
Ethics Committee
Council

26 July 2018
4 September 2018

Name of Cabinet Member:

N/A - Ethics Committee

Director Approving Submission of the report:

Director of Finance and Corporate Services

Ward(s) affected:

None

Title: Annual Report of Ethics Committee 2017/18

Is this a key decision?

No

Executive Summary:

This report forms the second annual report of the Ethics Committee setting out the work of the Committee over the last municipal year. In particular, it reports on:

- Further work that the Committee has done in reviewing and revising governance arrangements and developing a Member Officer Protocol and Monitoring Officer Protocol. This follows on from work in 2016/17 on the Whistleblowing Policy and Complaints Protocol
- Representations that the Committee has made to the Committee on Standards in Public Life as part of its review of local government ethical standards
- Training for councillors and Independent Persons on the Code of Conduct and ethical matters
- A review of ethical standards in parish councils

The report also details other, regular work of the Committee over the last year and sets out a brief overview of work to be undertaken in the 2018/19 municipal year. The Committee is asked to approve the report and recommend to full Council that it notes the

report and considers whether there is any work that it would wish the Committee to undertake.

Recommendations:

The Ethics Committee is recommended to:

- (1) Approve the Annual Report of the Committee; and
- (2) recommend that Council notes the Annual Report and to consider whether there is any work within the Committee's terms of reference that Council would wish the Committee to undertake.

Council is recommended to:

- (1) To note the Annual Report of the Ethics Committee; and
- (2) To consider whether there is any work within the Committee's terms of reference that Council would wish the Committee to undertake.

List of Appendices included:

None

Other useful background papers can be found at the following web addresses:

None

Has it been or will it be considered by Scrutiny?

No

Has it been or will it be considered by any other Council Committee, Advisory Panel or other body?

No

Will this report go to Council?

Yes – 4 September, 2018

Report title: Annual Report of Ethics Committee 2017/18

1. Context (or background)

- 1.1 The Council's Ethics Committee was established in 2012 following the introduction of new duties and responsibilities regarding ethical conduct in the Localism Act 2011. The Council as a whole has a legal duty to promote and maintain high standards of conduct by members and co-opted members of the authority. The Ethics Committee, through its work, assists in discharging this statutory duty.
- 1.2 The terms of reference of Ethics Committee also include:
- (a) Making recommendations to the Council on the appointment of "independent persons" under the Localism Act 2011;
 - (b) Approving and revising the Complaints Protocol which will set out the detailed procedures for considering complaints made against Elected and Co-opted Members under the Code of Conduct for Elected and Co-opted Members;
 - (c) Considering complaints made against Elected and Co-opted Members under the Code of Conduct for Elected and Co-opted Members in accordance with the Complaints Protocol;
 - (d) Monitoring the operation of the Code of Conduct for Elected and Co-opted Members and making appropriate recommendations to the relevant body;
 - (e) At the request of the member or co-opted member concerned, reviewing any decision of the Monitoring Officer not to grant a dispensation in relation to disclosable pecuniary interests in accordance with Section 33 of the Localism Act 2011;
 - (f) Monitoring the operation of the Code of Conduct for Employees and making appropriate recommendations to the relevant body;
 - (g) Considering complaints made against Elected Members of Finham Parish Council, Keresley Parish Council and Allesley Parish Council under the relevant Parish Council's Code of Conduct for Elected Members in accordance with the City Council's Complaints Protocol; and
 - (h) Considering any other matters which are relevant to the ethical governance of the Council, its Members or Employees.
- 1.3 The Committee approves a work programme for each year which includes regular reports as well as one off pieces of work. At its meeting in March 2017, the Committee agreed that in future it would submit an annual report to Council setting out the work that it has accomplished in the past year. This report comprises the second Annual Report of the Ethics Committee.

2. The Annual Report and Recommended Proposal

2.1 About the Committee

Ethics Committee comprises five councillors. In the municipal year 2017/18, the membership of the Committee was Cllr Walsh (Chair), Cllr Andrews, Cllr Bigham, Cllr Gannon and Cllr Mulhall. In addition there were two named substitute members for the year, Cllr Bailey and Cllr Mal Mutton. Although not members of the Committee, the four Independent Persons appointed by the Council are encouraged to attend the meetings where possible. The Committee held four scheduled meetings in 2017/18.

2.2 Code of Conduct Complaints

The Council received a total of seventeen new complaints against councillors in the municipal year 2017/18. However, four of those complaints by different complainants related to the same incident involving one councillor. Sixteen complaints were against city councillors and one complaint was received about a councillor from one of the three parish councils. In ten cases the complainants were members of the public. In the remaining seven cases, the complaint was made by another councillor.

In nine cases the Chief Executive and Monitoring Officer decided to take no further formal action either because an initial review revealed no breach of the Code or because the matters which were the subject of the complaints related to matters which occurred when the subject councillor was not acting as an elected member. There were three cases where the complaint was resolved informally. The remaining cases are in progress.

2.3 Code of Conduct Training

The Committee's ongoing programme of training on Code of Conduct matters for all councillors continued during the year with sessions held on 3 and 24 July and 6 November 2017 when the remaining 9 councillors who required training attended. There were no city council elections in 2017 and so no newly elected councillors who required training.

2.4 Appointment of Independent Persons

The Localism Act requires all local authorities to appoint at least one person as an "Independent Person". The Independent Person's views must be sought by the authority on Code of Conduct allegations and their advice may be sought by a member who is alleged to have breached their Code of Conduct. There are very strict rules about who may and may not be eligible to be an Independent Person.

The Council's four Independent Persons, Steve Atkinson, Ann Barton, Ruth Wills and Peter Wiseman took up their appointments early in the municipal year and have contributed significantly to the discussion at committee meetings. In addition they have provided advice and guidance to the Monitoring Officer, particularly around Code of Conduct matters and complaints and been available to advise councillors

who have been the subject of a complaint. The contributions of the Independent Persons are valued both by the Committee and by the Monitoring Officer.

All four Independent Persons attended training on their role and on ethical standards in July 2017.

2.5 Member/Officer Protocol and Monitoring Officer Protocol

Following a review of governance matters by the then Acting Monitoring Officer, the Committee requested officers to draft a Member/Officer Protocol and Monitoring Officer Protocol for its consideration. The Member/Officer Protocol was approved by the Committee on 14 September 2017 and by full Council on 5 December 2017. The Protocol now appears in the latest published version of the Constitution.

In addition, at its meeting on 29 March 2018, a draft Monitoring Officer Protocol was tabled for the Committee's future consideration. It is expected that the Protocol will be approved in the current municipal year.

2.6 Committee on Standards in Public Life

At its meeting in December 2017, the Committee received a report on the Annual Report of the Committee for Standards in Public Life (CSPL). In addition, the CSPL has been keeping a watching brief, since 2012, on ethical standards in local government and has been concerned about the perceived lack of effective sanctions under the current standards regime. It announced an intention to carry out a review of ethical standards in 2017/18 and on 29 January 2018 it launched a call for evidence as part of this review.

The Ethics Committee submitted its response to the consultation by the CSPL in May 2018. Among other things, it has indicated that, in its view:

- The most significant gaps in the current ethical standards regime are the lack of meaningful and enforceable sanctions for breach of the Code of Conduct and the inevitable inconsistency in the provisions of Codes between different councils.
- Having fully independent members of the Ethics Committee who could participate in Code of Conduct hearings might assist in raising the public perception that such hearings are fair and objective. At the moment, the views of the Council's Independent Person must be sought during a hearing but they may not be part of the decision making process.
- Councils should be able to impose a short period of suspension (between 3 and 6 months) for councillors who have committed particularly serious breaches of the Code or who have failed to comply with previously imposed sanctions. Councils ought to be able to withhold members' allowances for a short period from councillors who have committed serious breaches or refused to co-operate in the process.
- The question of whether an interest amounts to a DPI is unnecessarily complicated in some areas and can lead to councillors having to undertake quite extensive research and to understand quite technical definitions of DPIs.

- There can be uncertainty as to when a DPI is engaged by an item of business because of the imprecise drafting in the relevant sections of the Localism Act.
- Candidates for election should be given the option of withholding their home address from publication and the requirement for the address of a councillor's only or main residence to be published on the register of DPIs should be reconsidered as both can lead to councillors being threatened or intimidated at their homes.

The Committee will be maintaining an interest in the outcome of the review when this is reported late in 2018.

2.7 Officer and Members Gifts and Hospitality

The Council has strict rules about when and if members and officers can accept gifts and/or hospitality. The Committee considers that this policy reflects the way in which the Council through its members and officers operates and provides more effective checks and balances on the receipt of gifts and hospitality. All directorates have a common register which requires gifts and hospitality to be approved by a senior officer.

In addition, the Committee reviews the registers of gifts and hospitality for both members and officers every six months. In 2017/18 the Committee reviewed 28 declarations of gifts and hospitality by 9 councillors. In addition they considered 77 instances of hospitality and 5 of gifts received by employees during the same period.

2.8 Operation of Register of Disclosable Pecuniary Interests

The Committee undertook its second review of the operation of the Register of Disclosable Pecuniary Interests in July 2017 following the publication of the register through the Council's committee management system, Modern Gov. Members, with assistance from Member Services staff where required, are able to update changes in their interests quickly and easily and this has helped to ensure that the online register is up to date at all times. The system provides a record of additions and deletions and allows officers to see how often individual councillors' registers are being viewed online by the public. In addition officers regularly remind councillors of the need to keep their register up to date, particularly on re-election or after being appointed to outside bodies at Annual Council.

In 2017, the Committee was able to compare a full year of operation of the system with the first 11 months. It found that the total number of times the register was viewed had nearly doubled between the first 11 months of operation and the 12 months from May 2016. Each councillor's entry was viewed on average 17 times a month as compared to 9 times a month in 2015/16. While some of these views may be attributed to officers and to the members themselves, it is clear that members of the public are viewing entries in the register on a regular basis.

Councillors are reminded each year after Annual Council to review and, if necessary, update their entries on the register, particularly as some councillors may need to declare new appointments or remove old ones. In 2017, 14 councillors amended

their registers following Annual Council and more did so after attending Code of Conduct training. In the 2016/17 municipal year all councillors made at least one change to their register, with 22 councillors making more than one update. Councillors are actively keeping registers under review and updating as appropriate.

2.9 Review of Ethical Standards in Parish Councils

The Committee received a report in December 2017 on how ethical standards operate in the three parish councils in Coventry. This was a table top exercise which set out some information about the financial position and operation of each of the parish councils.

The Committee found that all three parish councils had good procedures in place to ensure that their councillors complied with their legal duties to register their statutory interests, as well as prompts on agendas to remind them to declare them. All had websites which provided useful information for the public on the work of the parish councils, although the completeness of this information varied between councils. It was acknowledged that parish clerks had limited resources available to them and there were not the same legal obligations on parish council's to publish documents such as agendas, reports and minutes on their websites, as applied to the City Council.

All parish councils had a session at the start of each meeting to allow members of the public to speak on matters of concern, which helped to promote good engagement with the community and an understanding of what the parish council did.

2.10 Work Programme for 2018/19

Apart from regular reports on, among other things, Code of Conduct complaints, updates from the Monitoring Officer and officer and member gifts and hospitality, this year the Committee will consider reports on:

- The operation of the Register of Interests
- Monitoring Officer Protocol
- Code of Good Practice for Members and Employees Dealing with Planning Matters

In addition the Committee will be maintaining a watching brief on the outcome of the Committee on Standards in Public Life's review of local government ethical standards.

2.11 Recommendation

The Committee is recommended to

- (1) Approve the Annual Report of the Committee; and
- (2) recommend that Council notes the Annual Report and to consider whether there is any work within the Committee's terms of reference that Council would wish the Committee to undertake.

3. Results of consultation undertaken

- 3.1 There has been no consultation as there is no proposal to implement at this stage which would require a consultation.

4. Timetable for implementing this decision

Not applicable.

5. Comments from the Director of Finance and Corporate Services

5.1 Financial implications

There are no specific financial implications arising from the recommendations within this report.

5.2 Legal implications

There are no specific legal implications arising from this report. The issues referred to in this report will assist the Council in complying with its obligations under section 27 of the Localism Act 2011.

6 Other implications

None

6.1 How will this contribute to achievement of the Council's key objectives / corporate priorities (corporate plan/scorecard) / organisational blueprint / Local Area Agreement (or Coventry Sustainable Community Strategy)?

Not applicable.

6.2 How is risk being managed?

There is no direct risk to the organisation as a result of the contents of this report.

6.3 What is the impact on the organisation?

No direct impact at this stage

6.4 Equalities / EIA

There are no public sector equality duties which are of relevance at this stage.

6.5 Implications for (or impact on) the environment

None

6.6 Implications for partner organisations?

None at this stage

Report author(s): Carol Bradford

Name and job title: Carol Bradford, Corporate Governance Lawyer, Regulatory Team, Legal Services

Directorate: Place

Tel and email contact: 02476 833976 carol.bradford@coventry.gov.uk

Enquiries should be directed to the above person.

| Contributor/approver name | Title | Directorate or organisation | Date doc sent out | Date response received or approved |
|------------------------------------------------------------------|--------------------------------------------|------------------------------------|--------------------------|-------------------------------------------|
| Contributors: | | | | |
| Suzanne Bennett | Governance Services Officer | Place | 17.07.18 | 17.07.18 |
| Names of approvers for submission: (officers and members) | | | | |
| Finance: Graham Clark | Lead Accountant | Place | 10.07.18 | 10.07.18 |
| Legal: Julie Newman | City Solicitor and Monitoring Officer | Place | 10.07.18 | 11.07.18 |
| Barry Hastie | Director of Finance and Corporate Services | Place | 10.07.18 | |
| Councillor Walsh | Chair of Ethics Committee | | 10.07.18 | |

This report is published on the council's website:
www.coventry.gov.uk/councilmeetings