

**Time and Date**

10.00 am on Thursday, 30th June, 2022

**Place**

Committee Room 3, Council House, Coventry

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1. **Apologies**
2. **Declarations of Interest**
3. **Minutes** (Pages 3 - 4)
  - a) To agree the Minutes of the previous meeting held on 5 April, 2022
  - b) Any matters arising
4. **Annual Report of the Ethics Committee 2021/22** (Pages 5 - 20)

Report of the Director of Law and Governance
5. **On Line Safety Bill Update 2022** (Pages 21 - 28)

Report of the Director of Law and Governance
6. **Report on the Government's March 2022 Response to Committee on Standards in Public Life Report of 2019** (Pages 29 - 36)

Report of the Director of Law and Governance
7. **Code of Conduct Update Report** (Pages 37 - 46)

Report of the Director of Law and Governance
8. **Work Programme for the Ethics Committee 2022-23** (Pages 47 - 52)

Report of the Director of Law and Governance
9. **Any other items of public business which the Chair decides to take as matters of urgency because of the special circumstances involved**

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

Wednesday, 22 June 2022

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](mailto:suzanne.bennett@coventry.gov.uk)

Membership: Councillors P Hetherton, S Nazir, S Walsh (Chair), D Welsh

Substitute Members: Councillor M Mutton, P Seaman

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

**Public Access**

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**Suzanne Bennett**

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**Coventry City Council**  
**Minutes of the Meeting of Ethics Committee held at 2.00 pm on Tuesday, 5 April**  
**2022**

Present:

Members: Councillor S Walsh (Chair)

Councillor P Hetherton

Councillor D Welsh

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

Employees (by Service Area)

Law and Governance: J Newman (Director) and S Bennett

Apologies: Councillors J Mutton and M Mutton

## **Public Business**

### **21. Declarations of Interest**

Councillor D Welsh indicated that he had an “other” interest in the matter the subject of Minute 23 below in that he been consulted, in his capacity as Cabinet Member for Housing and Community, on an aspect the subject of the investigation. He indicated that he would not be participating in the consideration of this item.

### **22. Minutes**

The Minutes of the meeting held on 9 December, 2021 were agreed and signed as a true record.

There were no matters arising.

### **23. Hearing into Alleged Breach of the Code of Conduct**

In light of the declaration of interest by Councillor D Welsh in this matter (Minute 21 above refers), the Committee was not quorate for consideration of this item and therefore this item was deferred to a future meeting.

### **24. Six Monthly Review of Members' Declarations of Gifts and Hospitality**

The Committee considered a report of the Director of Law and Governance appended to which were details of Members' declarations of gifts and hospitality for the period 1 July to 31 December, 2021.

**RESOLVED that the report be noted.**

**25. Six Monthly Review of Officers' Gifts and Hospitality**

The Committee considered a report of the Director of Law and Governance appended to which were details of Officers' declarations of gifts and hospitality for the period 1 July to 31 December, 2021.

**RESOLVED that the report be noted.**

**26. Code of Conduct Update**

The Committee considered a report of the Director of Law and Governance which provided an update on national issues in relation to the ethical behaviour of elected Members and the local position in Coventry with regards to the Code of Conduct.

**RESOLVED that the Ethics Committee:-**

- 1) Notes the position with regard to matters concerning local authorities nationally; and**
- 2) Notes the local position relating to the operation of the Council's Code of Conduct and delegates any actions arising from these to the Monitoring Officer, following consultation with the Chair of the Ethics Committee**

**27. Ethics Committee - Work Programme 2022-23**

The Committee considered a report of the Director of Law and Governance which detailed a proposed Work Programme for 2022/23. It was noted that a meeting of the Committee would need to be held to consider the matter the subject of Minute 23 above.

**RESOLVED that the Work Programme attached to the report be approved with the inclusion of the following items:-**

- 1) The Government's response to the recommendations from the Committee on Standards in Public Life regarding ethics in local government.**
- 2) Members' and Officers' declarations of gifts and hospitality following the City of Culture 2021 Year and the Commonwealth Games 2022.**

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

There were no other items of urgent public business.

(Meeting closed at 2.30pm)



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Ethics Committee  
Council

30 June 2022  
6 September 2022

**Name of Cabinet Member:**

N/A - Ethics Committee

**Director Approving Submission of the report:**

Director of Law and Governance

**Ward(s) affected:**

None

**Title:** Annual Report of Ethics Committee 2021/22

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**Is this a key decision?**

No

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**Executive Summary:**

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

- The Committee's review of the Complaints Protocol
- Guidance on Declarations of Interests
- Civility in public life, intimidation in public life and digital citizenship
- The operation of the new Code of Conduct

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 2022/23 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 considers 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 – 6 September, 2022

## Report title: Annual Report of Ethics Committee 2021/22

### 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 sixth Annual Report of the Ethics Committee.

## **2. The Annual Report and Recommended Proposal**

### **2.1 About the Committee**

Ethics Committee comprised four councillors. In the municipal year 2021/22, the membership of the Committee was Cllr Walsh (Chair), Cllr Hetherington, Cllr Welsh and Cllr John Mutton. There was one named substitute members for the year, 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 4 scheduled meetings in 2021/22. Two meetings were held remotely in July and September 2021 and the meetings in December 2021 and April 2022 were held in person following the return to in-person Council meetings.

### **2.2 Code of Conduct Complaints**

The Council received a total of 4 new formal complaints against councillors in the municipal year 2021/22. All complaints were recommended for no further action (at Stage One).

At its April 2022 meeting the Committee were due to consider an independent investigator's report into a complaint that a Councillor had breached the Code of Conduct in relation to four complaints outstanding from the previous municipal year. However the Code of Conduct hearing in this matter has been postponed until July 2022 as this meeting was not quorate.

### **2.3 The Committee's review of the Complaints Protocol**

At its September 2021 meeting the Committee reviewed the Complaints Protocol (ie for complaints in relation to an elected Councillor or co-opted member of the Council, or of a parish council within its area, where the member has failed to comply with the council's Code of Conduct) and was satisfied that no revisions were required to the Complaints Protocol as a result of the adoption of the new Code of Conduct for Elected and Co-opted Members earlier in the year.

### **2.4 Guidance on Declarations of Interests**

In December 2021 the Committee reviewed and approved the document: "Declaration of Interests – A Quick Guide for Elected Members", with reference to the Local Government Association's (LGA) Guidance to the Model Code of Conduct, published in July 2021.

The LGA produced Guidance on the Model Code of Conduct (Guidance) in July 2021. The Guidance clarified that there are three types of interest:

1. Disclosable Pecuniary Interests (DPIs)
2. Other Registerable Interests (ORIs)
3. Non-Registerable Interests (NRIs); and

And that there are then two situations following this:

1. Registration; or
2. Declaration

Members **must declare the interest**, not participate, not vote and leave the room when:

| <b><i>It is a...</i></b>           | <b><i>Unless...</i></b>   |
|------------------------------------|---|
| <b>DPI</b>                         | The Member has dispensation   |
| <b>ORI (“directly relates to”)</b> | The Member has dispensation or members of the public can speak  |
| <b>NRI (“directly relates to”)</b> | The Member has dispensation or members of the public can speak  |
| <b>NRI (“affects”)</b>             | The Member has dispensation or members of the public can speak OR if it is a less serious interest (having applied the test) when the Member can just declare it but stay, participate and vote |

The Guidance includes a useful flowchart which has been adapted for the Council and incorporated into the “Declaration of Interests – A Quick Guide for Elected Members” document.

## 2.5 Civility in public life, intimidation in public life and digital citizenship

The LGA has been coordinating a programme of work entitled “Civility in Public Life”. This work is in response to the increasing concern about intimidation and toxicity of debate and the impact this has been having on democratic processes.

To support this work the LGA has now started to develop a range of guidance and tools to support councillors and candidates in their online communications (also known as their “Digital Citizenship”) as it is now recognised that online communication is intrinsic to democratic engagement.

The Ethics Committee has been monitoring the work of the LGA and considering how that work can be adopted as a local response to promote Civility in Public Life and Digital Citizenship.

- Through this programme of work the LGA is articulating good standards for anyone engaging in public and political discourse
- understanding the scale and impact of intimidation and abusive behaviour on membership organisations, and developing recommendations for achieving positive debate and public decision-making on a local level

- supporting LGA members and all democratically elected local representatives in addressing intimidation and abuse, so they deliver the best on behalf of their communities

Updates in respect of the Civility in Public Life work are as follows:

- a) The LGA has re-confirmed its commitment to promoting civility in public life and supporting the well-being of elected members, stating that the recent tragic death of Sir David Amess MP has brought this issue into marked focus. Everyone in public life should be able to go about their daily business without fear of attack and the LGA has also stated that it is a challenge that they are determined to meet.

To support this programme the LGA has issued a “Call for evidence of abuse and intimidation of councillors” consultation. The call for evidence is intended to capture elected members' experiences and emerging trends around abuse and intimidation from the public. It is anticipated that the evidence collected will help the LGA to develop a body of evidence to support its calls for legislative and systemic change and develop support for elected members.

- b) In July 2021 the LGA published supporting guidance on its Model Councillor Code of Conduct, which aims to help understanding of and allow for consistency of approach towards the Model Code.

Improving Digital Citizenship has always been a key element of the LGA’s Civility in Public Life work and is becoming increasingly important as our daily interactions continue to take place online and new technologies of information are constantly used to facilitate communication with citizens, officers and councillors. Online abuse and intimidation of local councillors and supporting officers working with them is a major challenge to local democracy and to the diversity of our local representatives.

The LGA’s work in respect of Digital Citizenship is ongoing but the following have been published to date:

- a) Rules of Engagement Info Graphic – the info graphic produced by LGA can be pinned to a member’s social media profile to outline the ways in which they intend to engage with people online. These rules are designed to give all users a clear ‘code’ by which they should operate, with a clear statement that users can be blocked, or posts deleted, if they fail to participate in a civil manner. Based on this infographic, Coventry specific ones have been created for Facebook, Twitter and Instagram and approved by the Ethics Committee.
- b) Signpost to further resources – in particular “Glitch” which is a UK charity that is working to end online abuse – particularly against women and marginalised people. It was founded in 2017 by then local politician, Seyi Akiwowo, after

she received a flood of abuse when a video of her speech at the European Parliament went viral. Through training, research, workshops, and programs, Glitch aims to build an online world that is safer for all.

Glitch's 'Fix the Glitch Toolkit 2.0' is designed to end online gender-based violence for Black women. It covers online gender-based violence, self-care, supporting women online when they experience online abuse, and how we can work to end online violence against Black women.

Before the Covid pandemic a consultation was being undertaken, sponsored by the Cabinet Member for Policing and Equalities that looked at challenges for City Council elected members and how to support participation in public service. More recently this work was picked up in the review of the offer to elected members around member support as a result of a different emerging landscape for elected members to operate in post Covid.

The consultation, entitled "Leader of our Communities – can we improve our service" was sent to all members. Overall, there were 31 responses received to the survey out of a possible total of 54. Responses from the consultation included experiences of intimidation and what support would help in managing or preventing such situations.

These consultation responses have been evaluated and are informing a targeted approach to supporting members in this area. One part of the proposed response being to raise awareness of the LGA guidance on intimidation and harassment alongside additional local protocol and guidance.

Civility in public life is supported through adherence to the requirements of the Code of Conduct for Elected and Co-opted Members in treating others with "respect". This is enhanced in the new Model Code of Conduct produced by the Local Government Association, which the Council adopted a revised version of with effect from the 2021/22 municipal year.

Digital Citizenship is supported through advice and guidance available from the Council's Communications Team. Earlier this year, the Social Media Protocol for Elected Members was updated to recommend ways in which councillors protect themselves online, how to respond to abusive messages, and encourages councillors to seek support where needed.

The Committee:

1. Noted the work that has been undertaken by the LGA and locally in promoting Civility in Public Life and Digital Citizenship

2. Supports the work that is taking place locally to adopt Civility in Public Life and Digital Citizenship, including approving the Rules of Engagement Info Graphics, and supporting officers in promoting this approach amongst members
3. Supports officers in promoting the LGA's consultation, amongst elected members; and
4. Requested that this item remains on the work programme of the Ethics Committee for continued review.

## 2.6 The operation of the new Code of Conduct for Elected and Co-opted Members

Since being issued by the Local Government Association (LGA) in December 2020, the Model Code of Conduct (Model Code) has been amended by the LGA twice on 27 January 2021 and 17 May 2021. Changes made in January 2021 have been incorporated into Coventry City Council's revised version of the Model Code (Revised Code) but changes from May 2021 remained outstanding. The amendments published in May 2021 were published without tracked changes. A further version of the amendments made in May 2021 with tracked changes was published by the LGA in September 2021. Most of the amendments were technical in nature and have been amended by the Monitoring Officer using her delegated authority other changes were made following consultation with the Cabinet Member for Policing and Equalities .

Further, in July 2021 the LGA published Guidance for the Model Code of Conduct (Guidance).

The Guidance is supporting guidance which is aimed to help understanding and consistency of approach towards the Model Code. The Model Code and Guidance, have been designed to encourage good conduct, and safeguard the public's trust and confidence in the role of councillors in local government.

The LGA will undertake an annual review of the Model Code and Guidance to ensure it continues to be fit for purpose, incorporating advances in technology, social media, case law and changes in legislation.

In summary the Guidance covers the following areas:

- **Application of the Model Councillors' Code of Conduct**

The Guidance confirms that the Model Code applies when Councillors are carrying out official duties, for example when considering or discussing local authority business, either as a councillor or representing the local authority on an outside body and the Model Code does not, therefore, apply solely when Councillors are in local authority meetings or on local authority premises.

The code applies to all forms of communication and interaction (paragraph 4.3 of the Revised Code).

The Guidance provides helpful examples of when Councillor activity will fall within the Model Code / Revised Code or not. It explains that for something to fall within the Model Code there must be a clear link to a local authority function or the individual's role as a Councillor.

If there is any ambiguity, as it is not always immediately apparent in which capacity a Councillor is acting, the Guidance recommends that it may be helpful if the Councillor can make clear to people in which capacity they are engaging with them.

The Guidance details that the use or attempt by an individual to use their position as a Councillor to seek to gain an advantage for themselves or someone close to them or to disadvantage someone is an attempt to misuse their position and therefore falls within the scope of the Code of Conduct. Examples given include writing to someone on local authority headed paper or using a local authority email address which may lead someone to assume the individual was writing in their capacity as a Councillor.

The Guidance also addresses Social Media and confirms that a Councillor simply describing themselves as "a Councillor" in a social media posting or at the top of their page or in their username or profile, for example, does not of itself mean that every posting they make is covered by the Model Code / Revised Code. There must be a link within the individual posting or thread to their role as a Councillor or to local authority business. However, even if the Councillor does not describe themselves as a Councillor they may fall within the scope of the Model Code / Revised Code if they are discussing local authority business. Each matter would need to be looked at on a case-by-case basis.

- **General Obligations**

1. **Respect** – means treating other Councillors, officers and members of the public and others with respect, in all forms of communication as failure to show respect can harm public confidence. Examples of respectful behaviour are being polite and courteous. The Guidance acknowledges that disrespectful behaviour is subjective and difficult to define but goes on to say that any behaviour that a reasonable person would think would influence the willingness of fellow councillors, officers or members of the public to speak up or interact with a Councillor because they expect the encounter will be unpleasant or highly uncomfortable fits the definition of disrespectful behaviour. Examples of disrespectful behavior are being rude, swearing and ignoring people trying to speak. The guidance reiterates the rules around Article 10 and freedom of speech and that there is an enhanced level of protection in politics including local government politics. The Guidance also outlines that the respect provisions are not intended to "gag" Councillors and prevent them making criticisms of officers but reminds them to do so respectfully, using the appropriate channels in their local authority and not bring their Council into disrepute.
2. **Bullying** – is unacceptable and should not be tolerated. Bullying can

impact not only the individual but the wider organisation and affect morale and operational effectiveness. Bullying may be characterised as offensive, intimidating, malicious, insulting, or humiliating behaviour, an abuse or misuse of power that can make a person feel vulnerable, upset, undermined, humiliated, denigrated or threatened. Bullying can take the form of physical, verbal, and non-verbal conduct but does not need to be related to protected characteristics. Bullying behaviour may be in person or by any other means of communication. Councillors should always be mindful of the overall potential impact of the behaviour on others as it can affect mental health.

Like disrespectful behaviour, bullying can also be difficult to define. When allegations of bullying are considered it's likely that both perspectives will be considered. Conduct is unlikely to be considered as bullying when it is an isolated incident of a minor nature, where it is targeted at issues, rather than at an individual's conduct or behaviour, or when the behaviour by both the complainant and councillor contributed equally to the breakdown in relations. However, the cumulative impact of repeated 'minor' incidents should not be underestimated.

3. **Harassment** – the Protection from Harassment Act 1997 states that harassment includes behaviour which alarms a person or causes a person distress or puts people in fear of violence and must involve such conduct on at least two occasions. It can include repeated attempts to impose unwanted communications and contact upon a victim in a manner that could be expected to cause distress or fear in any reasonable person. The Guidance advises that harassment of any kind whether direct or indirect is in no-one's interest and should not be tolerated. Like bullying, harassment can take the form of physical, verbal, and non-verbal conduct but does not need to be related to protected characteristics. Harassment may be in person, or any other means of communication. The factors likely to be considered when assessing allegations of harassment are whether the councillor knows or ought to know that their actions constitute harassment, whether a reasonable person would consider the actions to be harassment and the impact of the behaviour/conduct on victim. Examples of harassment include but are not limited to: unwelcome emails, inappropriate comments, physical contact threats or sexual harassment.
4. **Discrimination** – Councils have a duty under the Equality Act 2010 to promote equality and to eliminate unlawful discrimination and harassment. Under the Act the Council may be liable for any discriminatory acts which a Councillor commits. Councillors must be careful not to act in a way which may amount to any of the prohibited forms of discrimination, or to do anything which hinders the Council's fulfilment of its positive duties under the Act. Unlawful discrimination is where someone is treated unfairly because of a protected characteristic as follows:

- a. age

- b. disability
- c. gender reassignment
- d. marriage and civil partnership
- e. pregnancy and maternity
- f. race
- g. religion or belief
- h. sex and sexual orientation

Examples of discriminatory behaviour include but are not limited to: exclusion or treating someone less favourably based on any of the Protected Characteristics and comments, slurs, jokes, statements, questions, or gestures that are derogatory or offensive to an individual's or group's characteristics. The Guidance also mentions that Councillors should be aware of "unconscious bias" and ensure they make decisions based on evidence rather than assumptions.

5. **Impartiality of officers** – Officers must be politically neutral (unless they are political assistants) and should not be coerced or persuaded to act in a way that would undermine their neutrality. At the heart of the Councillor-Officer relationship is mutual respect and they should therefore be conducted in a positive and constructive way. Officers may sometimes give Councillors advice that they do not want to hear or does not suit their political views. They must be allowed to do this without fear of recriminations to allow for good decision-making looking at all relevant options.
6. **Confidentiality and access to information** – Council business is by law generally open and the Council should always operate as transparently as possible, there will be times – for example, when discussing a named individual or commercially sensitive information – when it is appropriate for local authority business to be kept confidential or treated as exempt information. In those circumstances, Councillors must not disclose confidential information, or information which you believe to be of a confidential nature, unless consent is obtained, there is a lawful requirement or it is in the "public interest". A Councillor is entitled to access information held by the local authority for the performance of their duties as a councillor. If a councillor wishes to use local authority information for any purpose other than in connection with their duties as a councillor, and that information is not in a publicly available document, however, then that councillor should submit a freedom of information request so that it can be given to them to use freely.
7. **Disrepute** – Councillors are trusted to make decisions on behalf of their community and their actions and behaviour are subject to greater scrutiny

than that of ordinary members of the public. The Article 10 right to freedom of expression is not unrestricted. Actions of Councillors may have an adverse impact on their role, other councillors and/or the Council and may lower the public's confidence. The Guidance advises that disrepute can be defined as a lack of good reputation or respectability. In the context of the Code of Conduct, a Councillor's behaviour in office will bring their role into disrepute if the conduct could reasonably be regarded as either: reducing the public's confidence in them being able to fulfil their role; or adversely affecting the reputation of the Council's Councillors, in being able to fulfil their role. The misconduct will need to be sufficient to damage the reputation of the Councillor's role or local authority, as opposed simply to damaging the reputation of the individual concerned.

8. **Misuse of position** – Councillors should not take advantage of their responsibilities and opportunities to further their own or others' private interests or to disadvantage anyone unfairly. Even failed attempts to misuse position are a breach of the Model Code. Councillors who own land, or whose relatives or close associates own land, need to be particularly cautious where planning matters are concerned.
9. **Misuse of resources and facilities** – Councillors may be provided with resources and facilities by the Council to assist them in carrying out their duties. These resources, eg stationery, printing, etc are given to help Councillors carry their roles more effectively and are not to be used for business (purely political or otherwise) or personal gain. They should be used in accordance with the purpose for which they have been provided and the Council's own policies regarding their use.
10. **Gifts and Hospitality** – in order for a Councillor to protect their position and the reputation of the local authority, they should exercise caution in accepting any gifts or hospitality which are (or which they reasonably believe to be) offered to them because they are a councillor. The presumption should always be not to accept significant gifts or hospitality. However, there may be times when such a refusal may be difficult if it is seen as rudeness in which case a Councillor could accept it but must ensure it is publicly registered where over the value of £50. Declined gifts or hospitality reaching the threshold should also be declared. This will help the Council to identify if there are any patterns and to be aware of who might be seeking to influence the authority.
11. **Declarations of interest** – Councillors must register two different categories of interests:
  - a. **Disclosable Pecuniary Interests** – these are categories of interests which apply to the Councillor and their partner. The categories are set out in regulations made under s27 of the Localism Act 2011 and knowing non-compliance is a criminal offence.

- b. Other registerable interests – these are categories of interest which apply only to the Councillor and which the LGA believes should be registered as an aid to transparency.

A helpful flow-chart is provided in the Guidance at Appendix 1: “Interests Flowchart”. This flow chart has been adapted for Coventry City Council and included in the “Declaration of Interests – A Quick Guide for Elected Members” document referred to at 2.4 of this Report.

## **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. The Committee normally reviews these registers on average twice a year.

## **2.8 Other Work**

The Committee has continued to receive regular reports on ethical standards cases across the country, where these have been available.

The Committee has also maintained a watching brief on work being undertaken by the Committee on standards in Public Life and locally on supporting members in dealing with challenges associated with public service, particularly in relation to intimidation and abuse.

## **2.9 Work Programme for 2022/23**

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 is looking at work in the following areas:

- Monitoring and responding to the Local Government Association’s work on civility in public life and Digital Citizenship
- Evaluating the Government’s response to the Committee on Standards in Public Life issued in March 2022
- Reviewing the operation of the new Code of Conduct for Elected and Co-opted Members
- A further review of Parish Councils and Standards

The Committee will also maintain a watching brief on any legislative changes arising from the Committee on Standards in Public Life’s report and recommendations of January 2019.

## 2.10 Recommendations

### **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.

### **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.

## 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 Comments from Chief Operating Officer (Section 151 Officer) 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. 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 the Council Plan ([www.coventry.gov.uk/councilplan/](http://www.coventry.gov.uk/councilplan/))?

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) climate change and the environment

None

#### 6.6 Implications for partner organisations?

None at this stage

**Report author(s): Sarah Harriott**

**Name and job title:** Sarah Harriott, Corporate Governance Solicitor, Regulatory Team, Legal Services

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|--|--------------------------------|------------------------------------|--------------------------|---|
| <b>Contributors:</b>   |                                |                                    |                          |   |
| Suzanne Bennett  | Governance Services Officer    | Law and Governance                 | 09/06/22                 | 09/06/22                                  |
| <b>Names of approvers for submission:</b> (officers and members) |                                |                                    |                          |   |
| Finance: Graham Clark  | Lead Accountant                | Finance                            | 14/06/22                 | 14/06/22                                  |
| Legal: Julie Newman  | Director of Law and Governance | Law and Governance                 | 06/06/22                 | 08/06/22                                  |
| Councillor Walsh   | Chair of Ethics Committee      |                                    | 16/06/22                 | 20/06/22                                  |

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Ethics Committee

30 June 2022

**Name of Cabinet Member:**

N/A - Ethics Committee

**Director Approving Submission of the report:**

Director of Law and Governance

**Ward(s) affected:**

**None**

**Title:** Online Safety Bill Update 2022

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**Is this a key decision?**

No

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**Executive Summary:**

The Ethics Committee has been keeping a watching brief on the programme of work coordinated by the LGA entitled "Civility in Public Life". This work is in response to the increasing concern about intimidation and toxicity of debate and the impact this has been having on democratic processes.

To support this work the LGA has now started to develop a range of guidance and tools to support councillors and candidates in their online communications (also known as their "Digital Citizenship") as it is now recognised that online communication is intrinsic to democratic engagement. A report was last brought to the Committee in December 2021 around this and both Civility in Public Life and Digital Citizenship remain part of the Committee's work programme and this report is to provide an update of that local response.

Related to these topics, in February 2022, the Department for Digital, Culture, Media & Sport (DCMS) issued a press release, entitled: New plans to protect people from

anonymous trolls online. In summary central government have made additions to the Online Safety Bill to give Social Media users more control over what they see online and who can interact with them in an effort to fight against anonymous “trolls”.

### **Recommendations:**

The Ethics Committee is recommended to:

1. Note the content of the Press release: New plans to protect people from anonymous trolls online; and
2. Request that this item remains on the work programme of the Ethics Committee for continued review alongside the ongoing work around Civility in Public Life and Digital Citizenship.

### **List of Appendices included:**

None

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

Press release: *New plans to protect people from anonymous trolls online*. From: [Department for Digital, Culture, Media & Sport](#) and [The Rt Hon Nadine Dorries MP](#). Published, 25 February 2022: <https://www.gov.uk/government/news/new-plans-to-protect-people-from-anonymous-trolls-online>

Online Safety Bill: factsheet. From: [Department for Digital, Culture, Media & Sport](#) and [The Rt Hon Nadine Dorries MP](#). Updated April 2022: <https://www.gov.uk/government/publications/online-safety-bill-supporting-documents/online-safety-bill-factsheet>

Report of the Ethics Committee: Civility in Public Life and Digital Citizenship, December 2021: <https://edemocracy.coventry.gov.uk/documents/s51947/05%20-%20Civility%20in%20Public%20Life%20and%20Digital%20Citizenship.pdf>

### **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: Online Safety Bill Update 2022

### 1 Context (or background)

- 1.1 The Council's Ethics Committee has requested that Civility in Public Life (and now Digital Citizenship) remains part of the Committee's work programme amid increasing concern about intimidation and toxicity of debate (both online and offline) and the impact this has been having on democratic processes.
- 1.2 The Online Safety Bill (the Bill) was published in draft in May 2021. In summary the Bill introduces new rules for firms which host user-generated content, i.e. those which allow users to post their own content online or interact with each other (ie Social Media), and for search engines, which will have tailored duties focussed on minimising the presentation of harmful search results to users. The primary focus of the Bill has been preventing and protecting children and young people from exposure to harmful material online, however the remit of the Bill has evolved since it was initially published last year to take into account the exponential rise in online trolling.
- 1.3 Two new duties have been added to the Bill in an attempt to tackle anonymous abusers:
  - i) The main Social Media firms will have to give people the power to control who can interact with them, including blocking anonymous trolls. This will give adults the ability to block people who have not verified their identity on a platform;
  - ii) The main Social Media firms will also need to offer tools to give people more control over what posts they see on social media, providing users with options to opt out of seeing harmful content.
- 1.4 The Government has accepted that too many people currently experience online abuse and there are concerns that anonymity is fuelling this, with offenders having little to no fear of retribution from either the platforms or law enforcement.
- 1.5 Over the past year people in the public eye, including England's Euro 2020 footballers, have suffered horrendous racist abuse. Female politicians have received abhorrent death and rape threats, and there is repeated evidence of ethnic minorities and LGBTQ+ people being subject to coordinated harassment and trolling. On a local level evidence has indicated that this is a major issue for Members in Coventry too.
- 1.6 First duty - user verification and tackling anonymous abuse

- 1.6.1 The vast majority of social networks used in the UK do not require people to share any personal details about themselves - they are able to identify themselves by a nickname, alias or other term not linked to a legal identity.
- 1.6.2 The idea is that removing the ability for anonymous trolls to target people on the biggest Social Media platforms will help tackle the issue at its root.
- 1.6.3 The Bill already places requirements on Social Media firms to tackle harmful content posted anonymously on their platforms and manage the risks around the use of anonymous profiles. This could include banning repeat offenders associated with abusive behaviour, preventing them from creating new accounts or limiting their functionality.
- 1.6.4 Under the new duty companies with the largest number of users and highest reach - and thus posing the greatest risk - must offer ways for their users to verify their identities and control who can interact with them.
- 1.6.5 The Government has recognised that banning anonymity online entirely would negatively affect those who have positive online experiences or use it for their personal safety such as domestic abuse victims.
- 1.6.6 It has been proposed that the new duty will provide a better balance between empowering and protecting adults - particularly the vulnerable - while safeguarding freedom of expression online because it will not require any legal free speech to be removed. While this will not prevent anonymous trolls posting abusive content in the first place - providing it is legal and does not contravene the platform's terms and conditions - it will stop victims being exposed to it and give them more control over their online experience.
- 1.6.7 Users who see abuse will be able to report it and the bill will significantly strengthen the reporting mechanisms companies have in place for inappropriate, bullying and harmful content, and ensure they have clear policies and performance metrics for tackling it.
- 1.6.8 Further information on how companies will be able to fulfil the new identity verification requirements will be set out by the regulator Ofcom in codes of practice.

## 1.7 Second duty - giving people greater choice over what they see on social media

- 1.7.1 The Bill already forces large Social Media firms to remove illegal content such as child sexual abuse imagery, the promotion of suicide, hate crimes

and incitement to terrorism. However there is a growing list of toxic content and behaviour on social media which falls below the threshold of a criminal offence but which still causes significant harm. This includes racist abuse, the promotion of self-harm and eating disorders, and dangerous anti-vaccine disinformation. Much of this is already expressly forbidden in social networks' terms and conditions but too often it is allowed to stay up and is actively promoted to people via algorithms.

1.7.2 Under a second new duty, large Social Media firms will have to make tools available for their adult users to choose whether they want to be exposed to any legal but harmful content where it is tolerated on a platform.

1.7.3 These tools could include new settings and functions which prevent users receiving recommendations about certain topics or place sensitivity screens over that content.

1.8 The LGA has confirmed that it is pleased with the announcement in its initial response Chair of the LGA's Safer and Stronger Communities Board, Cllr Nesil Caliskan, has said: "Social media is a significant part of our everyday lives, and everyone should be able to access online platforms safely. These new duties reflect recommendations made by the LGA and will support people to feel safer online and to have more control over online interactions.

1.9 "Councillors experience daily online intimidation, abuse and threats made against them. These harmful behaviours are entirely unacceptable. Enabling councillors and other users to choose whether to engage with anonymous or unverified accounts is a valuable tool that still ensures those who need to remain anonymous online are able to do so."

1.10 Cllr Caliskan added: "The user empowerment duty will reduce the risk of online harm by allowing users to better control the content they see. We would encourage the Government to go further and ensure users can opt out of algorithms and 'suggested content' altogether.

1.11 "We would like to see Ofcom produce a mandatory Safety by Design Code of Practice to ensure providers consider and mitigate risks of harm, including minimum requirements for verifying social media accounts under the new user verification duty."

## **2. Options considered and recommended proposal**

The Committee are asked to:

1. Note the content of the Press release: New plans to protect people from anonymous trolls online; and
2. Request that this item remains on the work programme of the Ethics Committee for continued review alongside the ongoing work around Civility in Public Life and Digital Citizenship.

### **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**

- 4.1 Any actions arising from this report will be implemented as soon as possible.

### **5. Comments from Comments from Chief Operating Officer (Section 151 Officer) 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. 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 the Council Plan ([www.coventry.gov.uk/councilplan/](http://www.coventry.gov.uk/councilplan/))?**

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.

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|--|---------------------------------------|------------------------------------|--------------------------|---|
| <b>Contributors:</b>   |                                       |                                    |                          |   |
| Suzanne Bennett  | Governance Services Officer           | Law and Governance                 | 10/06/22                 | 10/06/22                                  |
| Sarah Harriott   | Corporate Governance Solicitor        | Law and Governance                 | 13/06/22                 | 13/06/22                                  |
| Nigel Hart   | Head of Communications                | Corporate Communications           | 14/06/22                 | 14/06/22                                  |
| Gennie Holmes  | Scrutiny Coordinator                  | Governance Services and Scrutiny   | 14/06/22                 | 14/06/22                                  |
| <b>Names of approvers for submission: (officers and members)</b> |                                       |                                    |                          |   |
| Graham Clark   | Lead Accountant – Business Partnering | Finance                            | 14/06/22                 | 14/06/22                                  |

|                  |                              |  |          |          |
|------------------|------------------------------|--|----------|----------|
| Councillor Walsh | Chair of Ethics<br>Committee |  | 16/06/22 | 20/06/22 |
|------------------|------------------------------|--|----------|----------|

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Ethics Committee

30 June 2022

**Name of Cabinet Member:**

N/A- Ethics Committee

**Director Approving Submission of the report:**

Director of Law and Governance

**Ward(s) affected:**

None

**Title:**

Report on the Government's March 2022 Response to the Committee on Standards in Public Life Report of 2019

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**Is this a key decision?**

No

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**Executive Summary:**

This report is to outline the Government's March 2022 Response to the Committee on Standards in Public Life Report (CSPL's) report of 2019, entitled Local Government Ethical Standards and to inform the Ethics Committee of relevant matters of concern in their work area on a national level.

**Recommendations:**

The Ethics Committee is recommended to:

- (1) Note the content of the response and consider any points upon which it may wish to take action; and
- (2) Request the Monitoring Officer to continue to monitor the national picture as regards standards and report back on any issue which may be of relevance to the Council on a local level.

**List of Appendices included:**

None

**Other useful background papers:**

- Committee on Standards in Public Life Report entitled: *Local Government Ethical Standards, dated January 2019:*

<https://www.gov.uk/Government/publications/local-Government-ethical-standards-report>

- Government response to the Committee on Standards in Public Life review of local Government ethical standards, published 18 March 2022:

<https://www.gov.uk/Government/publications/local-Government-ethical-standards-Government-response-to-the-committee-on-standards-in-public-life-report/Government-response-to-the-committee-on-standards-in-public-life-review-of-local-Government-ethical-standards>

- Local Government Transparency Code:

<https://www.gov.uk/government/publications/local-government-transparency-code-2015>

**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 The Committee on Standards in Public Life (the CSPL) was set up in 1994. It monitors, reports and makes recommendations on all issues relating to standards in public life. This includes not only the standards of conduct of holders of public office, but all those involved in the delivery of public services. Its purpose is to help promote and maintain ethical standards in public life and thereby to protect the public interest through:

- monitoring standards issues and risks across the United Kingdom (by invitation in the devolved areas);
- conducting inquiries and reviews and making practical and proportional recommendations that are generally implemented;
- researching public perceptions on standards issues relating to specific areas of concern, and also over time.

Its terms of reference make it clear that it encompasses all involved in the delivery of public services, not solely those appointed or elected to public office.

1.2 Whilst it is a national body, having an overarching concern about public standards, its views and recommendations can be taken in account by local Government and other organisations delivering public services when designing, implementing and monitoring their own ethical standards regime.

1.3 The CSPL published a report on Local Government Ethical Standards in January 2019. The report reviewed the current framework established by the Localism Act 2011. The 2019 report provided assurance that the arrangements in place in local authorities are promoting and maintaining standards expected by the public and that the majority of local councillors do maintain high ethical standards.

2.1.1 The CSPL recommended though that some improvements were required, in particular, the need for maximum independence in local complaints processes and the need for greater sanctions, where appropriate, in the rare cases of significant or repeated breaches of the code of conduct.

2.1.2 One of the CSPL's key recommendations was that there should be a non-mandatory model code of conduct which has now been produced by the Local Government Association, and which the Council have adopted a revised version of with effect from the 2021/22 municipal year.

2.1.3 In summary the Government have responded as follows (numbering refers to the CSPL's recommendation numbers):

**Recommendation 1:** The recommendation for a model code has been actioned and published by the LGA (NB the Council adopted a revised version of the Model Code of Conduct with effect from the 2021/22 municipal year);

**Recommendation 2:** The Government agrees with the principal not to require public disclosure of home addresses for candidates and councillors and will

engage with interested parties to ensure such disclosure is not required (whilst noting that it is important to register internally with the Monitoring Officer);

**Recommendation 3:** Creating a presumption that a Councillor is acting in an official capacity including on publicly accessible social media should be dealt with by use of the Code of Conduct recognising the boundary between public and private life (embedded in the Council's Code of Conduct);

**Recommendation 4:** Whilst keeping under review, the Government has no immediate plans to legislate for the Code of Conduct to apply when a Councillor claims to act or gives the impression as acting in their capacity (note this is in the LGA's model code and has been adopted by Coventry City Council);

**Recommendation 5:** Whilst keeping under review, the Government has no immediate plans to amend the Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012 to include other interests not currently specified;

**Recommendation 6:** It is for local authorities to set gifts and hospitality registration requirements. The register should be publicly available (as is the case at the Council);

**Recommendation 7:** Whilst keeping under review, the Government has no immediate plans to repeal s31 Localism Act in respect of participating in discussion or voting at a meeting where an interest, whether registered or not, exists and the interest is reasonably regarded as significant;

**Recommendation 8:** The Government does not accept that Independent Persons should be appointed for a fixed term of two years, renewable once, on the basis it would be unworkable. Discussions with Monitoring Officers has indicated that in practice most local authorities would likely find servicing this rate of turnover unachievable. "There is frequently a small pool of people capable and willing to undertake the role, who also fit the stringent specifications of being amongst the electorate, having no political affiliation, no current or previous association with the council, and no friends or family members associated with the council";

**Recommendations 9 and 15:** The Government does not agree that the Local Government Transparency Code should include decisions of the Independent Person. This document sets out the minimum data that local authorities should be publishing, the frequency it should be published and how it should be published. It does accept there is merit to the substantive policy suggestion but cautions it depends on the circumstances.

**Recommendations 10, 13, 14 and 16:** These recommendations all cover sanctions, power to establish decision making standards committees, right of appeal to the Local Government Ombudsman and its power to investigate, together with 6-month suspension powers.

The Government affirmed that the lack of suspension sanction was a deliberate policy decision by the coalition Government at the time of the Localism Act, to differentiate the new regime from that of the previous Standards Board stating that the Standards Board had a 'chilling effect on free speech' and that it would be

'undesirable to have a Government quango to police the free speech of councillors'.

The Government's position is that councillors are 'ultimately held to account via the ballot box' and that the Government has already recommended that every political party 'establish their own code of conduct for party members including elected representatives'.

Further the response insisted that "on the rare occasions" where notable breaches of the code of conduct had occurred, local authorities were not without sanctions under the current regime.

"Councillors can be barred from Cabinet, Committees, or representative roles, and may be publicly criticised. If the elected member is a member of a political group, they would also expect to be subject to party discipline, including being removed from that group or their party. Political parties are unlikely to reselect councillors who have brought their group or party into disrepute. All councillors are ultimately held to account via the ballot box."

The Government has recommended that every political party establish their own code of conduct for party members, including elected representatives.

The Government has promised to engage with sector representative bodies of councillors and officers of all tiers of local Government "to seek views on options to strengthen sanctions to address breaches of the code which fall below the bar of criminal activity and related sanctions but involve serious incidents of bullying and harassment or disruptive behaviour".

The CSPL had also called on the Government to clarify if councils may lawfully bar councillors from council premises or withdraw facilities as sanctions. "These powers should be put beyond doubt in legislation if necessary," it had said.

In its response the Government said: "The criminal law, overseen by the police and courts, provides for more appropriate and effective action against breaches of public order, for anti-social behaviour, and against harassment.

**Recommendation 11:** The Government agrees in principle to the provision of legal indemnity to an Independent Person if their views or advice are disclosed but does not see the need to legislate for this, rather endorsing local authorities who already provide it.

**Recommendation 12:** The Government does not believe that there is a requirement to prescribe to local authorities the form and content of Standard Committee annual reports which are better addressed through the sector adopting as best practice a regular pattern of annual reporting by Standards Committees.

**Recommendation 18:** The Government does not agree that criminal offences in the Localism Act 2011 relating to Disclosable Pecuniary Interests should be abolished.

**Recommendation 19:** “Parish council clerks should hold an appropriate qualification, such as those provided by the Society of Local Council Clerks” was not responded to.

**Recommendation 20:** The Government does not agree it is necessary to amend s27(3) of the Localism Act 2011 to state that parish councils must adopt the code of conduct of their principle authority, but acknowledges there is merit in achieving consistency whilst noting instances to reflect local circumstances might be different.

**Recommendation 21:** Government has no plans to repeal s28(11) of the Localism Act 2011 to enable sanctions of parish councillors to be determined by their relevant principal authority but will give it further consideration.

**Recommendation 22:** The Government agrees in principle to amend The Local Authorities (Standing Orders) (England) (Amendment) Regulations 2015 to extend disciplinary protections for statutory officers (this would include the Monitoring Officer) to all disciplinary actions (not just dismissal) and will engage sector representatives of all tiers to seek views on the amendments.

**Recommendation 23:** The Government recommends that local authorities publish their whistleblowing policies and named contact as best practice and the Department for Levelling Up, Housing and Communities will work with local Government to advance transparency in the sector and support local Government to solidify transparent policies whilst encourage proactive publication of open data.

**Recommendation 24:** The Government is open to further representations on how local accountability can be strengthened and recognises that councillors being listed as prescribed persons for the purposes of the Public Interest Disclosure Act 1998 provides a further check and balance against corruption.

## 2.6 Recommendations

The Ethics Committee is recommended to

- (1) Note the content of the report and consider any points upon which it may wish to take action; and
- (2) Request the Monitoring Officer to continue to monitor the national picture as regards standards and report back on any issue which may be of relevance to the Council on a local level.

## 3 Results of consultation undertaken

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

## **5 Comments from the Chief Operating Officer (Section 151 Officer) and the 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**

The Council's current standards regime complies fully with the Localism Act 2011. However, the Ethics Committee should consider the response from Government and how this impacts on the local picture.

## **6 Other implications**

### **6.1 How will this contribute to the Council Plan ([www.coventry.gov.uk/councilplan/](http://www.coventry.gov.uk/councilplan/))?**

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, but the Ethics Committee may wish to consider the wider impact of the damage to public confidence in the elected membership of the Council if the ethical standards framework was not perceived as transparent and effective.

### **6.3 What is the impact on the organisation?**

There is no immediate impact on the organisation.

### **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) climate change and the environment**

None

### **6.6 Implications for partner organisations?**

None

**Report author(s): Sarah Harriott**

**Name and job title:** Sarah Harriott, Corporate Governance Solicitor, Regulatory Team, Legal Services

**Directorate:** Law and Governance

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| <b>Contributors:</b>   |                                       |                                    |                          |   |
| Suzanne Bennett  | Governance Services Officer           | Law and Governance                 | 09/06/22                 | 09/06/22                                  |
| <b>Names of approvers for submission: (officers and members)</b> |                                       |                                    |                          |   |
| Graham Clark   | Lead Accountant – Business Partnering | Finance                            | 14/06/22                 | 14/04/22                                  |
| Julie Newman   | City Solicitor and Monitoring Officer | Law and Governance                 | 06/06/22                 | 08/06/22                                  |
| Cllr Walsh   | Chair, Ethics Committee               |                                    | 16/06/22                 | 20/06/22                                  |

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Ethics Committee

30 June 2022

**Name of Cabinet Member:**

N/A - Ethics Committee

**Director Approving Submission of the report:**

Director of Law and Governance

**Ward(s) affected:**

**None**

**Title:** Code of Conduct Update

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**Is this a key decision?**

No

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**Executive Summary:**

This report updates members of the Ethics Committee on any national issues in relation to the ethical behaviour of elected members and the local position in Coventry with regard to Code of Conduct issues.

**Recommendations:**

The Ethics Committee is recommended to:

1. Note the position with regard to matters concerning local authorities nationally; and
2. Note the local position relating to the operation of the Council's Code of Conduct and to delegate any actions arising from these to the City Solicitor and Monitoring Officer, in consultation with the Chair of the Ethics Committee.

**List of Appendices included:** None

**Other useful background papers**

AEA-LLG-ADSO Guidance: Casual Vacancy – Failure to Attend Meetings – 10 May 2022: <https://www.adso.co.uk/aea-llg-adso-guidance-casual-vacancy-failure-to-attend-meetings-10-may-2022/>

**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: Code of Conduct Update**

### **1. Context (or background)**

1.1 The Council's Ethics Committee has agreed that the Monitoring Officer will provide a regular update on cases relating to the Members' Code of Conduct on a national basis. This is to facilitate the Ethics Committee's role in assisting the Council with its duties under section 27 of the Localism Act 2011 to promote and maintain high standards of Member conduct.

### **1.2 The National Picture**

#### **1.2.1 Councillor S, South Kesteven District Council, Lincolnshire**

A Councillor who made a racist remark during a public meeting was suspended from his party for five months. Councillor S resigned from his role as vice chairman of South Kesteven District Council and was suspended from his party in November 2021. His choice of words sparked protests, calls for extra training, and an investigation into his conduct.

A review into his actions recommended several sanctions against Councillor S, including asking him to make a further apology and attend equality and diversity training.

A spokesperson for the party group at the council said Councillor S had formally apologised in front of a meeting of the full council and had undertaken equality and diversity training.

He now has party Whip restored and the council's website has been updated to reflect this. In a statement, Councillor S said: "I would like to take this opportunity to apologise again for using such inappropriate language, I regret it unreservedly and it was a mistake."

#### **1.2.2 Former Councillor L, Harlow Council, Essex**

A Councillor quit less than a week after being elected on 5 May 2022, after his Twitter feed was allegedly found to be full of 'racist' retweets and likes including comments against the new actor cast to play Dr Who.

The whip was removed 'immediately' by the Councillors party who stated that they utterly condemned the content of the Tweets. Mr L stepped down, after his Twitter feed was discovered to have retweeted posts which made comments that were described as racist.

Mr L is yet to make a comment about his social media activity and appears to have deactivated his Twitter account.

### 1.2.3 Guidance on the appropriate actions to take when a council member fails to attend any meeting for six consecutive months

The Association of Electoral Administrators has issued guidance on the appropriate actions to take when a council member fails to attend any meeting for six consecutive months.

The Guidance, which has been endorsed by LLG (Lawyers in Local Government) and ADSO (the Association of Democratic Services Officers), notes that: “Section 85 (1) of the Local Government Act 1972 states that if a member of a council (both principal area and parish/community) fails throughout a period of six consecutive months from the date of their last attendance to attend any meeting of the council, 1 2 they shall, unless the failure was due to some reason approved by the council before the expiry of that period, **cease to be a member of the council**”. [Emphasis in the Guidance]

The Guidance says the wording highlighted in bold “clarifies that while failure to attend any meetings for six consecutive months leads to that person ceasing to be a member of the council, it does not automatically create a casual vacancy for electoral purposes at that point”.

The document covers:

- When does the vacancy occur?
- Who can declare the vacancy and how?
- When does an election take place for the vacancy?
- Implications where vacancy occurs within six months of ordinary day of retirement

A copy of the guidance can be [viewed here](#).

## 1.3 The local picture

### *Complaints under the Code of Conduct*

1.3.1 The Ethics Committee has requested that the Monitoring Officer report regularly on any complaints received relating to Members of Coventry City Council.

1.3.2 The Monitoring Officer has received no new complaints since the date of the last meeting (5 April 2022) as at the date this report was written.

1.3.3 The Monitoring Officer will update the Committee on any further complaints received before the meeting and progress on those already received.

1.3.4 All complaints are handled in accordance with the agreed Complaints Protocol. No findings have been made by the Local Government Ombudsman in relation members of Coventry City Council.

## **2. Options considered and recommended proposal**

Members of the Committee are asked to:

1. Note the position with regard to matters concerning local authorities nationally;
2. Note the local position relating to the operation of the Council's Code of Conduct and to delegate any actions arising from these to the City Solicitor and Monitoring Officer, in consultation with the Chair of the Ethics Committee.

## **3. Results of consultation undertaken**

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**

Any actions arising from this report will be implemented as soon as possible.

## **5. Comments from the Chief Operating Officer (Section 151 Officer) 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. 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 the Council Plan ([www.coventry.gov.uk/councilplan/](http://www.coventry.gov.uk/councilplan/))?**

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) 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.

| <b>Contributor/approver name</b>                                 | <b>Title</b>                   | <b>Service Area</b> | <b>Date doc sent out</b> | <b>Date response received or approved</b> |
|--|--------------------------------|---------------------|--------------------------|---|
| <b>Contributors:</b>   |                                |                     |                          |   |
| Suzanne Bennett  | Governance Services Officer    | Law and Governance  | 09/06/22                 | 09/06/22                                  |
| Sarah Harriott   | Corporate Governance Solicitor | Law and Governance  | 08/06/22                 | 08/06/22                                  |
| <b>Names of approvers for submission: (officers and members)</b> |                                |                     |                          |   |
| Finance: Graham Clark  | Lead Accountant                | Finance             | 14/06/22                 | 14/06/22                                  |
| Councillor S Walsh   | Chair of Ethics Committee      |                     | 16/06/22                 | 20/06/22                                  |

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## Casual Vacancy – Failure to attend meetings

### 1 Introduction

- 1.1 This paper sets out the appropriate actions to take when a member fails to attend any meeting for six consecutive months.
- 1.2 [Section 85 \(1\) of the Local Government Act 1972](#) states that if a member of a council (both principal area and parish/community) fails throughout a period of six consecutive months from the date of their last attendance to attend any meeting of the council,<sup>1 2</sup> they shall, unless the failure was due to some reason approved by the council before the expiry of that period, **cease to be a member of the council**.
- 1.3 The wording highlighted in bold clarifies that while failure to attend any meetings for six consecutive months leads to that person ceasing to be a member of the council, it does not automatically create a casual vacancy for electoral purposes at that point.

### 2 When does the vacancy occur?

- 2.1 [Section 86 of the Local Government Act 1972](#) makes clear that where a member of the council ceases to be a member by reason of failure to attend meetings, the council shall forthwith declare their office to be vacant.
- 2.2 Therefore, a casual vacancy does not occur until the council declare the office to be vacant which should happen forthwith<sup>3</sup> after the person has ceased to be a member of the authority.

### 3 Who can declare the vacancy and how?

- 3.1 Provided the council's constitution has granted the proper officer of the council the power to declare the office of councillor vacant, they can do so immediately after the person has ceased to be a member. We believe they should do this immediately after the six-

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<sup>1</sup> For this purpose, meetings include not only meetings of the full council but also committees and meetings of bodies of which the member is the council's representative.

<sup>2</sup> It is also important to note an executive member of the council taking an individual executive action is deemed to be 'in attendance' for the purposes of the six-month rule (Section 85 2(B) of the Local Government Act 1972).

<sup>3</sup> Forthwith means immediately; promptly; without delay.

month deadline has passed advising, as a minimum, all remaining council members and posting confirmation on the council's website.

- 3.2 Where the council's constitution has not granted any such powers to the proper officer, the vacancy must be declared at a council meeting that has the relevant authority to do so. Where a vacancy needs to be declared in this manner, there can potentially be a delay between the person ceasing to be a member and the vacancy occurring as it is dependent on the date of the next council meeting.
- 3.3 Where the vacancy is declared at a council meeting, this can take the form of a report highlighting the fact such a vacancy has occurred due to a member's failure to attend meetings.
- 3.4 We believe it is good practice for the council's constitution to provide delegated authority to the proper officer of the council to declare vacancies that occur in relation to [Section 86 of the Local Government Act 1972](#). The requirement for the council to forthwith declare the office to be vacant places an expectation that this will happen without delay. By delegating authority to the proper officer, any such vacancies can be declared in the timely manner anticipated by the legislation.
- 3.5 Once the council has declared the office to be vacant, they are required to immediately give public notice of the casual vacancy.<sup>4</sup> The notice of vacancy must be posted in some conspicuous place or places within the area of the council and in such other manner, if any, as appears to the council to be desirable for giving publicity to the notice.<sup>5</sup>

#### **4 When does an election take place for the vacancy?**

- 4.1 An election to fill a vacancy in a **principal area** must be held within **thirty-five days** (excluding dies non) from the date that the vacancy has been declared by the local authority.<sup>6</sup>
- 4.2 There are no grounds for two local government electors for the local authority area to give written notice to the proper officer requesting the election where the vacancy is the result of a member's failure to attend meetings. There are also no grounds for two local government electors to request an election to fill the vacancy during the period between the councillor ceasing to be a member and the council declaring the vacancy. The reason being

<sup>4</sup> [Section 87 \(2\), Local Government Act 1972](#)

<sup>5</sup> [Section 232 \(1\), Local Government Act 1972](#)

<sup>6</sup> [Section 89 \(1\)\(a\), Local Government Act 1972](#)

that there is no vacancy to be filled until the council have declared it.

- 4.3 An election to fill a vacancy in a **parish/community council area** must be held within **sixty days** (excluding dies non) of public notice of vacancy being given, subject to a request for an election by ten electors from the parish/community (or where applicable, the parish/community ward) being received within fourteen days (excluding dies non) of the notice of vacancy.<sup>7</sup>
- 4.4 Unlike for a principal area, even where the parish/community council have declared the vacancy and published the notice of vacancy, they cannot proceed with holding an election until the election is requested by ten electors from the parish/community within fourteen days (excluding dies non) of the notice of vacancy being published.
- 4.5 If no election request is received within the required time, the parish/community council must fill the vacancy by a co-opting a member who is duly qualified.<sup>8</sup>

## 5 Implications where vacancy occurs within six months of ordinary day of retirement

- 5.1 For **principal area councils**, where a casual vacancy occurs within six months before the day on which the councillor whose office is vacant would regularly have retired, an election shall not be held unless the total number of unfilled vacancies exceeds one third of the total membership of the authority.<sup>9</sup>
- 5.2 For **parish/community councils**, where a casual vacancy occurs within six months before the day on which the councillor whose office is vacant would regularly have retired, an election shall not be held.<sup>10</sup> The parish/community council may however fill the vacancy by co-opting a member who is duly qualified.<sup>11</sup>

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<sup>7</sup> [Rule 5, The Local Elections \(Parishes and Communities\) \(England and Wales\) Rules 2006](#)

<sup>8</sup> [Rule 5 \(5\), The Local Elections \(Parishes and Communities\) \(England and Wales\) Rules 2006](#)

<sup>9</sup> [Section 89 \(3\), Local Government Act 1972](#)

<sup>10</sup> [Rule 5 \(3\), The Local Elections \(Parishes and Communities\) \(England and Wales\) Rules 2006](#)

<sup>11</sup> [Rule 5 \(6\), The Local Elections \(Parishes and Communities\) \(England and Wales\) Rules 2006](#)

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- 5.3 It is important to note a vacancy does not occur until it has been declared by the council. Even if a member ceases to be qualified due to non-attendance more than six-months before their ordinary day of retirement, there would be no requirement to hold a casual vacancy election if the council declare the vacancy within six-months of the date of the councillor regularly retiring.<sup>12</sup>

**This guidance was drafted by the Association of Electoral Administrators and has been endorsed by Lawyers in Local Government and the Association of Democratic Services Officers.**

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<sup>12</sup> For example, a councillor ceases to be qualified on 1 November. They are due to retire on 8 May. If the council declares the vacancy on 5 November, there will need to be a casual vacancy election as the vacancy has occurred more than six months before the date of retirement. If they declare on 10 November, there will not need to be a casual vacancy election, as this is within six months before the date of retirement.



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Ethics Committee

30 June 2022

**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 2022/23

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**Is this a key decision?**

No

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**Executive Summary:**

This report sets out the previously approved work programme for the Committee for the remainder of the Municipal Year 2022/23. The Committee is asked to consider the work programme and make any suggestions for additional or alternative reports.

**Recommendations:**

The Ethics Committee is recommended to review the Work Programme attached as Appendix 1 and make any changes or amendments that the Committee considers appropriate.

**List of Appendices included:**

Work Programme

**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: Work Programme for the Ethics Committee for 2022/23

### 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 the previously approved 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.
- 1.2 The Committee's work programme takes account of the need to promote standards and addresses this in a number of ways. It 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 was approved by the Committee at its meeting on 5 April 2022 with the inclusion of the following items:
- 1) **The Government's response to the recommendations from the Committee on Standards in Public Life regarding ethics in local government.**
  - 2) **Members' and Officers' declarations of gifts and hospitality following the City of Culture 2021 Year and the Commonwealth Games 2022.**
- 2.2 The Committee is asked to consider whether there are any other matters that they would want to consider during the year or items that they would want to defer.

### 2.3 Recommendation

The Ethics Committee is recommended to review the work programme attached as Appendix 1 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 Comments from Chief Operating Officer (Section 151 Officer) 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 to the Council Plan ([www.coventry.gov.uk/councilplan/](http://www.coventry.gov.uk/councilplan/))?**

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 Equalities / 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

**Report author(s): Sarah Harriott**

**Name and job title:** Sarah Harriott, Corporate Governance Solicitor, Regulatory Team, Legal Services

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| <b>Contributor/approver name</b>                                 | <b>Title</b>                          | <b>Directorate or organisation</b> | <b>Date doc sent out</b> | <b>Date response received or approved</b> |
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| <b>Contributors:</b>   |                                       |                                    |                          |   |
| Suzanne Bennett  | Governance Services Officer           | Law and Governance                 | 09/06/22                 | 09/06/22                                  |
| <b>Names of approvers for submission:</b> (officers and members) |                                       |                                    |                          |   |
| Finance: Graham Clark  |                                       | Finance                            | 14/06/22                 | 14/06/22                                  |
| Legal: Julie Newman  | City Solicitor and Monitoring Officer | Law and Governance                 | 06/06/22                 | 08/06/22                                  |
| Cllr Walsh   | Chair: Ethics Committee               |                                    | 16/06/22                 | 20/06/22                                  |

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## Appendix 1

### Work Programme for the Municipal year 2022/23

| Meeting no. and date     | Topics  |
|--------------------------|---|
| <b>2022/3</b>            |   |
| <b>1. June 2022</b>      |   |
|                          | Monitoring Officer/Code of Conduct/ Members Complaints Update   |
|                          | Annual Report of the Committee  |
|                          | Report on the March 2022 Government response to the Committee on Standards in Public Life Report, 2019  |
|                          | Work Programme 2022/23  |
| <b>2. September 2022</b> |   |
|                          | Monitoring Officer/Code of Conduct/ Members Complaints Update   |
|                          | Officers Gifts and Hospitality -Inspection of Registers for first 6 months of 2022 (to include declarations of gifts and hospitality following the City of Culture 2021 Year) |
|                          | Members Gifts and Hospitality -Declarations for first 6 months of 2022 (to include declarations of gifts and hospitality following the City of Culture 2021 Year)             |
|                          | Civility in Public Life and Digital Citizenship Review  |
|                          | Annual Report on Parish Councils  |
|                          | Work Programme 2022/23  |
| <b>3. December 2022</b>  |   |
|                          | Monitoring Officer/Code of Conduct/ Members Complaints Update.  |
|                          | Local Government Ombudsman Annual Report  |
|                          | Committee on Standards in Public Life Annual Report   |
|                          | Work Programme 2022/23  |
| <b>4. March 2023</b>     |   |
|                          | Monitoring Officer/Code of Conduct/ Members Complaints Update.  |
|                          | Officers Gifts and Hospitality -Inspection of Registers for last 6 months of 2022 (to include declarations of gifts and hospitality following the Commonwealth Games 2022)    |
|                          | Members Gifts and Hospitality -Declarations for last 6 months of 2022 (to include declarations of gifts and hospitality following the Commonwealth Games 2022)                |
|                          | Work Programme 2023/24  |