

**Time and Date**

10.00 am on Thursday, 23 July, 2020

Place

This meeting will be held remotely. The meeting can be viewed live by pasting this link into your browser <https://youtu.be/9XIo74uvN74>

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1. **Apologies**
 2. **Declarations of Interest**
 3. **Minutes** (Pages 3 - 14)
 - a) To agree the Minutes of the previous meeting held on 20 November, 2019
 - b) Any matters arising
 4. **Outcome of Code of Conduct Investigation** (Pages 15 - 28)
Report of the Director of Law and Governance
 5. **Work Programme** (Pages 29 - 38)
Report of the Director of Law and Governance
 6. **Any other items of public business which the Chair decides to take as matters of urgency because of the special circumstances involved**

Julie Newman, Director of Law and Governance, Council House Coventry

Wednesday, 15 July 2020

Note: The person to contact about the agenda and documents for this meeting is Suzanne Bennett Tel: 024 7697 2299 Email: suzanne.bennett@coventry.gov.uk

Membership: Councillors A Andrews, P Hetherington, J Mutton, S Walsh (Chair), D Welsh

Substitute Members: Councillor R Bailey and M Mutton

Independent Persons: S Atkinson, A Barton, R Wills, P Wiseman

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Coventry City Council
Minutes of the Meeting of Ethics Committee held at 9.30 am on Wednesday, 20
November 2019

Present:

Members: Councillor S Walsh (Chair)

Councillor R Bailey (substitute for Councillor A Andrews)
Councillor P Hetherton
Councillor J Mutton
Councillor D Welsh

Independent Persons: S Atkinson
A Barton
R Wills (Chair for Minute 19 below)
P Wiseman

Other Members: Councillor G Williams

Employees (by Directorate):

Place: S Bennett, C Bradford, J Newman, M Yardley

Others Present: D Kitson, Independent Investigator, Bevan Brittan

Apologies: Councillor A Andrews

Public Business

17. Declarations of Interest

There were no declarations of interest.

18. Appointment of Independent Chair

RESOLVED that Ruth Wills, Independent Person, be appointed as the Chair for consideration of the matter referred to in Minute 19 below relating to “Hearing into Complaint Under Code of Conduct”.

19. Hearing into Complaint Under Code of Conduct

The Ethics Committee considered a report of the Director of Finance and Corporate Services which detailed a complaint made against Councillor G Williams (the “Subject Member”). The complainant alleged that the Subject Member had breached the Code of Conduct for Elected and Co-opted Members.

A formal complaint was made on 19 February, 2019 that the Subject Member had posted inappropriate comments on social media which amounted to accusing

Planning staff of corruption by deliberately taking the Planning Portal down and engaging in, and encouraging, a situation where it was suggested that Planning staff should be assaulted. The Complainant alleged that this behaviour breached paragraphs 3(i), (j) and (k) of the Code of Conduct for Elected and Co-opted Members and the Member/Officer Protocol.

A Stage One review of the complaint concluded that an Independent Investigator should be appointed to investigate the complaint. An Independent Investigator was duly appointed to carry out the investigation and he concluded that the Subject Member had breached the three paragraphs of the Code of Conduct as outlined above.

The Committee considered the following:-

- a) Presentation of the Investigation report
- b) Presentation of the Subject Member's response to the Investigation report
- c) Summing up from both the Investigating Officer and the Subject Member
- d) Views and submissions of the Independent Person (Peter Wiseman)

The Committee then determined the complaint and concluded that there had been a breach of paragraphs 3 (i), (j) and (k).

Before determining what sanctions, if any, should be applied, the Subject Member and the Independent Person were invited to make representations as to whether or not any sanctions should be applied and, if so, what form they should take. The Committee noted that the application of any sanction should be reasonable and proportionate to the Subject Member's behaviour.

RESOLVED that the conclusion of the Committee be as set out in the Decision Notice attached as Appendix1 to these Minutes.

20. **Ruth Wills**

On behalf of the Committee, the Chair, Councillor S Walsh, thanked Ruth Wills for chairing the meeting for the item of business referred to in Minute 19 above.

21. **Any Other Items of Urgent Public Business**

There were no other items of urgent public business.

(Meeting closed at 12.45pm)

Twitter user, Cllr Williams had engaged and encouraged a situation where someone was suggesting that employees should be assaulted.

2.3 The complaint was referred to Mr David Kitson, a Senior Associate with Bevan Brittan solicitors for investigation.

2.4 Mr Kitson concluded that Cllr Williams had been acting in his capacity as a Councillor when the incident occurred. He also concluded that he had breached three paragraphs of the Code of Conduct namely:

- (a) Paragraph 3(i): value my colleagues and staff and engage with them in an appropriate manner and one that underpins the mutual respect between us that is essential to good government;
- (b) Paragraph 3(j): always treat people with respect; and
- (c) Paragraph 3(k): provide leadership through behaving in accordance with these principles when championing the interests of the community with other organisations as well as within the Council

2.5 In particular Mr Kitson concluded, on balance, that:

(a) In his tweet, Cllr Williams was implying that the Council and more particularly the Planning Department may have purposefully and improperly taken down the Planning Portal to stop objections being made to the Keresley planning application. Even if the Councillor was doing so in a tongue in cheek manner, this would be unlikely to be evident objectively. In any case the Councillor's own belief that residents within the Keresley area had a particular mistrust and dislike of the Council and the planning process should have made him think carefully about the tweet.

(b) the Councillor himself did not think that the spoof account's reply or his subsequent comment in relation to violence against women would cause distress or undermine Officers. It was however how the comments sit in the context of increasing levels of abuse, intimidation and violence towards not only Officers but also elected members and other public figures, that was of concern.

(c) the Councillor's Twitter post had the potential to undermine the Planning Department and cause distress to Officers. Further, although the subsequent discussion that took place between the Councillor and the spoof account was most likely tongue in cheek, it was nonetheless inappropriate in the circumstances, particularly so on account of the contentious nature of the planning application in question, as well as the wider issues with the increasing intimidation of those in public life.

2.6 Mr Kitson did not accept Cllr Williams' view that, with regard to the rhetorical question in his tweet, he was not suggesting what residents should think and was just being provocative.

- 2.7 Cllr Williams advised Mr Kitson that the spoof account's reply was tongue in cheek and in response to the prevailing news at that time. He also added that if he had not already known of the spoof account and its usual activity, he would have ignored the reply, but because he knew that the spoof account enjoyed engaging in banter, he did reply. However, Mr Kitson took the view that this exchange was published to the world on Twitter and regardless of what the Councillor thought of it, its meaning could have been taken out of context and misconstrued by others.
- 2.8 Mr Kitson did not accept Cllr Williams' assertion that the complaint was motivated by the fact that the Complainant is in a relationship with the Head of Planning and that the complaint was "hot-headed" and "outrageous". Looking at the circumstances objectively, Mr Kitson thought that there was justification for the complaint being made, and in consequence the relationship between the Complainant and the Head of Planning was not relevant.

E Hearing

- 3.1 The Ethics Committee consisted of:
- Cllr Roger Bailey
 - Cllr Patricia Hetherington
 - Cllr John Mutton
 - Cllr Seamus Walsh
 - Cllr David Welsh

The hearing was chaired by Ruth Wills, one of the Council's Independent Persons. Ms Wills took no part in the Committee's discussions or the decisions that it reached with regard to whether there had been a breach or breaches of the Code or in its discussions or decision concerning the imposition of sanctions.

- 3.2 Cllr Williams attended the hearing.
- 3.3 Mr David Kitson, the Investigating Officer (IO), attended the hearing. Mr Kitson outlined his investigation and took the Committee through his report. He called the Complainant to give evidence. He and the Complainant answered questions from both the Committee and from Cllr Williams.
- 3.4 Cllr Williams presented his case. He said that he had made the tweet because he was concerned about the length of time the planning portal was down. It was an attempt to get the message across to his ward residents that they had to get comments on the application to the Council by 4 February. He produced evidence via an FOI request which showed that the planning portal had been down on 477 occasions between July and October 2019. In tweeting, he had also hoped to get the planners to sort out the problems with the portal.

- 3.5 Cllr Williams said that if the Complainant had come to see him personally about the tweet and explained what he thought the issue was, Cllr Williams would have apologised to the Head of Planning and deleted the tweet. As it was, he had received what he considered to be an inappropriate email from him. He felt that he was an easy target for bullying because he was an “independent councillor”.
- 3.6 If he had thought there was any genuine threat in the response that he received from the spoof account, he would not have engaged with it. In his view the complaint and everything that followed from it had been counterproductive. If the Complainant and the Head of Planning had dealt with the problems with the portal, this would not have happened.

F Consultation with Independent Person

- 4.1 The Independent Person, Mr Peter Wiseman, OBE, LLB gave his opinion on the complaint to the Committee. This can be summarised as follows:
- 4.2 Mr Wiseman was approaching the case with no preconceptions about any previous history, but it was clear that things were going wrong with the planning portal. Cllr Williams appreciated this and so that informed his approach. It is recognised that planning can be a very emotive subject with different groups taking up different and sometimes contradictory positions. For example, local residents may have a particular view on a planning application but that might be at odds with the Council which might take a city-wide approach.

A Councillor has a very hard tightrope to walk and needs to exercise a measure of independent judgment and not just be the representative of residents' views. It is a question of balance. If a significant portion of the population doesn't have trust in the process, local government falls apart. Councillors should not shy away from asking questions though.

Mr Wiseman reminded the Committee of the comments in the Heesom case (page 43 of the bundle):

“...Civil servants are, of course, open to criticism, including public criticism; but they are involved in assisting with and implementing policies, not (like politicians) making them. As well as in their own private interests in terms of honour, dignity and reputation..., it is in the public interest that they are not subject to unwarranted comments that disenable them from performing their public duties and undermine public confidence in the administration. Therefore, in the public interest, it is a legitimate aim of the State to protect public servants from unwarranted comments that have, or may have, that adverse effect on good administration...”

In his view, a reasonable person reading Cllr Williams' tweet would have a question raised in their mind about the good faith of officers dealing with planning applications and the planning portal. The “rhetorical

question” cannot be treated as a throwaway remark. Cllr Williams had said that he was trying to be provocative but someone else might read this and wonder if something was going wrong with the system. It would raise questions about whether there is something dodgy in the planning department. Councillors are entitled to raise questions about such things, but in the right manner.

A person reading the comments about the Head of Planning would not know that this was from a spoof account and might well believe the comment to be genuine. There are many people who engage with social media who take threats seriously and might act upon them. If Cllr Williams is going to engage in social media then it is his responsibility to be absolutely sure that what he says cannot be misinterpreted and he has a positive obligation to do this and to have a duty of care towards officers.

Cllr Williams can still continue with his work for residents, but he needs to recognise the obligations on him under the Nolan Principles since there is a real potential of serious damage being caused if he does not.

F Findings

5.1 After considering the submissions of the parties to the hearing and the views of the Independent Person, the Committee reached the following decision(s):

That Cllr Williams had breached paragraphs 3(i), 3(j) and 3(k) of the Code of Conduct for Elected and Co-opted Members in that he had failed to:

- (a) value...colleagues and staff and engage with them in an appropriate manner and one that underpins the mutual respect.... that is essential to good government
- (b) always treat people with respect
- (c) provide leadership through behaving in accordance with these principles when championing the interests of the community with other organisations as well as within the Council

G Reasons

6. **The Committee’s reasons for reaching its decision are as follows:**

6.1 The Committee took the view that the two issues in this case were:
(a) what Cllr Williams had meant by his rhetorical question in his tweet and how it might be interpreted; and
(b) whether the subsequent exchange with the spoof account about the Head of Planning encouraged a situation in which someone was suggesting that Council employees be assaulted.
and whether either, or both, amounted to a breach of the Code of Conduct

The rhetorical question

- 6.2 The Committee did not accept Cllr Williams' argument that his purpose in posting the tweet was to draw his ward residents' attention to the fact that the planning portal was down and that they needed to get any comments on the planning application in before the deadline. He could have done this without including the sentence "is this an attempt to stop people from objecting??"
- 6.3 The inclusion of the sentence was, by his own admission, intended to be provocative and in the Committee's view it **was** provocative. Given the context of the planning application, it was not unreasonable for readers to infer that it was the Council, and possibly the planning department who had deliberately taken the portal down. In posting this sentence Cllr Williams was going beyond merely informing his ward residents of the situation and was encouraging readers to make adverse inferences about the way the Council, and the Planning Department operate.
- 6.4 The Committee concluded that the comment was thoughtless, it showed a lack of respect for officers and was inappropriate. By posting as he did, he undermined the work of planning officers.
- 6.5 Cllr Williams sought to justify his comments by pointing out the problems (ongoing) with the Planning Portal and claiming that his tweet was also an attempt to get the issue resolved. While the Committee accepted that there is clearly an issue, it has no bearing on the comment that he made which carries a clear inference that the portal was taken down deliberately.

The exchange with the spoof account

- 6.6 The Committee accepts that Cllr Williams does not condone violence against anyone. However, it does not accept his explanation that he only engaged with the spoof account because he knew it to be tongue in cheek and that he would not have responded or engaged if this were not so or he did not know the person responding. A post on Twitter is, as the Investigator pointed out, a post to the world and Cllr Williams could not have known who else might have seen the exchange and who may have taken it at face value as encouraging violence against council officers.
- 6.7 The Committee does not accept Cllr Williams' argument that the matter needs to be seen in the context of allegations of bullying within the Council and his assertion that he is subjected to bullying and adverse treatment by reason of being an independent councillor. Concerns of that nature should be addressed through proper processes and do not justify subjecting officers to potential abuse and unwarranted accusations of wrong doing.

- 6.8 The Committee agrees with the Investigator that this exchange must be seen in the context of the increasing incidence of both verbal and physical abuse and intimidation of, not only public employees, but also elected members and other people in public life nationally. The Committee took particular note of the Complainant's evidence of violence and intimidation of officers at the Council and the measures that are now needed to be taken to help mitigate against this.
- 6.9 Regardless of what Cllr Williams' intentions were, the exchange occurred with little thought on Cllr Williams' part as to the effect that it might have on planning officers trying to carry out their jobs in an increasingly hostile environment. The Committee believes that in engaging in this exchange and by treating a suggestion of assault as light-hearted banter, he failed to value or respect officers, causing distress and undermining them. The post was irresponsible and showed a lack of concern as to the possible consequences for officers.
- 6.10 The Committee also noted that Cllr Williams had indicated that he would have apologised to the Head of Planning and deleted the tweet if the Complainant had approached him personally rather than via email. This suggests that he understood that his post was inappropriate and should have been deleted.
- 6.11 In failing to close down the exchange with the spoof account, Cllr Williams failed to comply with his duty to not only to respect and value employees but to show leadership in his dealings with members of the public on social media. The Committee considers that Cllr Williams has failed to appreciate his duty to comply with all of the Nolan Principles and not just the ones relating to how he represents his ward residents.

H Sanctions applied

- 7.1 The Committee heard from Cllr Williams on the question of sanctions. He indicated that if the Committee felt that he had breached the Code then he apologised to them.
- 7.2 The Committee also heard Mr Wiseman, the Independent Person on the question of sanctions. His comments are summarised as follows:

Cllr Williams is a dedicated councillor, but this is the third time that he has appeared before the Committee. On one occasion there was a finding of no breach. He is aware of everything that is required of him in terms of the Nolan Principles and therefore it is difficult to envisage any training that might be of any benefit to him. He has been on social media training and is clearly competent in its use. Cllr Williams' heart is in the right place but occasionally he lacks sound judgment. As an Independent Councillor without a group to support him, he may feel lonely and beleaguered. It is possible that he might find the help of a mentor to be useful and there needs to be a dialogue established especially with senior officers.

7.3 The Committee decided to:

- (a) publish its findings in respect of Cllr Williams' conduct; and
- (b) recommend to full Council that it formally censures Cllr Williams for his conduct.

I Appeal

8. There is no right of appeal against the Committee's decision.

J Notification of decision

9. This decision notice is sent to:
- Mr Martin Yardley
 - Councillor Glenn Williams
 - Mr David Kitson and
 - Mr Peter Wiseman, OBE, LLB

The decision will also be published on the Council's website.

K Additional help

10. If you need additional support in relation to this decision notice or future contact with the City Council, please let us know as soon as possible. If you have difficulty reading this notice, we can make reasonable adjustments to assist you, in line with the requirements of the Equality Act 2010. We can also help if English is not your first language.

Ethics Committee

Coventry City Council

27 November 2019

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Ethics Committee

23 July 2020

Name of Cabinet Member:

N/A- Ethics Committee

Director Approving Submission of the report:

Director of Law and Governance

Ward(s) affected:

Not applicable

Title:

Outcome of Code of Conduct Investigation

Is this a key decision?

No

Executive Summary:

This report provides the outcome of a Code of Conduct Investigation in respect of allegations that Councillor Williams breached the Code of Conduct for Elected Members.

The Ethics Committee's complaints protocol sets out how a complaint that an Elected Councillor has failed to comply with the Council's Code of Conduct is dealt with. The protocol requires that where an investigating officer concludes that there is no evidence of a failure to comply with the Code of Conduct and no further action is required the outcome of such investigations will be reported to the next ordinary meeting of the Ethics Committee.

The investigation report was completed in March 2020 and this is the next ordinary meeting of the Ethics Committee that has taken place since that date.

Recommendations:

The Ethics Committee is recommended to note the outcome of the investigation attached as Appendix 1.

List of Appendices included:

Investigation Report

Other useful background papers:

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?

No

1. Context (or background)

- 1.1 At a meeting of full Council on 14 January 2020 Councillor Williams made a statement that resulted in widespread criticism and resulted in six separate complaints being submitted alleging that Councillor Williams had breached the Code of Conduct for elected members.
- 1.2 The City Council's Monitoring Officer, supported by one of the Committees Independent Persons, considered that the complaints merited a formal investigation and instructed Mr Matt Lewin as an appropriately experienced external investigator to undertake the investigation.
- 1.3 Mr Lewin produced a draft report that he shared with the Complainants and Councillor before forwarding his final report to the Council's Monitoring Officer.
- 1.4 Mr Lewin found that Cllr Williams' statement was ignorant, prejudiced and offensive, however he did not find that it amounted to a failure to show respect in breach of paragraph 3(j) of the Code. Mr Lewin considered that "There is a very high threshold to be crossed before political speech – even intolerant and offensive political speech – can be found to have breached the Code". In this case he did not find that that threshold was crossed.
- 1.5 Mr Lewin noted that Councillor Williams had been held accountable for his offensive statement in the public arena and had made a public apology.

2. Options considered and recommendations

- 2.1 In light of the findings of the report there is no further action to be taken, however the Committee is asked to note the findings of the investigation report that has been attached in full as an appendix to this report.

3. Results of consultation undertaken

None

4. Timetable for implementing this decision

- 4.1 Not applicable

5. Comments from Director of Finance and Director of Law and Governance

- 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, however reporting on the outcome of this investigation and provide the investigation report in full supports the duty to promote high standards of ethical conduct.

6. Other implications

None

6.1 How will this contribute to the Council Plan?

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?

The investigation supports the promotion of high standards amongst elected members in accordance with the Localism Act.

6.4 Equality Impact Assessment / EIA

The public sector equality duties require that the City Council in the exercise of their functions, have due regard to the need to:

- Eliminate unlawful discrimination, harassment and victimisation and other conduct prohibited by the Act.
- Advance equality of opportunity between people who share a protected characteristic and those who do not.
- Foster good relations between people who share a protected characteristic and those who do not.

Protected characteristics includes a person's sexual orientation

6.5 Implications for (or impact on) Climate change and the environment?

None

6.6 Implications for partner organisations?

None at this stage

Report author(s): Julie Newman

Name and job title: Monitoring Officer, Director of Law and Governance

Directorate: Law and Governance

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Enquiries should be directed to the above person.

Contributor/approver name	Title	Service Area	Date doc sent out	Date response received or approved
Contributors:				
Suzanne Bennett	Governance Services Officer	Law and Governance	10/07/20	10/07/20
Adrian West		Law and Governance	10/07/20	14/07/20
Names of approvers for submission: (officers and members)				
Finance: Phil Helm	Finance	Finance	13/07/20	13/07/20
Governance: Adrian West				
Legal: Julie Newman	Director of Law and Governance	Law and Governance	10/07/20	10/07/20
Cllr Walsh	Chair: Ethics Committee		14/07/20	14/07/20

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

Appendix 1

Investigation Report

COMPLAINTS AGAINST CLLR GLENN WILLIAMS

INVESTIGATION REPORT

Introduction

Cllr Williams' statement

1. In early January 2020, Cllr Glenn Williams submitted a written question to Cllr Kevin Maton, the Cabinet Member for Education and Skills in relation to the new Relationships and Relationships and Sex Education courses being introduced as a compulsory subject in all schools in England:

“With regard to the proposed ‘Relationship Education’ in Primary Schools being introduced in September 2020, would the Cabinet Member confirm that Coventry schools will teach only what is set out in the basic Government guidelines and not be influenced by external pressure groups?”

2. At a meeting of full Council on 14 January 2020, Cllr Williams made the following statement which was recorded on the meeting's webcast:

“Thank you Lord Mayor and I appreciate the answer from Cllr Maton and I'm sorry to put strain on his voice. Now the reason that I asked the question originally, is because there are a lot of very concerned parents who are worried about what is going to be taught to very young children and I have to tell you Lord Mayor, last week a friend of mine, she is very broadminded, more broadminded than I am, which isn't difficult I accept, but she had telephoned me because her 13 year old son had come home from school and he was horrified, because his teacher had given them tips, sorry I'm not very comfortable talking about this, but had given them tips on how to come out, you understand what I mean by that Cllr Maton and had shown a video of two women kissing. Now does Cllr Maton agree with me, that this sort of video, which bluntly I regard as pornography, should not be shown in Coventry schools and what we should have is a policy that promotes traditional family values, not how to be promiscuous, but how to respect traditional family values, so does he agree with me that is what we should have a policy on?”

3. That statement attracted widespread criticism from fellow councillors, in the media and online. It resulted in six separate complaints being submitted to the Council's Monitoring Officer.

The complaints

4. The complaints alleged that Cllr Williams' statement was homophobic. The following give a sense of the strength of feeling:

(a) *"These comments are not just distasteful, they are dangerous – perpetuating ideas steeped in bigotry and intolerance, and stoking the fires of hatred. ... Hate crimes against all minorities are on the rise, and the fact that a Coventry councillor believes it is acceptable to so openly vilify a marginalised group – and in turn reinforce the idea that homophobia is acceptable – is simply abhorrent."*

(b) *"By implication [Cllr Williams] considers non heterosexual relationships to be promiscuous ... [and] inferior to heterosexual relationships ('traditional family values'), and not worthy of respect."*

(c) *"Cllr Williams made homophobic comments ... This was disrespectful to his LGBT constituents, homophobic and brought the council into disrepute."*

(d) *"The views that he presented in the council chambers, were not only homophobic, but could also be classed as Hate speech. ... Is he not supposed to represent all members of this city? His language was not befitting of a modern society. ... I feel this language is archaic, ill conceived and smacks of the British National Party or Fascism! How dare he say those things in the chamber! ... This man is a philistine and a product of a bygone age! He is not fit to serve in office."*

Alleged breach of the Code

5. The complaints alleged that Cllr Williams had breached a number of provisions of the Council's Code of Conduct for Members ("the Code"). For the sake of clarity, I will focus on just one of those provisions – paragraph 3(j) – which I consider most accurately reflects the concerns expressed by the complainants.

Investigation

6. I have been appointed by the Council's Monitoring Officer to investigate the complaints. I am a self-employed barrister with a specialism in local government standards. I am also a member of the Equality and Human Rights Commission's panel of counsel. I have conducted a number of similar investigations for local authorities across England.
7. I provides a copy of my draft report in confidence to Cllr Williams and the complainants for their comment. I did not hear anything further from any of them.

Cllr Williams' admission and apology

8. On 30 January 2020, I received a phone call from Cllr Williams. He explained to me that he considered he was in breach of the Code and told me about a meeting he had attended on 22 January 2020, with representatives of Coventry Pride, No Outsiders (an LGBTQ+ education programme) and two fellow councillors. That meeting had resulted in Cllr Williams filming a public apology for his statement which is the subject of these complaints.¹

The Code

Paragraph 3(j)

9. The Code applies to members of the Council when they are undertaking their duties as elected members. Paragraph 3(j) of the Code provides as follows:

"As a Member of Coventry City Council ... I will:

Always treat people with respect, including the organisations and public I engage with and those I work alongside."

Freedom of speech and political speech

10. All of us have the right of freedom of expression, which is protected by well-established common law principles and under Article 10 of the European Convention on Human Rights ("ECHR").
11. However, the law attaches particular significance, and therefore greater protection, to the speech of elected representatives. Indeed, the European Court of Human Rights has held that *"there is little scope ... for restrictions on political speech or of debate on question of*

¹ <https://www.coventrytelegraph.net/news/coventry-news/councillor-issues-public-apology-lgbt-17612181>

public interest”.² In this context, political speech means speech on matters of public concern and should be given a very broad interpretation.³

12. Given the fundamental importance of freedom of speech, and the enhanced protection afforded to political speech, even intolerant or offensive statements made by politicians may be protected by law. The words of Lord Justice Sedley in the case of *Redmond-Bate v Director of Public Prosecutions*⁴ are often cited in this context:

“Free speech includes not only the inoffensive but the irritating, the contentious, the eccentric, the heretical, the unwelcome and the provocative. ... Freedom only to speak inoffensively is not worth having. ...”

13. A similar view was expressed by the European Court of Human Rights in *Handyside v United Kingdom*⁵:

“Freedom of expression constitutes one of the essential foundations of such a society, one of the basic conditions for its progress and for the development of every man. ... it is applicable not only to ‘information’ or ‘ideas’ that are favourably received or regarded as inoffensive or as a matter of indifference, but also to those that offend, shock or disturb the State or any sector of the population. Such are the demands of that pluralism, tolerance and broadmindedness without which there is no ‘democratic society’.”

14. The reason why even intolerant or offensive speech on matters of public concern can be protected by law is because freedom of expression is fundamental to our system of democracy. In the later case of *R v Shaylor*⁶, Lord Bingham explained that:

“The reasons why the right to free expression is regarded as fundamental are familiar, but merit brief restatement in the present context. Modern democratic government means government of the people by the people for the people. But there can be no government by the people if they are ignorant of the issues to be resolved, the arguments for and against different solutions and the facts underlying those arguments. The business of government is not an activity about which only those professionally engaged are entitled to receive information and express opinions. It is, or should be, a participatory process. But there can be no assurance that

² *Lombardo v Malta* (2009) 48 EHRR 23, [55]

³ *Thorgeirson v Iceland* (1992) 14 EHRR 843, [64]

⁴ (1999) 7 BHRC 375, [20]

⁵ (1979-80) 1 EHRR 737, [49]

⁶ [2003] 1 AC 247, [21]

government is carried out for the people unless the facts are made known, the issues publicly ventilated.”

15. This principle applies as much to local government as it does national government. In commenting on statements made by a community councillor which were found to have breached the community council’s code of conduct, the High Court endorsed the principle that “...*some margin should be allowed for invective and exaggeration, even if that means that some apparently worthless comments are as fully protected as a carefully balanced argument*”.⁷ Council meetings, in particular, have been identified as a forum in which “*robust political debate may reflect lack of respect for political opponents or may result in views being expressed which many might regard as offensive*.”⁸
16. This means that political speech may only be restricted where there is a compelling justification for doing so.⁹
17. This is not to say that politicians can say whatever they like, no matter how offensive, and get away with it. Personally abusive or insulting statements cannot claim the benefit of enhanced protection, even if made by a politician. For example, when the former Mayor of London, Ken Livingstone, asked a Jewish journalist whether he was a German war criminal and likened him to a concentration camp guard, the High Court found that Mr Livingstone was “*not to be regarded as expressing a political opinion which attracts the high level of protection*” but “*indulging in offensive abuse of a journalist ...*”.¹⁰
18. Furthermore, the European Court of Human Rights has stressed that the right to express ideas, protected by Article 10(1) of the ECHR, is subject to certain obligations, one such obligation being, “*as far as possible, to avoid statements that are unwarrantably offensive to others, constituting an assault on their rights*.”¹¹ That observation was made in a case involving a criminal conviction of a group of Swedish leaflet distributors, who had left leaflets in the lockers of students in a secondary school that, among other things, described homosexuality as a “*deviant sexual proclivity*” that had “*a morally destructive effect on the substance of society*” and accused the “*homosexual lobby*” of trying to play down paedophilia. In that case, the European Court of Human Rights found that the group’s convictions (resulting in suspended prison sentences) was a proportionate interference with their right of free expression.

⁷ *R (Calver) v Adjudication Panel for Wales* [2012] EWHC 1172, [55]

⁸ *Sanders v Kingston (No. 1)* [2005] EWHC 1145 (Admin), [77]

⁹ *Reynolds v Times Newspapers Ltd* [2001] 2 AC 127, 200D

¹⁰ *Livingstone v Adjudication Panel for England* [2006] EWHC 2533 (Admin), [36]

¹¹ *Vejdeland v Sweden* (1813/07)

19. It will be clear from the discussion above that there is no bright line distinction between acceptable and unacceptable political speech. Nonetheless, it is clear that, in this case, considerable caution needs to be taken when considering whether political speech has failed to show respect to others and therefore breached paragraph 3(j) of the Code.

Whether Cllr Williams' statement breached the Code

20. I am in no doubt that Cllr Williams' statement was ignorant, prejudiced and offensive. I agree with the views expressed by the complainants that, in the statement, he wrongly associated homosexuality with promiscuity and implied that homosexual relationships are intrinsically inferior to heterosexual relationships. In addition, I note that Cllr Williams had not actually viewed the content of the video in question for himself, nor had he sat in on the lesson he was referring to, and therefore was not in a position to offer an informed critique.

21. However, I have concluded that Cllr Williams' statement was not in breach of the Code. My reasons are as follows.

22. Firstly, the statement amounted to political speech, in that Cllr Williams was commenting on an issue of policy: the content of the relationships education curriculum. He is entitled to disagree with its content and to express scepticism or concern about it. He is also entitled to believe that heterosexual relationships are superior to homosexual relationships and to express that belief, even though most of us would consider that belief to not only to be wrong but offensive.¹² The underlying political nature of his statement is most clearly expressed in the final sentence: "...we should have is a policy that promotes traditional family values, not how to be promiscuous, but how to respect traditional family values". As his statement was political speech, it attracts enhanced protection under the law.

23. Secondly, given that it was political speech, there is a very high threshold which must be crossed before such speech can be found to have breached the Code by failing to show "respect" to others. In my opinion, Cllr Williams' statement did not cross that very high threshold:

(a) the statement was made in the course of a full Council meeting, where greater tolerance has to be shown for "*robust political debate ... [which] may result in views being expressed which many might regard as offensive*"¹³;

¹² To be fair, Cllr Williams subsequently told me, with the benefit of some reflection and the constructive meeting with Warwickshire Pride and No Outsiders, that he believes that a "stable and loving relationship between a man and a woman" is "the best but not the only way" to raise a child.

¹³ See *Calver* (paragraph 15 above).

- (b) the statement was not gratuitously offensive and, while it singled out a particular minority group, did not target any member of that group in particular. The content of the statement did not contain any inflammatory language or personal abuse (such as in the Livingstone and Swedish examples above). Having said that, I do acknowledge and agree with the concerns of some of the complainants: comments such as this, which demean homosexual people, contribute to a culture of intolerance which facilitates prejudice and hate crime. It is for that reason that the public reaction to Cllr Williams' statement is encouraging: he has rightly been called out for his intolerance;
- (c) although made in a meeting of full Council, Cllr Williams was not speaking on behalf of the Council itself – something which was made abundantly clear by the admirable joint statement condemning Cllr Williams' statement, made by the Leader and Opposition Leader.¹⁴ Nor was Cllr Williams exercising any particular function of the Council in making his statement: he has no formal responsibility for the content of the curriculum or for education in Coventry more generally.

Accountability

24. In my opinion, the more appropriate method for holding Cllr Williams to account for his statement is in the public arena and not by way of the Code of Conduct process. As a matter of fact, this is what has happened in this case. The process of accountability began almost immediately. As the *Coventry Telegraph* reported, Cllr Williams' statement

“... led to heavy criticism across the chamber.

Cllr Christine Thomas described the comments as 'wholly inappropriate', while Cllr Gary Ridley said: 'There's nothing to be ashamed about your sexuality and absolutely no reason children should not be taught that at all.'

Another, Cllr Becky Gittins, added: 'Can my fellow members support me in ensuring that the message that comes from this meeting is unlike Cllr Williams we do not equate homosexuality with sexual promiscuity but rather homosexuality as a legitimate sexual orientation as part of one's gender identity and sexual orientation?'"

25. I also understand from a subsequent *Coventry Telegraph* report that the rainbow flag was flown above the Council House in direct response to Cllr Williams' statement.

¹⁴https://www.coventry.gov.uk/news/article/3184/joint_statement_following_cllr_glenn_williams_comments_at_full_council

26. As well as being reported in the Coventry press, it was also reported by Pink News, which carried a very unflattering profile of Cllr Williams.¹⁵ This scrutiny is a vital part of the democratic process and is very much to be welcomed.

27. Perhaps most importantly, Cllr Williams has made a public apology for his statement. In the many investigations I have carried out into councillors accused of misconduct, I have never previously come across a councillor not only prepared to admit wrongdoing but to make a public apology for it. Cllr Williams deserves credit for being prepared to do so. He told me about the meeting he had had with Coventry Pride and No Outsiders and that it had been both emotional and educational, particularly with respect to the link between homophobic statements such as his and hate crime. He also told me that has committed to continue to work with these organisations and other members of the LGBTQ+ community to “*build bridges*”. This is a very positive outcome – and probably not one which could have been achieved by the Code of Conduct process.

Conclusion

28. For these reasons, despite finding that Cllr Williams’ statement was ignorant, prejudiced and offensive, I do not find that it amounted to a failure to show respect in breach of paragraph 3(j) of the Code. There is a very high threshold to be crossed before political speech – even intolerant and offensive political speech – can be found to have breached the Code. In this case, I find that that threshold was not crossed.

Matt Lewin

Cornerstone Barristers

8 March 2020

¹⁵ <https://www.pinknews.co.uk/2020/01/23/women-kissing-pornography-homophobic-glenn-williams-apology-coventry-andrew-moffat/>



Ethics Committee

23 July 2020

Name of Cabinet Member:

N/A- Ethics Committee

Director Approving Submission of the report:

Director of Law and Governance

Ward(s) affected:

Not applicable

Title:

Work Programme for the Ethics Committee 2020/21

Is this a key decision?

No

Executive Summary:

This report suggests areas of work for the Ethics Committee for the Municipal Year 2020/21. The Committee is asked to consider the draft work programme and make any suggestions for additional or alternative reports. The Work Programme again includes a separate table showing the actions to be taken in connection with the Committee on Standards in Public Life's Best Practice Recommendations for local authorities contained in its report of January 2019.

Recommendations:

The Ethics Committee is recommended to review the Work Programme attached as Appendix 1 and the Table of Best Practice Recommendations at Appendix 2 and make any changes or amendments the Committee considers appropriate.

List of Appendices included:

Appendix 1: Draft Work programme

Appendix 2: Table of Best Practice Recommendations

Other useful background papers:

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?

No

Report title: Draft Work Programme 2020/21

1. Context (or background)

- 1.1 The Committee's Terms of Reference are set out in the Council's Constitution and include the consideration of matters which are relevant to the ethical governance of the Council, its members or employees. This report attaches a proposed programme of work for the Committee, designed to assist the Committee to meet its objectives set out in the Terms of Reference, and to ensure that the Council complies with its obligations under section 27 of the Localism Act 2011 to promote and maintain high standards of conduct amongst elected and co-opted members. It also includes, at Appendix 2, a table setting out the Best Practice Recommendations of the Committee on Standards in Public Life (CSPL) annotated to show current progress.
- 1.2 The Committee's draft work programme takes account of the need to promote standards and addresses this in a number of ways. It is a draft work programme and is flexible in terms of suggestions from members of the Ethics Committee as to additional or substitute areas which they would want to consider and receive reports on.

2. Options considered and recommended proposal

2.1 The work programme includes regular items on:

- Code of Conduct/ Monitoring Officer Update
- Declarations of gifts and hospitality by members and officers
- Annual report to full Council
- CSPL annual report
- Local Ombudsman's annual report

2.2 In addition it is suggested that the Ethics Committee factor into the work programme a number of matters where work is being, or about to be, undertaken across the Council, namely:

- Response to LGA's consultation on Model Code of Conduct
- The development and approval of a travel and conference policy
- Monitoring, and responding to, the Local Government Association's work on civility in public life
- The work of a member/officer group which is developing a local response to the LGA's guidance on intimidation in public life
- Employee values

Officers will also monitor and report on any legislative changes arising from the CSPL's report and recommendations of January 2019 and any progress on the new National Code of Conduct.

2.3 Recommendation

The Ethics Committee is recommended to review the work programme attached as Appendix 1 and the Table of Best Practice Recommendations at Appendix 2 and make any changes or amendments the Committee considers appropriate.

3. Results of consultation undertaken

None

4. Timetable for implementing this decision

4.1 Not applicable

5. Comments from Director of Finance and Director of Law and Governance

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, as there is no statutory obligation on the Committee to adopt a work programme. However, the Council must comply with its obligations under section 27 of the Localism Act 2011 and the continuation of a clear programme of work would assist in compliance for the Council as a whole, in its duty to promote high standards of ethical conduct.

6. Other implications

None

6.1 How will this contribute the Council Plan?

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?

If implemented, the work programme will facilitate the promotion of high standards amongst elected members in accordance with the Localism Act.

6.4 Equality Impact Assessment (EIA) There are no public sector equality duties which are of relevance at this stage.

6.5 Implications for (or impact on) climate change and the environment

None

6.6 Implications for partner organisations?

None at this stage

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Names of approvers for submission: (officers and members)				
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Governance: Adrian West	Member and Elections Team Manager and Deputy Monitoring Officer	Law and Governance	10/07/20	13/07/20
Legal: Julie Newman	Director of Law and Governance	Law and Governance	10/07/20	13/07/20
Cllr Walsh	Chair: Ethics Committee		14/07/20	14/07/20

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www.coventry.gov.uk/councilmeetings

Appendix 1

Work Programme for the Municipal year 2020/21

Meeting no. and date	Topics
2020/21	
1. July 2020	
	Outcome of Code of Conduct Investigation
	Work Programme 2020/21
	Model Code of Conduct Consultation*
	* to be considered informally after the meeting has ended.
2. September 2020	
	Monitoring Officer/Code of Conduct/ Members Complaints Update.
	Annual Report of the Committee
	Officers Gifts and Hospitality -Inspection of Registers for the 12 months from June 2019.
	Members Gifts and Hospitality -Inspection of Registers for the 12 months from June 2019.
	Annual Report of Local Government Ombudsman
	Work Programme 2020/21
3. December 2020	
	Monitoring Officer/Code of Conduct/ Members Complaints Update.
	Travel and Conference Policy
	Civility in Public Life
	Intimidation in Public Life
	Standards in Public Life- update from national body usually published in August each year.
	Work Programme 2020/21
4. March 2021	
	Monitoring Officer/Code of Conduct/ Members Complaints Update.
	Officers Gifts and Hospitality -Inspection of Registers for last 6 months of 2020.
	Members Gifts and Hospitality -Inspection of Registers for last 6 months of 2020.
	Employee Values

	Review of Guidance to Councillors on Declaration of Interests
	Work Programme 2021/22

Appendix 2: Best Practice Work Programme

	Best Practice	Action	Status
1	Local authorities should include prohibitions on bullying and harassment in codes of conduct. These should include a definition of bullying and harassment, supplemented with a list of examples of the sort of behaviour covered by such a definition.	Add Newcastle – Upon-Tyne definition into code of conduct Consider whether a paragraph could be inserted into the Employee’s Code of Conduct as well	Completed Completed
2	Councils should include provisions in their code of conduct requiring councillors to comply with any formal standards investigation and prohibiting trivial or malicious allegations by councillors.	Include statement in code must comply Check prohibition on trivial or malicious allegations	Considering LGA Draft Model Code of Conduct Completed
3	Principal authorities should review their code of conduct each year and regularly seek, where possible, the views of the public, community organisations and neighbouring authorities.	Ensure easily available to public Include on work programme for committee annually Monitoring Officer (MO) to talk to local MO groups to share codes across neighbouring authorities	Completed Pending progress on LGA Model Code of Conduct Completed
4	An authority’s code should be readily accessible to both councillors and the public, in a prominent position on a council’s website and available in council premises	Check web editors re prominence on website –see where the relevant forms are & whether easy for members of the public to use Customer service to be advised as how can access on website to provide to any customers who call	Completed Completed
5	Local authorities should update their gifts and hospitality register at least once per quarter, and publish it in an	A link to Ethics Committee reports on gifts and hospitality has been placed on the	Completed

	accessible format, such as CSV.	Council's website	
6	Councils should publish a clear and straightforward public interest test against which allegations are filtered.	Complaints Protocol includes assessment criteria against which complaints will be considered	Completed
7	Local authorities should have access to at least two Independent Persons.		Completed
8	An Independent Person should be consulted as to whether to undertake a formal investigation on an allegation and should be given the option to review and comment on allegations which the responsible officer is minded to dismiss as being without merit, vexatious, or trivial.	Amend complaint process to include this stage	Completed
9	Where a local authority makes a decision on an allegation of misconduct following a formal investigation, a decision notice should be published as soon as possible on its website, including a brief statement of facts, the provisions of the code engaged by the allegations, the view of the Independent Person, the reasoning of the decision-maker, and any sanction applied.		Completed
10	A local authority should have straightforward and accessible guidance on its website on how to make a complaint under the code of conduct, the process for handling complaints, and estimated timescales for investigations and outcomes.	Check accessible on website Review timescales and include in process	Completed Completed
11	Formal standards complaints about the conduct of a parish councillor towards a clerk should be made by the chair or by the parish council as a whole, rather than the clerk in all but exceptional circumstances.	Write to Parish Councils and offer assistance in reviewing their codes to include this action and best practice actions	Completed
12	Monitoring Officers' roles should include providing advice, support and management of investigations and adjudications on alleged breaches to parish councils within the remit of the principal authority. They should be provided with adequate training, corporate support and resources to undertake this work.		Completed
13	A local authority should have procedures in place to address any conflicts of interest when undertaking a	Raise at Heads of Legal WMCA group to seek agreement can call on	Completed

	standards investigation. Possible steps should include asking the Monitoring Officer from a different authority to undertake the investigation.	neighbouring authorities when there is potential conflict.	
14	Councils should report on separate bodies they have set up or which they own as part of their annual governance statement and give a full picture of their relationship with those bodies. Separate bodies created by local authorities should abide by the Nolan principle of openness and publish their board agendas and minutes and annual reports in an accessible place.	Consider as part of next annual governance statement - 19/20	
15	Senior officers should meet regularly with political group leaders or group whips to discuss standards issues.	Set up quarterly meeting with group leader, Deputy Leader and whips. CEO, S151 officer and MO.	

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