

Ethics Committee

29 March 2018

Name of Cabinet Member:

N/A - Ethics Committee

Director Approving Submission of the report:

Director of Finance and Corporate Services

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 standards regime nationally and request that the Head of Legal Services, 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 Head of Legal Services in consultation with the Chair of the Ethics Committee.

List of Appendices included:

Appendix 1: A Councillor's Workbook on Councillor/Officer Relations

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 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 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 where councils publish details of their conduct hearings in public.

1.2.2 Councillor S: East Riding of Yorkshire Council

This case concerned complaints in relation to the conduct of Councillor S, which had been referred to the Monitoring Officer for local investigation.

The complainant was concerned that Councillor S had by posting information about adoption service organised events on his blog (ie social media), compromised the physical and emotional wellbeing of children and young people and their adoptive parents who might attend such events.

The Council's Adoption Team had circulated to a number of clients an email advising about the cancellation of an event and informing the recipients about two other events that had been arranged.

The email was sent to a restricted readership and was sent so that the different recipients were not aware of each other's contact details. The email also included confidential details about an employee. The email was posted to Councillor S's webpage.

Councillor S was informed two days later by the Director of Children, Families and Schools that the email he had published contained confidential information and he was requested to remove the email from his blog and other social media outlets where it may have been copied.

Councillor S did not remove the email from his blog.

As a result of the details of the two events being made public, through publication of the Adoption Team's email, it was necessary for the two events to be cancelled.

Councillor S's web page carried a disclaimer stating:- "Opinions and statements published on the 'S Independent' blog are those of the owner, S, private individual, and not those of Councillor S, elected member of East Riding of Yorkshire Council"

In summary the issues considered by the Monitoring Officer were as follows:-

- (a) Did Councillor S post information about adoption service organised events?
- (b) Did the posting of that information constitute bringing his office or authority into disrepute, involve the posting of confidential information and indicate a misuse of his position.

The MO considered that this was the position, as he had:

- (a) Not taken into consideration his role as corporate parent;
- (b) Not consulted with the author before putting on his blog;
- (c) Had not removed the post when requested (ie he did not take the issue seriously);
- (d) Although his blog purported to be that of an individual not in the capacity of a councillor, there was no personal activity. It was all Councillor related, rendering his disclaimer useless.

The matter was referred the Standards Committee for full hearing where the Committee commented that Councillor S should give consideration to distinguishing between his role as a Councillor and the role of a citizen when using social media.

Councillor S was found to have breached the following paragraphs of the Council's Code of Conduct

2(1) "You must treat others with respect";

2(3) "You must not conduct yourself in a manner that could reasonably be regarded as bringing your office or authority into disrepute";

and 2(6) "You must not use or attempt to use your position as a Member improperly to confer on or secure for yourself or any other person an advantage or disadvantage;

for the reasons set out by the MO;

It was recommended to Council:

- (a) that Councillor S be censured, and
- (b) that Councillor S write a letter of apology to the individuals concerned and remove the posts relevant to the complainants from his blog.

The recommendations will be considered at a full Council meeting, the detail of which was not available at the time of writing.

An update will be provided at the next Ethics Committee meeting

1.2.3 Councillor E: Dudley MBC

Last month the Standards Committee of Dudley MBC held that comments made online by Councillor E breached their code of conduct.

The hearing was called after Councillor E posted two videos on Facebook following a Council Meeting in late 2017 - in which he said the Council House should be demolished with the Councillors inside. He also made disparaging comments about a political group and the town's Mayor.

An independent investigation followed, which found Councillor E had breached the members' code of conduct.

In his report suggested that Councillor E had "failed to value his colleagues and treat them with respect" but noted that some comments were made tongue in cheek (albeit in poor taste).

The Committee was told Councillor E refused to apologise for his comments, despite being given numerous opportunities to take the 'informal resolution route' and the fact that he had made a video expressly saying that he refused to apologise.

The Committee agreed that Councillor E had breached the members' code of conduct and decided the best course of action was to report the findings to Council on April 9 and put forward a motion of formal censure to the next full Council, in words to be agreed with the Monitoring Officer in consultation with the Committee.

An update will be provided at the next Ethics Committee meeting

1.2.4 Sandwell Council: An Update

At its last meeting in December, the Committee was advised by the Monitoring Officer of unsuccessful legal action taken by a Councillor at Sandwell Council to try to prevent publication of an investigation report into potential misconduct. The report arose from a public interest report previously issued by Sandwell Council.

During that legal action the judge decided that there was a serious prima facie case against the Councillor which should be investigated under the Localism Act. Since the last meeting, the Council has held an Ethical Standards Sub Committee hearing into allegations that the Councillor breached the Code of Conduct by:

- Pushing through the sale of public toilets below their market value to a family friend; and
- Instructing officers to reduce or cancel three parking tickets for his wife and sons

After a hearing lasting three days, the Councillor, who is the former deputy leader of the Council, was found to have breached the Code of Conduct 12 times. In particular, the standards sub-committee found that he had:

- Brought his office and the council into disrepute
- Compromised officers' impartiality; and
- Gave an unfair advantage to the family friend who bought the toilets and to his wife and sons.

There will be a separate hearing to consider what action should be taken against the Councillor. The agenda and minutes online for Sandwell indicate that this will be held on 23 March 2018.

1.2.4 Northamptonshire County Council

The Secretary of State for Housing, Communities and Local Government, Sajid Javid, has appointed an Inspector to look into concerns around financial management and governance at Northamptonshire County Council.

Under powers granted to him under the Local Government Act 1999, the Secretary of State can commission an independent inspection to better understand whether a Council is complying with its 'best value' duty – a legal requirement to ensure good governance and effective management of resources.

The Secretary of State has now has appointed Max Caller CBE to complete a report. He will have a legal right to inspect and take away documents, and to access any council properties.

1.2.5 Government Proposals to Extend Criteria for Disqualification from Office

At its last meeting the Ethics Committee noted that the Department for Communities and Local Government (now the Ministry of Housing, Communities and Local Government) had issued a consultation regarding expanding the disqualification criteria for local councillors.

The consultation period ended on 8 December 2017 and at the time of writing this report the Ministry was analysing the feedback that it had received. The Monitoring Officer will update the Committee orally on the latest position at the meeting.

NB. as at 15 March the MHCLG website indicates that the feedback is still being analysed.

1.2.6 Local Government Association

The Local Government Association has recently published a document entitled "A Councillor's Workbook on Councillor/Officer Relations". The document is attached at Appendix 1 to this report. The Committee may wish to consider whether this

document should be brought to the attention of all members and senior officers in the light of the Council adopting its own Member/Officer Protocol.

1.2.7 Committee on Standards in Public Life Review of Local Government Standards

The CSPL is undertaking a review of local government ethical standards in the Local Authority standards regime this year.

The terms of reference for the review are to:

- examine the structures, processes and practices in local government in England for:
 - maintaining codes of conduct for local councillors
 - investigating alleged breaches fairly and with due process
 - enforcing codes and imposing sanctions for misconduct
 - declaring interests and managing conflicts of interest
 - whistleblowing
- assess whether the existing structures, processes and practices are conducive to high standards of conduct in local government
- make any recommendations for how they can be improved
- note any evidence of intimidation of councillors, and make recommendations for any measures that could be put in place to prevent and address such intimidation

The review will consider all levels of local government in England, including town and parish councils, principal authorities, combined authorities (including Metro Mayors) and the Greater London Authority (including the Mayor of London).

At the time of writing the review is still in a period of consultation (closing on 18 May 2018).

An update will be provided at the next Ethics Committee meeting.

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 5 complaints since the date of the last Committee meeting. 4 of which are subject of an ongoing investigation and 1 has concluded at stage 1 with no further action.
- 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. 1 complaint (included in the 5 referenced in para 1.3.2) has been received by the Monitoring Officer in respect of a Parish Council

2. Options considered and recommended proposal

Members of the Committee are asked to:

- (a) Note the cases determined under the standards regime nationally and request that the Head of Legal Services 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 Head of Legal 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 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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