
2 July 2015

Name of Cabinet Member:

N/A - Ethics Committee

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 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 cases determined under the new regime nationally and delegate any actions arising from these to the Assistant Director Legal and Democratic Services in consultation with the Chair of the Ethics Committee; 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 Assistant Director, Legal and Democratic Services in consultation with the Chair of the Ethics Committee.

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?

No

Report title: Code of Conduct update

1. Context (or background)

1.1 The Council's Ethics Committee agreed that the Monitoring Officer would 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 Since the abolition of the Standards Board for England, national statistics and case reports are no longer collated. Therefore the cases reported are taken from general research.

1.2.2 Cases reviewed cover breaches of the individual Council's Code of Conduct in the following areas; disrepute, bullying and disrespect. There is also a short updating report on the first ever prosecution of a councillor of another authority for offences under the Localism Act 2011.

1.2.3 Torfaen Council: Bringing Office or Council into Disrepute Councillor Mike Harris

In August 2014 Councillor Harris from Torfaen Council made allegedly offensive remarks in respect of which a complaint was made and subsequently investigated. Whilst the authority is in Wales and covered by a different standards regime, the Torfaen Council's Code using the common language of 'bringing the authority/ office of Councillor' into disrepute and hence is included. The case is interesting because it considered again the difficult issue of free speech v offensive remarks which could lead to a breach of the Code. The Council's Deputy Monitoring Officer produced a report concluding that there had been a breach of the Code of Conduct. The Ethics and Standards Committee held that whilst the Councillor's remarks were offensive, they did not amount to a breach of the Council's Code of Conduct and no action was taken.

1.2.4 Newham Council: Failing to treat with Respect Mayor Sir Robin Wales

An interesting case in that the timescales laid out in the Council's own Constitution for a potential Code breach to be investigated and concluded were not complied with. The timeframe for the investigation and determination of member complaints is stipulated at 3 months. In this case the complaint was made in July 2014 and a decision notice issued in January 2015. The facts of the case can be briefly summarised as follows.

In July 2014, a video emerged on YouTube showing the Mayor losing control of his temper at the presence of Focus E15 Mothers campaigners at an event in Central Park in East Ham. The footage shows a member of council staff physically restraining the Mayor and resulted in a formal complaint being made about the Mayor's behaviour. The complaint detailed an alleged breach of the Members' Code

of Conduct by failing to treat people with respect, including the organisations and public engaged with and those worked alongside.

Newham's Standards Advisory Committee met on 31 July 2014, recommended a formal inquiry, and an independent investigator was appointed. A Hearing Sub-Committee was then appointed to consider the investigator's findings and determine whether a breach of the code of conduct had taken place. It met on 21 October 2014 and asked the investigator to rewrite the report with new recommendations. The Hearings Sub Committee made its decision on 15th January 2015, after consultation with the Independent Person as required under the Localism Act 2011, and determined that there had been a breach of the Code. The sanctions imposed were a letter of reprimand from the Monitoring Officer, professional mediation between the parties and a report to Full Council.

It is not know if the mediation has taken place, and there is no ability to compel attendance in any event.

1.2.5 East Staffordshire Borough Council: Failing to treat others with respect and bullying another person Councillor Stephen Smith 30.4.15

An allegation brought by one Councillor against another involving threat with regard to comments made whilst waiting for a Planning Committee. Following an investigation the complaint was heard by the Standards Committee who found that Councillor Stephen Smith had breached part of the Code of Conduct relating to the treatment of others with respect, but had not bullied the other Councillor. The Committee imposed sanctions in the form of publication of the Committee's findings and the reporting of the decision to Full Council.

1.2.6 Dorset Council : offences under s 31 and 34 Localism Act 2011

Members may recall that Councillor Spencer Flower who was formerly the Leader of Dorset County Council was the subject of a prosecution under the 2011 Act. It was alleged that whilst the Councillor was leader of East Dorset District Council, the Councillor failed to declare his interest in Zebra Property Solutions LTD, a company for which he was a Non-Executive Director. It was also alleged that he failed to declare his interest in the same company to Dorset County Council. The third allegation related to the Councillor failing to disclose his interest in Synergy Housing Ltd, a company in which he was also a Non-Executive Director, before a meeting of Dorset County Council on 25 February 2013 at which its Core Strategy for the provision of social housing was discussed. It was alleged that the Councillor participated and voted during this meeting.

The trial took place on 24th April 2015 and the Councillor was convicted. Members may recall that Councillor Flower had already resigned as leader of Dorset County Council by the time of the first hearing. The sentence imposed by the Judge was a 6 month conditional discharge, payment of prosecution costs of £930 and a £15 victim surcharge. Councillor Flower remains as a County Councillor and was returned unopposed in the recent elections in East Dorset District.

1.3 The Local Picture

1.3.1 At its meeting on the 20th February 2014, the Ethics Committee 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 two new complaints, since the date of the last Committee meeting:

(a) a written complaint by 3 individuals which was found not to have disclosed any evidence of a breach of the Code of Conduct against the member, and it was found not to be in the public interest to instigate an investigation into the complaint. It has been dealt with under Stage 1 of the Complaints Protocol and the complainant was notified of the outcome on 4th June 2015.

(a) a written complaint regarding six members' behaviour in connection with their alleged failure to respond to a complainant's concerns. The complaint was dealt with under Stage 1 of the Complaints Protocol and no further action was taken due to the failure to produce evidence to support the alleged breaches of the Code and that it was not in the public interest to instigate an investigation into the complaint. The complainant was advised of the decision on 4th June 2015.

1.3.3 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. No complaints have been received by the Monitoring Officer in respect of Allesley or Keresley Parish Councils.

1.3.4 Since the last meeting, the Code of Conduct training course for members took place on 16 June 2015 and three newly elected members attended. All members are expected to attend Code of Conduct training at least every 3 years.

1.3.5 The Council's Register of Disclosable Pecuniary Interests required under the Code of Conduct has now been placed on line, and members are able to update their declarations electronically. The register is also now more accessible to the public and each Councillor has an individual link in his or her page to the declaration they have made. It is intended that further quarterly reminders will be placed in the Members Weekly Bulletin, along with reminders about mandatory 3 yearly attendances at the Code of Conduct Training.

2. Options considered and recommended proposal

Members of the Committee are asked to:

(a) Note the cases determined under the new regime nationally and delegate any actions arising from these to the Assistant Director Legal and Democratic Services in consultation with the Chair of the Ethics Committee; and

(b) 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 Assistant

Director, Legal and Democratic Services in consultation with the Chair of the Ethics Committee.

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 relevant

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. The issues referred to in this report will assist the Council in complying with its obligations under section 27 of the Localism Act 2011.

6 Other implications

None

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

Not applicable.

6.2 How is risk being managed?

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

6.3 What is the impact on the organisation?

No direct impact at this stage

6.4 Equalities / EIA

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

6.5 Implications for (or impact on) the environment

None

6.6 Implications for partner organisations?

None at this stage

Report author(s): Carol Bradford

Name and job title: Solicitor, Place & Regulatory Team, Legal and Democratic Services

Directorate: Resources

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

Enquiries should be directed to the above person.

| Contributor/approver name | Title | Directorate or organisation | Date doc sent out | Date response received or approved |
|--|--|------------------------------------|--------------------------|---|
| Contributors: | | | | |
| Gurdip Paddan | Governance Services Officer | Resources | 24/06/15 | 24/06/15 |
| Adrian West | Governance Services Manager | Resources | 22.06.15 | 23.06.15 |
| Helen Lynch | Legal Services Manager (Place and Regulatory) | Resources | 22.06.15 | 23.06.15 |
| Names of approvers for submission: (officers and members) | | | | |
| Finance: Kathryn Sutherland | | Resources | 22.06.15 | |
| Legal: Helen Lynch on behalf of Christine Forde | Assistant Director Legal and Democratic Services | Resources | 22.06.15 | 23.06.15 |
| Director: Chris West | | Resources | 22.06.15 | |

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