Equally only 12% (previously 36%) said none of the complaints had been handled satisfactorily. That seems to show either (or both) a greater willingness by MOs to deal with the (reduced number of) complaints and/or a more realistic appreciation of what the outcome might be. We certainly feel that clerks have a greater understanding of the limitations of the framework, particularly around sanctions now, then they perhaps had when the framework was relatively new. That more realistic understanding may also in part account for the steep drop off in complaints and reflect that only 'very serious' complaints are being made which in turn the MO may be more willing or obliged to deal with and there is more acceptance of not reporting the more minor complaints which may not go anywhere but that is pure speculation on our part.
49. When asked about the nature of the cases, we asked whether any of the complaints were to do with disruptive or disrespectful behaviour or bullying. There would clearly be some overlap as one complaint could cover some or all of these aspects. Of the responses received some 15% had been made about disrespectful behaviour towards officers, 15% towards members and 15% towards members of the public. We had not disaggregated this previously but last time 83% in total were about disrespectful behaviour so seemingly a slight fall off. Around 20% related to bullying compared to 63% previously and only 5% about disruptive behaviour as opposed to 31% last time. We had added in social media issues for the first time this year and they accounted for around 12% of complaints. The drop-off in the individual figures I would imagine is because people have been more specific so people may have ticked both disrespect and bullying last time for example whereas there was little overlap between categories. It does still show however that those areas taken as a whole do seem to be the areas which generate most complaints with only around 3% of complaints categorised as 'other' which in theory covers the whole of the rest of the Code including registration and declarations of interests.
50. With regard to the source of complaints there had previously been a mixed picture with a fairly even split between whether complaints were 'councillor on councillor', made by staff or generated by the public. This time around the split was between complaints from fellow councillors and complaints from the public with a sharp drop-off in clerks saying complaints had come from staff. This included comments such as it would not be worthwhile or that they wouldn't take the risk. This is reflected by 38% of respondents saying they had considered making a complaint but decided not to, and it may be that the steep drop off in formal complaints is partly explained by an unwillingness of officers to make a complaint compared to three years ago. We asked those people why they had not made the complaint. Again while there may be some overlap between people ticking several boxes, the biggest reason given was lack of sanctions (25%) followed by lack of trust in the MO (21% and 4% saying the MO had refused to allow a complaint). Some 8% said the matter

had been resolved before a formal complaint was made and 7% said the member had resigned.

51. Case-handling is of course formally a matter for the principal authority and there is no power to pass on the costs of case-handling to the parish council. However, the parish council may clearly on occasions have to pay costs arising from conduct issues, most notably related to employment disputes but also other costs such as training or dispute resolution. With regard to costs to the authority itself, 82% (88% previously) say they have not had to spend money in this area but some 18% say they have. This again mirrors quite closely the numbers who seem to have some systemic problems. This money has primarily been a mixture of training costs and employing trained mediators or professionals such as HR consultants.
52. Finally in this section and in light of the CSPL recommendations, we asked whether the respondents would support the reintroduction of the power of suspension. Not surprisingly perhaps, 98% said they would support such a measure. When we had asked previously about sanctions, 30% had felt they were about right with 68% feeling they were too weak, so there appears to have been a significant 'hardening' of support in favour of tougher sanctions, including from those who did not have live standards issues at their council. A lot of comments drew comparisons with other workplaces where one would expect dismissal for gross misconduct and saw it as a right that employees should be protected from the most serious abuse at work.
53. We also asked what, if any, other sanctions would be appropriate (without any prompts) and there was significant support for the power to disqualify from public office, as well as requirements for offending members to go on compulsory training and some support for financial penalties. I should note that under the LGA Code it would be a breach not to comply with a sanction so if a councillor were ordered to go on training following a breach, they would in effect have to comply or face further action.

### **Employment issues**

54. We then asked a series of issues relating to employment matters (46 to 51) – how many grievances the Council had dealt with, how this compared with previous years, whether they had had to pay out employment-related costs, and whether there had been complaints made against the clerk.
55. 83% said they had had no grievance in the previous year and 10% said there had been one. This compared to around 90% previously who had said they had had no or only one grievance in our last survey (which asked people to consider over a longer time period). 78% said this was about the same as 3 years ago, 9% said it was more and 12% said it was fewer. Again that is not a surprising churn but with around 17% of councils having had at least one grievance in the previous year this seemed relatively high (though we did not ask whether the grievances were upheld or not).

56. 14% of respondents said their council had had to pay costs arising from an employment dispute (with 3% preferring not to say) which broadly matches those who had said they had had at least one grievance. Again while we didn't ask for specific figures, that is a relatively high sum of money being spent by the sector.
57. Our final question in this section asked about complaints made against the clerk. Some 18% said that there had been complaints made and 69% said not. Those were near-identical figures to last time (17 and 68 respectively).

### **Impact**

58. Our next series of questions looked at the wider impacts where there had been behavioural issues and a breakdown in relationships. Respondents were asked to outline what those impacts had been and whether any councillors or staff members had resigned because of the behaviour of another councillor. We then asked whether the council had failed to achieve any particular objectives because of the disruptive behaviour (52 to 56).
59. Question 52 was an open-ended question asking people to outline what the impact on the Council had been where there had been behavioural issues or more formal complaints or grievances. 446 respondents commented although a number of comments were the equivalent of 'no impact' presumably because they had had no issues. However, of those who did comment more people said there had been impacts than the numbers who had identified serious issues, implying that even though relations may be good within their council, nevertheless there are low-level issues going on which affect the running of the council on a day-to-day basis.
60. At the more 'minor' end of the scale, comments covered such issues as gossiping and sniping being dispiriting, clerk time being wasted mediating between members, and low staff morale. At the more serious end, impacts were typically disruption to meetings meaning people are reluctant to voice opinions and this having an impact on the quality of decision-making and ultimately service delivery; long-term staff absences through stress or illness and people living in constant fear.
61. Around a quarter of respondents said their council had been unable to achieve a particular task or project because of behavioural issues which shows how much energy and opportunity is potentially being wasted. This was an almost identical figure to last time. One comment, for example, said that there had been delays with the implementation of capital projects because of competing personalities with the membership and other comments included failures to agree a budget, disbanding of working groups and impact on the work of the Community Hub.
62. When asked whether councillors had resigned because of the behaviour of another councillor, 42% said yes, which again is higher than the numbers reporting serious issues and sharply higher than previously where it was around 30%. Similarly, 26% of respondents said a member of staff had

resigned because of behavioural issues compared to 15% last time which is another sharp increase. This lower figure (although still high) obviously reflects that it is more difficult to walk away from a paid position than a voluntary one. I would conclude that, coupled with the drop in formal complaints, people are choosing to walk away rather than make formal complaints because of the relative lack of confidence that there would be satisfactory robust outcomes. That is obviously a matter of concern that quality people are being lost to the sector.

### **Support and improvement**

63. We then asked a question about whether clerks felt sufficiently supported by the principal authority's Monitoring Officer and, if they were unhappy with that support, why that might be (questions 57-58). 32% thought the support they received was excellent or good with another 35% describing it as satisfactory, so around two-thirds in total broadly happy with that relationship. It had been nearer 75% previously so there has been a slight dip, with 32% now describing the support as poor, up from 25%. 21% said the support was poor because of lack of willingness from the MO to engage on parish issues, while 16% put it down to lack of understanding of the sector and 16% to lack of resources.

64. While most MOs therefore do seem supportive, there is a significant minority perceived as not supportive which may be an issue SLCC want to discuss with LLG and ADSO. We could track whether there was consistency around which were said to be unsupportive or whether looking at parishes within the same district, there was actually different perceptions among clerks but that correlation has not been done and may be based on small sample sizes. Similarly there could be a correlation between those who say they have standards issues and lesser or greater satisfaction but we have not yet analysed that.

### **Lockdown**

65. We ended with two questions to gauge whether lockdown had had any impact on behaviour (and by inference the use of virtual meetings). 24% said it had had a negative impact with just 14% saying it had been positive. Of those saying there had been a negative impact only 11% said these concerns had been dealt with officially which is perhaps not a surprise given the relative short-term impact of lockdown. However should the Government legislate in the future to allow virtual meetings to consider, SLCC may want to do a further short piece to explore what those negative impacts were and how they might be mitigated.

### **MONITORING OFFICER SURVEY**

66. In parallel with the survey of clerks, we sent a shorter questionnaire to Monitoring Officers with parishes in their area. This was mainly a quantitative survey, designed to see whether MOs had similar perceptions as the clerks with regard to the number and frequency of cases and trends. However, we

also asked about cost implications and an open question about ways in which the situation, if necessary, could be improved.

67. We received 51 responses from 259 questionnaires sent out. The picture painted by the responses was broadly consistent with the picture painted by the clerks. That is, that most parish councils did not give rise to standards issues, but that within each area there were a handful which clearly caused the MO difficulties in terms of time and resources. Parish council complaints were generally the bulk of an MO's standards work, but this is largely a result of mathematics – the number of parish councillors obviously far outweighs the number of principal authority councillors.
68. Around forty percent of respondents felt that the number of complaints had gone up since previous years (25% previously) whereas only 8% said they had gone down (32% previously). This is a significant shift from last time in an increased workload and slightly contradicts the clerk survey which showed formal complaints falling. It is difficult to explain this discrepancy in perception on the face of it.
69. We also asked how much of an MO's time was taken up with parishes. This will obviously vary depending on number of parishes within the area but around two-thirds said it was less than 10% of their time; a further quarter said up to 25% of their time with 16% spending anywhere above 25% of time on parish issues which can be a significant resource issue. Around a third however said they were now spending more time on parish matters than previously with only 4% saying less.
70. Again, as with the clerks, MOs identified that complaints were often to do with disruptive or disrespectful behaviour and bullying and the mix reflected the clerk's survey. We again asked for the first time about social media which MOs reckoned accounted for about 14% of cases, roughly matching the clerks' estimates. A number of MOs also felt that some of the complaints they had received should better have been treated as staff grievances which may highlight some of the issues around the Ledbury case which still need to be unpicked.
71. However, when we asked about the outcome of complaints, very few cases had resulted in a formal hearing. Only 8% of cases ended up in a breach being found with another 8% investigated but concluding there had been no breach. Around a quarter of complaints were dismissed without any action and a further quarter resolved informally. Obviously, no judgment can be made about the nature of individual complaints but as with previously this shows a keenness to resolve things informally and it implies action is only taken in the most serious cases.
72. Under the legislation where the principal authority finds a breach it recommends a sanction to the parish council. It is worth noting that our survey results showed around 50% of those sanctions had been ignored or not implemented by the parish council which seems alarmingly high. As

mentioned above failure to comply with a sanction would be a breach of the LGA Code so this may be an area to keep an eye on in future.

73. Nearly 50% of MOs described themselves as having a proactive approach to dealing with parish councils (up from a third last time) with the other half saying they step in where necessary as opposed to two-thirds last time. Only 2% said they felt unable to devote time and resources to supporting parishes. This had previously been 10%. This is a very encouraging trend that Mos are becoming increasingly proactive in supporting parishes though perhaps not surprisingly MOs by and large see themselves as more proactive and supportive than clerks do, but this again may well be a result of dissatisfaction at outcomes from clerks rather than any wider discrepancy – an MO may well have been active in dealing with a matter but the clerk will think the MO has not been supportive in that they have not found in their favour or the legislative restrictions mean the outcome has not been satisfactory or helped improve the council. I should add of course that it is likely that the MOs who filled in our survey would be skewed towards the ‘more supportive’ end.
74. Around three quarters of MOs said they provide training for parish councils. This was the same as last time. Where it was not offered two-thirds put it down to lack of time or resources while around a quarter said they relied on their county association. Two thirds also said they were in regular contact with their clerks which is again an encouraging figure in terms of working together to manage issues. Of those around 20% said they had regular forums with their clerks whereas around 20% only dealt with clerks when approached for information and a third simply kept them updated on latest developments. It would be interesting to explore whether the more proactive approach – for example regular forums – could provide a useful model of good practice to be shared in minimising parish issues. 75% said they had regular contact with their county association so again it would be interesting to explore what impact that has on managing issues.
75. With regard to the costs to the principal authorities in dealing with parish standards issues, most of the responses naturally said that the costs were largely in officer time and resources. here more quantifiable costs were expressed, these related primarily to external investigative costs and typically were in the region of £10-15,000. 23% said costs were higher than previous while 12% said they were lower.

## **OTHER ISSUES**

76. At the end of the clerks’ survey we asked if people would be willing to take part in case studies should further information be needed. 275 respondents said yes so SLCC should consider if they want to pursue this and, if so, how.
77. We have done some more granular analysis, for example whether there are more likely to be standards issues where a clerk has not been in post very long, or where the clerk is part-time or not formally qualified. Because of sample sizes some of the numbers become very small but we would be happy to manipulate data if specific questions occurred to people. Where we did



some of that analysis one standout was that a council was significantly more likely to have issues where the clerk had been either in post or indeed in the sector for under 3 years and diminished according to the experience of the clerk. This is perhaps not surprising and of course a new clerk may have been brought in precisely because of issues which had led to the previous clerk leaving, but it does reinforce the importance of the SLCC mentoring and support of new clerks.

78. I mentioned the results were very different for Wales with far fewer problems – only a handful of councils reported problems. There were 72 respondents from Wales so, while a relatively small number, that was around 8% of the sample so does feel statistically relevant and the numbers reporting issues were significantly lower in each problem category so I can only surmise that does relate to the more formal regulatory system in Wales.

## **CONCLUSIONS AND RECOMMENDATIONS**

79. Both surveys overall showed a fairly clear pattern. The first conclusion which must be emphasised is that the vast majority of parish councils operate effectively and have little or no behavioural issues but instead are focussed on delivering for their local communities and take their roles and responsibilities seriously.

80. There was a surprising similarity between the results of this year and three years ago. If one were being optimistic one could say things have not deteriorated and of course the opposite would also be true. However, the number of councils facing significant governance issues has risen slightly. And while there has apparently been a fall in reported complaints, and the pattern of complaints look similar (with the exception of the rise of social media) the number of people deciding they don't want to complain has risen and of even more concern the number of members and officers leaving because of poor behaviour has grown by a large number.

81. This is clearly a drain on councils and risks losing good people from the sector. SLCC should therefore reflect how they can better support people who may be thinking of walking away if experience and capacity is to be kept in the sector.

82. I should say that there will always be 'problem' councils. From our Standards Board days we had estimated around 10-15% of parishes had generated complaints. However the numbers with persistent or multi-complaints rather than isolated incidents does appear to be growing. This does seem to have been exacerbated by the lack of sanctions within the framework (and the lack of enforceability of those sanctions) coupled with a lack of resources to support parishes with difficulties and a lack of capacity to support parishes more generally to prevent problems arising.

83. As we said last time, the lack of effective sanctions, in particular the power to 'dismiss' a councillor for gross misconduct, seems to be a major stumbling block to improvement. While we are unable to analyse the motivation or

behaviour of individuals through the survey there is a consistent feeling amongst clerks and MOs that there do need to be more effective sanctions to help councils deal with issues and move on. There is also a clear picture of ever greater disaffection with the formal arrangements. This must be of a concern if people are genuinely feeling aggrieved but can see no solution and will only serve to drive people away from the sector and damage its reputation in the eyes of the public. **We therefore recommend that the Society continue to press Government for more effective sanctions to deal with instances of gross misconduct.**

84. While better sanctions would deal with 'rogue' individuals however, it would not be the panacea for dealing with more deep-seated issues. Many people singled out the need for greater emphasis on training, and there did seem to be a correlation between councils with problems and a poor uptake of training. Training of itself can of course not change attitudes, increase capacity or address more systemic issues. That said, **the Society should reflect how training capacity can be enhanced and councillors encouraged to make greater use of training opportunities, particularly in light of the LGA Code reference to training.**
85. The role of the chair is particularly important in the good governing of an authority. Whilst most clerks expressed satisfaction with their chair, there were a significant minority who felt their chair lacked the skills and understanding to be effective and there were places where chairs had been in place for a long time which risks stagnation. **We therefore recommend that the Society considers a particular emphasis on the need for a chair to have the requisite skills to do the role and considers whether there is a need to recommend limits on time served as a chair.**
86. There is a disconnect between MOs believing that they are handling cases effectively and supporting parishes (within any legislative constraints) and the perceptions of clerks as to whether cases have been resolved satisfactorily. We were encouraged that MOs seemed to be taking a more proactive approach to parishes in the main but **We recommend that the Society continues to engage with Monitoring Officer representatives on how models of best practice in cooperation can be disseminated.**
87. Lack of resources is clearly a barrier to supporting those councils with systemic problems and some priority needs to be given to supporting those councils who are in serious difficulties, as well as those which have underlying issues which could slip into a spiral of decline and failure. There appears to be a lack of any systematic external support for improvement, and the capacity and capability, particularly among smaller councils, when it comes to dealing with governance issues. None of these are matters which have easy solutions but it is imperative on the sector as a whole to see how it can support and improve capacity. There is much good practice out there and the majority of councils are well run and professionally managed. **The Society therefore needs to consider how this good practice can be spread and support put in place for those councils in difficulties.**

88. It is damaging to the reputation of the sector as a whole, let alone failing individual communities, where councils are allowed to flounder and fail over a number of years. Costs, both real and opportunity costs, have also been identified by the survey which is taking money out of service delivery and holding back individual communities, so there is an imperative to support such places and turn them around. In many places this can only come from outside support so **the Society needs to consider its active approach, with partners, to crisis management in those few places.** This may involve more active mentoring and coaching, sharing of good practice, governance reviews, support for targeted training programmes and working with local MOs, county associations and others to put an improvement programme in place.
89. However, as well as managing crises where there have already been failures, there needs to be an approach developed to crisis prevention to stop places sliding into dysfunctionality. Thus **the Society needs to consider how to develop 'early warning' detectors and governance diagnostic tools so it can help councils identify at an early stage where they may need help from peers.**
90. One of the themes which came across to us was the issue of people, as volunteers, essentially having limited time and energy to put into parish council work and thus, when difficulties arise, walking away from the sector. To that extent, although parish councils by statute are treated as similar to principal authorities in the way that they are regulated, in reality they are very different, particularly at the smaller end. In some ways they are more like an extension of the voluntary and charitable sector than they are smaller versions of principal authorities. The sector needs to be very wary that not addressing governance failures is in certain cases driving good and capable people out of the sector as they feel frustrated at the lack of action or improvement, let alone the stress from disruptive and bullying behaviour. This is clearly damaging the sector in the long run and there must be ways found of encouraging greater participation and support for those willing to give up their time voluntarily and to encourage good clerks and officers to stay in the sector rather than being driven away because of poor behaviour. **The Society should therefore consider how it can learn and share good practice from the wider voluntary sector in terms of support for good governance and dealing with governance failures** as there will undoubtedly be good practice from other sectors beyond local government, such as school governing bodies and the boards of voluntary organisations.
91. Above all it is clear that where governance failures do occur they have a paralysing effect and absorb a great deal of time, energy and money as well as lost opportunities. These failures can potentially occur at any time in any place so should not be seen as a problem solely relating to those individual councils currently in difficulty. Instead the sector as a whole needs to recognise the importance of good governance and take greater ownership of building governance capacity across the sector. It has to be accepted that there will always be isolated examples of systemic failures and/or rogue individuals whose behaviour falls below widely accepted standards but the

sector needs to take a systematic approach to tackling problems at source rather than simply reacting to individual cases if it is to see those numbers decline over time. Otherwise the sector risks continuing its loss of capacity and renewal over time as more and more people with energy and ability are driven out through local failings.

92. Finally, if the Society wishes to build a case for some legislative or structural changes it is always helpful to have individual 'stories' to tell, both about where there have been successes in turning around a council and also where a council is paralysed because of its internal issues, and as a result is costing the local taxpayer money and failing to deliver on key projects. A large number of respondents indicated, in response to a specific question, that they would be willing to be subject to follow-up work to develop some case studies. **We therefore recommend that the Society identify suitable subjects for case studies and develop these to support any formal representations they need to make.**

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