
20th February 2014

Ethics Committee

Executive Director Approving Submission of the report:

Executive Director, Resources

Ward(s) affected:

None

Title:

Code of Conduct update

Is this a key decision?

No

Executive Summary:

This report suggests a new complaint form to be included on the Council's website in relation to complaints against elected and co-opted members and in addition sets out a summary of three cases determined under the new complaints regime from other authorities.

Recommendations:

The Ethics Committee is recommended to

- 1.1 Approve the new complaint form at Appendix 1 and any consequential changes to the Council's webpage
- 1.2 Note the three cases determined under the new regime and delegate any actions arising from these to the Assistant Director Legal and Democratic Services in consultation with the Chair the Ethics Committee

List of Appendices included:

Appendix 1 Complaint form
Appendix 2 Coventry City Council's Complaint's Protocol

Other useful background papers:

None

Has it been or will it be considered by Scrutiny?

No

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

No

Will this report go to Council?

No

1. Context (or background)

- 1.1 The Council's Ethics Committee was set up following the introduction of the new standards regime under the Localism Act 2011. The Committee adopted the new complaints protocol following the introduction of the Council's new Code of Conduct at its initial meeting on the 30th August 2012.
- 1.2 The Council's Complaints protocol stipulates that complaints must be submitted in writing, but does not require a specific form to be used, nor allow submission using an online form. This report attaches a draft of a complaint form which it is hoped will assist potential complainants, subject members and the Monitoring Officer, in ensuring a robust, transparent and straightforward process for the submission and processing of member complaints.
- 1.3 Since the new regime came into effect, the Council's Monitoring Officer has not received any complaints about elected members, co-opted members or indeed any referral of complaints from the two parish councils of Keresley and Allesley.
- 1.4 Since the Council has not received any complaints, a review of cases on a national basis was undertaken by the Monitoring Officer, to raise awareness of any issues which would assist the Ethics Committee in assisting the Council with its duties under section 27 of the Localism Act 2011 to promote and maintain high standards of member conduct.

2. Options considered and recommended proposal

- 2.1 Whilst the Council's Protocol does not require the completion of a form for complaints to be made about elected and co-opted members, the form has been designed so that a complainant is aware of the individual requirements which make up a valid complaint. Experience of dealing with complaints under the old regime showed that requiring potential complaints to :
 - 2.1.1 clearly identify what had been said or done
 - 2.1.2 date and place the conduct
 - 2.1.3 set out evidence in support
 - 2.1.4 relate the conduct complained of to specific paragraphs of the Code of Conductenabled the complaint to be dealt with in a more timely and efficient manner, and raised the awareness of the potential complainant as to the procedure which would be applied once the complaint was lodged. It also assisted in ensuring only valid complaints were submitted, as it allowed the Monitoring Officer to return the form if not correctly completed. The new form should allow potential complaints to identify the correct sections of the Code they believe have been infringed and produce a complaint in a logical and timely manner. It also deals with the need to advise potential complainants that their identity will not usually be withheld, and sets up an expectation that elected members will know the case they have to meet at the earliest opportunity.
- 2.2. It has been also noted that the Council's website was not as clear as it could be in terms of signposting for a potential complainant. It is therefore suggested that once approved, the form be located at several places on the webpage, that the Council's Complaints

Protocol be similarly located, and suitable summary wording be added at key points on the web to guide and assist potential complainants.

- 2.2 Since the abolition of Standards for England there has been no national body overseeing local assessment of complaints and no national statistics are available. Similarly, as every Council has adopted its own procedure for the assessments and determination of complaints, it is difficult to extract information nationally about the substance of complaints, how they are being dealt with and discern any national trends.
- 2.3 Nevertheless, there have been three cases which may be of note since July 2012, two of which were determined by Cornwall County Council and are published on their website, www.cornwall.gov.uk/standards . These cases involved two county councillors, and were determined by the Council's Monitoring Officer, one following a formal investigation under Cornwall's complaints procedure. The remaining case is from Warwick District Council.
- 2.4 The first complaint is of interest to the Committee as it concerned behaviour which would not normally have attracted sanction under the Code of Conduct, as it occurred where a subject member was acting in their private capacity (parking his vehicle). However, because the Councillor was found to have used words which imputed that he was acting or holding himself out as acting in such a way as third party could reasonably have concluded that he was acting as a representative of the Council , the Councillor was held to have moved from acting in a private capacity, to his official capacity. Cornwall's Monitoring Officer noted that the Councillor had offered an apology for the conduct; this was imposed as the sanction and has been delivered. The case highlights that members may be caught by the provisions of the Code even when acting in their private capacity.
- 2.5 The second complaint is one which made national headlines, and concerned remarks made by Councillor Collin Brewer. He resigned, was re-elected and following a repeat of similar remarks, resigned again from office on 10th July 2013. The complaint attracted national publicity due to the highly offensive nature of the remarks, but also the fact that the Council was unable to impose any form of suspension as a sanction, due to the new legislation preventing such sanctions from existing. This is still the subject of concern to Monitoring Officers and Standards Committees nationally, but there is no indication of a change of position from national Government on this to date. Councillor Brewer was held to have breached paragraphs 4.9 to 4.14, and paragraphs 6.1 and 6.2 of Cornwall Council's Code of Conduct in respect of offensive remarks made about disabled children in its care. Unusually, restrictions on publicity were lifted, and the investigator's report published. Sanctions imposed included:
 - 2.5.1 a formal apology
 - 2.5.2 formal censure
 - 2.5.3 training on the Code of Conduct and dealing with the media
 - 2.5.4 a recommendation to Group Party Leaders that Councillor Brewer not be allowed to serve on Committees with responsibility for disabled persons ,and similarly Outside Bodies
 - 2.5.5 restrictions on the Councillor attending and using those parts of the council premises where disabled persons would be present
 - 2.5.6 required attendance at a meeting with the Interim Chief Executive and other relevant senior officers.
- 2.6 Councillor Brewer resigned before the sanctions were imposed, but did tender the apology. He later stood for re-election (May 2013) but then resigned again on 10th July 2013 and is no longer a serving member of the Cornwall Council. The Ethics

Committee should note that the Council undertook several actions which could be deemed unusual in standards terms ,when handling this complaint, which can be summarised as follows

- 2.6.1 restrictions on publicity were lifted for publication of the investigators report
 - 2.6.2 regular press releases were given
 - 2.6.3 concern over the enforceability of sanctions was raised at the national level by the Council.
- 2.7 The Committee may be aware of the third case, as it is of more local nature involving Councillor Linda Bromley, an independent (formerly Conservative) Councillor from Warwick District Council. On the 15th November 2013 the Council's Standards Committee determined that Councillor Bromley had acted inappropriately in speaking with a member of the public and approaching a Council sub contractor, with regard to concerns about St Nicholas Park, in respect of which she was a Management Committee member. Sanction was imposed in the form of an apology, to be directed to councillors and officers, the Council's Chief Executive and a local resident.
- 2.8 The complaint may be of interest to the Ethics Committee in that whilst the initial substance of the complaint was the behaviour of the Councillor towards a member of the public and the contact made with a council sub contractor, the Councillor was also found to have been in breach of the Code by failing to respond to correspondence sent by the Deputy Monitoring Officer and the Standards Committee. By failing to respond to emails from the Deputy Monitoring Officer, and failing to respond to a letter sent by the Deputy Monitoring Officer on behalf of the Standards Committee, Councillor Bromley was found to have failed to value and respect her colleagues, and failed to work constructively with them. The Hearing Panel (a sub committee of the Standards Committee) determined that these two failures amounted to a failure to comply with the Code.
- 2.9 Councillor Bromley is reported to have subsequently spoken out publicly about the issue, and is reported to have said that she considers the Councillors' Code of Conduct may well fetter and restrict councillors from seeking direct and appropriate answers and information in the course of their duties. It is not yet known if the apology has been delivered.
- 2.10 The Committee may like to note that Warwick District Council maintain and publish a Register of Complaints against Elected Members, which is publicly available on their website. The Council's Complaints Protocol does not provide for this and the Committee may wish to consider whether or not such a register should be created and made available at the Council.
- 2.11 In summary, the three complaints demonstrate the already known difficulties with the new standards regime, namely the lack of real and effective sanction for dealing with serious breaches, and the limited effect of censure, even when undertaken in a very public forum. Whilst there is no immediate solution to the issue, it is hoped that the work of the Committee on Standards in Public Life will continue to highlight the issue of local standards and accountability for all those who serve as elected members.
- 2.12 Members of the Committee may also be aware of a recent report issued by the Standards Committee of Thanet District Council, dated 21st November 2013 concerning the 'culture of the Council, with particular regard to relationships between members and the general public'. The report was presented by the Independent Members of Thanet's Standards Committee, who were concerned over recent behaviour at Council meetings and sought to raise these as part of their duty to promote and maintain high standards

of conduct. The report considered that due to recent behaviour, the Council was held in low regard by members of the public, and that members were distrustful of each other. Whilst the report suggested a number of options to resolve the perceived cultural problems, such as action within political groups or training, its observations were criticized for lacking real evidence in support. The Standards Committee has resolved to ask for the report to be amended, and for evidence to be collated before it is presented further to the Council. The four independent members resigned from the Standards Committee at the meeting on the 21st November 2013 and their positions remain vacant.

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 Not Applicable

5. Comments from Executive Director, Resources

- 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 the Council has already taken steps to comply with its obligations under section 27 of the Localism Act 2011.

6. Other implications

None

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

Not applicable.

- 6.2 How is risk being managed?**

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

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

No direct impact at this stage

- 6.4 Equalities / EIA**

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

6.5 Implications for (or impact on) the environment

None

6.6 Implications for partner organisations?

None at this stage

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This report is published on the council's website:

www.coventry.gov.uk/councilmeetings

Appendix 1

Complaint form

Appendix 2

Complaints Protocol