
Ethics Committee

17 March 2017

Name of Cabinet Member:

N/A - Ethics Committee

Director Approving Submission of the report:

Deputy Chief Executive (Place)

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 request that the the Legal Services Manager, Place and Regulatory in consultation with the Chair of the Ethics Committee, shares the case updates with all elected Members; 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 Legal Services Manager, Place and Regulatory 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 Councillor P: Beverley Town Council and East Riding of Yorkshire Council

A large number of complaints were made against Cllr P of Beverley Town Council and East Riding of Yorkshire Council in connection with comments which he made on a political Facebook page (Vote Leave, Beverley and Holderness, Haltemprice & Howden). The comments were in connection with the then recent murder of the MP Jo Cox, along with secondary comments. The councillor later withdrew the original remark.

The Standards Committee concluded that Cllr P had failed to treat others with respect and had brought his office and authority into disrepute. Although he had not used his title of Councillor in his posts, the comment was posted on a site campaigning in the EU referendum and therefore it was considered that the comment was made in his official capacity as a councillor campaigning for a particular outcome in the referendum.

The Standards Committee recommended to Beverley Town Council that it should condemn the statements made by Cllr P and that he be called upon to resign from the council forthwith. It made a similar recommendation to the East Riding of Yorkshire Council. Both Councils did subsequently pass resolutions condemning the remarks and calling on the councillor to resign but it is not known whether he did do so.

1.2.3 Councillor M: Wiltshire Council

This case concerned an allegation that Cllr M had disclosed confidential information that he had obtained through his position as a councillor to a party who was not entitled to the information. The councillor accepted that he had done this and that it had been an error of judgment and had co-operated with the investigation. The councillor's motives were not in question but the Hearing Sub-Committee considered that, although he had been removed from the positions that he held at the time of the breach, the nature of the disclosure had very serious implications that he should have been aware of as a result of his position.

The Hearing Sub-Committee decided to censure Cllr M and to recommend to his group leader that he should not be re-appointed to a similar committee or position. In addition, the Sub-Committee noted the wider implications for the council and its members regarding responsibilities with confidential information. The Sub-Committee therefore recommended to the Standards Committee that in future all councillors should attend training on confidentiality requirement within 3 months of taking office; where a councillor failed to undertake the training, their group leader would be recommended to not appoint them to any committee or position of responsibility.

1.2.4 Councillor T: Honiton Town Council

The Committee will recall that Cllr T was found to have breached Honiton Town Council's Code of Conduct at a hearing in November 2015 held by East Devon District Council's Standards Committee. The Standards Committee recommended to Honiton Town Council that it impose particular sanctions upon Cllr T. The Town Council, however, decided to impose its own sanctions which went further than those recommended by the committee.

Cllr T sought permission for a judicial review of Honiton Town Council's decision to impose its own sanctions on him and was successful, even though Honiton Town Council had subsequently rescinded the sanctions. The substantive case was heard in the High Court on 9 and 10 November 2016. The case has clarified a couple of points in relation to the relationship between the principal council and parish councils in relation to code of conduct decisions and the legality of certain types of sanctions. In particular the court decided that:

- The requirement to investigate make decisions on whether a parish councillor had breached their council's code of conduct rests with the principal council, not the parish council.
- It is lawful for an authority to include training as a sanction for breach of the Code of Conduct.
- The sanctions which the parish council had tried to impose and then withdrew were unlawful and the decision was quashed.

A further point, although raised, was not properly argued before the court. Although East Devon, the principal authority, investigated and decided the case, it referred the question of sanctions to Honiton, the parish council with recommendations as to what they should be. The question was whether the decision on breach and the decision on sanctions could be split between authorities in this way or whether responsibilities for both rested with the principal authority. The judge declined to give his opinion but did feel that the wording of Section 28(11) of the Localism Act, the relevant legislation, was, in his words, puzzling.

Subsequently, the court refused to award the councillor his full costs of the action. He was awarded costs up to the point where Honiton wrote formally agreeing to withdraw their sanctions and pay his costs. From that point on the councillor's

continuation of the proceedings was unreasonable and he was ordered to pay Honiton's costs from the date of the letter until and including the court hearing.

1.2.5 Sanctions for Breach of Code

Members of the Committee will be aware that concern has been expressed by other councils and by the Committee for Standards in Public Life about the lack of sanctions available when a councillor is found to have breached the Code of Conduct.

In December 2016, Rotherham Metropolitan Borough Council wrote to the Department for Communities and Local Government about concerns that they had about the lack of meaningful sanctions available to it in respect of councillor conduct which gave cause for concern. The background to this was that a councillor was convicted of an indecent assault on a female aged over 16 following an incident at a formal council event which he attended in his capacity as a councillor. Because the councillor did not receive a custodial sentence of three months or more, he was not automatically disqualified from holding office. Had he not chosen to resign he could have continued as a councillor until his term of office ended in 2020. The Council was concerned that the prospect of a councillor who had been convicted of a sexual offence while on duty as a councillor, continuing to take public funds (in the form of the basic allowance) was damaging to the reputation of the Council.

Rotherham Council has asked the DCLG to review the standards provisions of the Localism Act 2011 to see what could be done to avoid circumstances in which an individual councillor convicted of a sexual offence could remain in office as a councillor.

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 one new complaint since the date of the last Committee meeting. The complaint alleges failure by three councillors to respond to correspondence. It is being dealt with at Stage 1 by the Acting Monitoring Officer.
- 1.3.3 The Committee was due to conduct a hearing into a complaint on 12 September 2016, which was unable to go ahead due to unforeseen circumstances. The complaint has been reviewed by a new investigator and the hearing into the matter is the first item on this agenda.
- 1.3.4 The Committee also conducted a sanctions hearing on 9 December 2016 where the councillor concerned had admitted that he had breached the Code of Conduct. The decision notice setting out the sanctions imposed were published on the Council's website.

1.3.5 All complaints are handled in accordance with the agreed Complaints Protocol. No findings have been made by the Local Government Ombudsman in relation to members of Coventry City Council. No complaints have been received by the Monitoring Officer in respect of Allesley, Finham or Keresley Parish Councils.

2. Options considered and recommended proposal

Members of the Committee are asked to:

- (a) Note the cases determined under the new regime nationally and request that the Legal Services Manager, Place and Regulatory, in consultation with the Chair of the Ethics Committee bring the case summaries to the attention of all elected Members; 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 Legal Services Manager, Place and Regulatory, 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 The case summary will be shared with all elected Members as soon as possible and in any event before the next meeting of the Committee.

5. Comments from Director of Finance and Corporate Services

5.1 Financial implications

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

5.2 Legal implications

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

6 Other implications

None

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

Not applicable.

6.2 How is risk being managed?

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

6.3 What is the impact on the organisation?

No direct impact at this stage

6.4 Equalities / EIA

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

6.5 Implications for (or impact on) the environment

None

6.6 Implications for partner organisations?

None at this stage

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