
10 January 2019

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
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 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 any cases reported are taken from general research where councils publish details of their conduct hearings in public.

1.2.2 Councillor G: Devon County Council

The Council commenced a formal investigation into allegations that Cllr G, a former leader of the Council, had sexually harassed four of its employees.

A QC undertook the investigation and concluded that the allegations were true.

The Standards Committee accepted the findings at its July 2018 meeting. It is noted in the decision notice relating to the findings that the powers for a Council to disqualify or suspend an elected member were removed pursuant to the Localism Act 2011. The panel looked at what sanctions it could impose and determined that the following were appropriate:

1. The subject member should be formally censured;
2. A recommendation be made to his Group Leader that the subject member be removed from any or all Committee / Sub Committees and outside bodies;
3. The subject member have his access to County Council premises restricted to the Members' Room, the Ante Chamber and the Council Chamber for the remainder of the current administration. The Committee further stipulated that should the subject member wish to attend any other premises in order to carry out his duties as a County Councillor, he must give notice to an officer within the Members Services Unit and must be accompanied by an appropriate officer, to be identified following each request for access;
4. The subject member be required to undertake relevant training; and
5. The subject member be removed from all outside bodies appointed or nominated by the Council which do not otherwise fall to the determination of his Group Leader.

The sanctions are due to lapse at the next Council elections in 2021.

In October 2018, Cllr G issued a claim for judicial review of the Council's decision. He raised at least 10 grounds of challenge including lack of procedural fairness. Permission was refused on these grounds however permission has been allowed on one narrow point – whether or not the Council were allowed to impose a sanction restricting access to Council premises.

Cllr G has also appealed against his refusal for permission in respect of the other grounds. A hearing will take place in early 2019.

Officers will report back to the Committee as and when there is more information in respect of this matter.

1.2.3 Councillor C: East Riding of Yorkshire Council as main urban authority of Thwing and Octon Parish Council

This complaint related to an allegation that Cllr C who was chairing a meeting of Thwing and Octon Parish Council on 12 February 2018, referred to the complainant as “a twittering old woman”. The Monitoring Officer investigation found that although the exact words are not agreed, witness accounts verified that words to this effect were directed at the complainant. The Monitoring Officer concluded that the complainant was justified in taking offence, there was an imbalance of power between the Councillor and the complainant and the words were said at a public meeting (regardless of whether members of the public were there was not of importance).

Cllr C made little comment on the findings except to imply that the issue was blown out of proportion and that he had said “wittering like an old woman” which he felt for various reasons was much less offensive. The Monitoring Officer concluded that the effect of either phrase was the same and found that there was a breach of East Riding’s Members’ Code of Conduct, as adopted by the Parish Council (namely treating others with respect and not conducting yourself in a manner that could reasonably be regarded as bringing your office or authority into disrepute).

Last month, a Standards Committee Hearing found that Cllr C had breached the Code of Conduct on both counts and recommended that the Parish Council censure Cllr C as a result.

Commentary: this case deals with the subject of what is acceptable in the eyes of the person on the receiving end of a comment. While it may be acceptable for a councillor to make a particular comment to another councillor or an equal / superior if there is an imbalance of power the recipient may be justifiably more hurt / upset by those words.

1.2.4 Westminster City Council: Gifts and Hospitality

Members will recall that earlier in the year it was reported in the press that the then deputy leader of Westminster Council had received over 500 separate gifts and instances of hospitality between 1 January 2015 and 31 January 2018. He had been entertained by and accepted gifts from figures in the property industry at least 150 times as well as theatre and hotel operators. The gifts included trips abroad and theatre and opera tickets. He was chairman of the Council's planning committee for 16 years until early 2017. He then became the Cabinet Member for Business Culture and Heritage.

It was subsequently discovered that the number of instances when the councillor accepted gifts and hospitality was in fact close to 900 over 6 years totalling approximately £13,000. He was entertained by and received gifts from property industry figures at least 150 times from the start of 2015 onwards – a rate of almost once a week.

The councillor referred himself to the Council's Monitoring Officer and stepped down from his Cabinet and Deputy Leader position. The Monitoring Officer thereafter commissioned an independent QC to carry out an investigation into his conduct.

By way of update the QC who conducted the investigation is reported to have said that the councillor's judgement was found "wanting" and his "acceptance of gifts and hospitality from developers before or after a planning decision may ... have placed him in a position in which people might seek to influence him in the performance of his duties."

There was no evidence to suggest that his decisions at planning committee had been influenced by the gifts and hospitality received or that there was any illegality in his actions but the acceptance of such a large volume of gifts and hospitality "lay open his reputation, and therefore that of the Council, to a perception – fairly or unfairly – that called into question his personal responsibility to promote high standards of conduct". On that basis it was found that there was a breach of the authority's Code of Conduct, namely that the councillor had "not promoted and supported high standards of conduct through leadership and by example".

Although the councillor resigned following the internal investigation, the case is still to be examined by the Council's standards committee whose next meeting is on 6 December 2018.

As Members will recall that earlier in 2018, the Leader of Westminster had asked the Chief Executive to look at all aspects of the decision-making process to ensure that planning in Westminster is, and is seen as, an independent and impartial process. The Council is expected to announce reforms to its planning process.

Officers will report back to the Committee as and when Westminster Council Standards Committee have looked at the matter and when the reforms to planning process are published.

1.2.7 Government Proposals to Extend Criteria for Disqualification from Office

The Ministry of Housing, Communities and Local Government (the Government) published a consultation response on 18 October 2018, entitled "Disqualification criteria for councillors and mayors: consultation response" (the Response). The Government consulted on proposals to update the disqualification criteria for councillors and mayors to bring it into line with modern sentencing practice.

In summary the Government made the following comments:

- Where an individual is subject to the notification requirements set out in the Sexual Offences Act 2003 they should be barred from standing for election, or holding office, as a member of a local authority, mayor of a combined authority, member of the London Assembly or London Mayor. Their disqualification period would end once they were no longer subject to these notification requirements.
- Having considered the responses received, the Government believes that where an individual is subject to a Sexual Risk Order, they should be prohibited from standing for election, as a member of a local authority, mayor of a combined authority, member of the London Assembly or London Mayor. Their disqualification period would end once they were no longer subject to these notification requirements.
- The Government considers that an individual who is subject to an anti-social behaviour sanction issued by the court, i.e. a Civil Injunction, (made under section 1 of the Anti-social Behaviour, Crime and Policing Act 2014) or a Criminal Behaviour Order (made under section 22 of the Anti-social Behaviour, Crime and Policing Act 2014) should be barred from standing for election, as a local authority member, directly-elected mayor or member of the London Assembly. Their disqualification period would end once they

were no longer subject to the injunction or Order.

- The Government considers that an individual who is subject to an anti-social behaviour sanction issued by the court, i.e. a Civil Injunction, (made under section 1 of the Anti-social Behaviour, Crime and Policing Act 2014) or a Criminal Behaviour Order (made under section 22 of the Anti-social Behaviour, Crime and Policing Act 2014) should be barred from standing for election, as a local authority member, directly-elected mayor or member of the London Assembly. Their disqualification period would end once they were no longer subject to the injunction or Order.

The Government will seek, when parliamentary time allows, to legislate to ensure individuals are disqualified from standing for office as local authority members or mayors where behaviour has led to a conviction or enforcement action resulting in an individual being subject to one or more of the following:

- the notification requirements in the Sexual Offences Act 2003
- a Sexual Risk Order
- a civil injunction
- a Criminal Behaviour Order

1.2.8 Local Government Ethical Standards Regime

As previously reported, the Committee on Standards in Public Life is not expected to publish its findings on its review of local government ethical standards until the end of this year. Officers will report on this as and when the report is published.

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. This is at Stage 1 of the complaints process. There is one further complaint in the course of investigation. All other matters that were reported at the last Ethics committee meeting have been resolved either by the decision that these should not proceed to a formal investigation or by consideration by the committee following a formal investigation.

1.3.3 All complaints are handled in accordance with the agreed Complaints Protocol.

2. Options considered and recommended proposal

Members of the Committee are asked to:

1. Note the cases determined under the standards regime 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.

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 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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