
Ethics Committee

20 November 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: Hearing into Complaint under Code of Conduct

Is this a key decision?

No

Executive Summary:

This report sets out brief details of a complaint made by Mr Martin Yardley (“the Complainant”). The complaint is against Cllr Glenn Williams (the “Subject Member”) and relates to an exchange on Twitter between the Subject Member and a member of the public which took place on 31 January 2019.

The Complainant alleges that Subject Member breached the Council’s Code of Conduct for Elected and Co-opted Members by posting inappropriate comments on social media which amounted to accusing Planning staff of corruption by deliberately taking the Planning Portal down and engaging in, and encouraging, a situation where it was suggested that Planning staff should be assaulted. The Complainant alleged that this behaviour breached paragraphs 3(i), (j) and (k) of the Code of Conduct for Elected and Co-opted Members and the Member/Officer Protocol.

A Stage One review of the complaint concluded that an independent investigator should be appointed to investigate the complaint. David Kitson, a Senior Associate with Bevan Brittan, Solicitors was appointed to carry out the investigation. Mr Kitson concluded that the Subject Member’s Twitter post had the potential to undermine the Planning Department and cause distress to Officers. Further, although the subsequent discussion that took place between the Subject Member and the spoof account was most likely tongue in cheek, it was nonetheless inappropriate in the circumstances, particularly so on account of the contentious nature of the

planning application in question, as well as the wider issues with the increasing intimidation of those in public life. He concluded that on the balance of probabilities the Subject Member did fail to comply with paragraphs 3(i), (j) and (k) of the Council's Code of Conduct

In accordance with Paragraph 7.4 of the Council's Complaints Protocol, the Monitoring Officer has referred the complaint to a hearing of the Ethics Committee.

Recommendations:

The Committee is requested to:

- (1) Hear the complaint against the Subject Member and determine whether he has breached the Code of Conduct;
- (2) If the Committee considers that there has been a breach or breaches of the Code of Conduct, determine what sanction or sanctions, if any, should be applied; and
- (3) Authorise the Monitoring Officer, in consultation with the Chair of Ethics Committee, to publish the Full Decision on the Council's website at the same time that copies are made available to the parties to the hearing.

List of Appendices included:

Appendix 1: Member/Officer Protocol

Appendix 2: Complaints Protocol

Appendix 3: Hearings Procedure for 20 November, 2019

Appendix 4: Stage One Report

Appendix 5: Report of Investigating Officer

Background papers: None

Other useful documents: 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: Hearing into Complaint under Code of Conduct

1. Context (or background)

- 1.1 The Council adopted the Code of Conduct for Elected and Co-opted Members ("the Code") at its meeting on 3rd July 2012. A copy of the Code can be found at **Schedule 2 to the Investigator's Report (Appendix 5 to this report)**. Also attached as **Appendix 1 to this report** is a copy of the Council's Member/Officer Protocol which was adopted by the Council on 5 December 2017. In addition, the Ethics Committee on 17 March 2017 approved a Complaints Protocol for use when dealing with Code of Conduct complaints. This is attached at **Appendix 2 to this report**.
- 1.2 On 19 February 2019, Mr Martin Yardley (the Complainant) made a formal complaint to the Monitoring Officer. The complaint can be found at **Schedule 1 to the Investigator's Report (Appendix 5 to this report)**.
- 1.3 The complaint is against Councillor Glenn Williams ("the Subject Member") and relates to comments posted on social media on 31 January 2019. The complaint alleged that the Subject Member had breached paragraphs 3 (i), (j) and (k) of the Code.

Full details of the Complainant's complaint are set out in Schedule 1 to the Investigator's Report (Appendix 5 to this report).

1. Stage One Decision

- 2.1 In accordance with the Complainants Protocol, the Monitoring Officer carried out an initial review of the complaint and recommended that an independent, external officer should be appointed to carry out to investigate the complaint. Her recommendations were accepted by the Independent Person and the Chief Executive on 24 March, 2019. A copy of the Stage One Report is attached at **Appendix 4**.

2. Investigation into the Complaint

- 3.1 The Monitoring Officer instructed David Kitson, a Senior Associate with Bevan Brittan to conduct an independent investigation into the complaint ("the Investigating Officer").
- 3.2 The Investigating Officer conducted interviews with the Complainant, one other officer and the Subject Member on 7 June 2019.
- 3.3 The Investigating Officer issued his report on 20 August 2019. He found that:
 - (a) in his original post the Subject Member had alleged that the Council's Planning Department had purposefully taken down the Planning Portal so as to prevent objections being made to a particularly controversial planning application;
 - (b) although the exchange of comments between the Subject Member and the third-party account were likely to have been made tongue in cheek, that did not make them acceptable or appropriate;
 - (c) Both of the above findings were made in the context of:

- the significant increase in the intimidation of persons in public life throughout the country, concerning which social media has been a major catalyst;
- the contentious nature of the planning process, and in particular the high-profile nature of the application concerning which the tweets were made; and
- the duty of care the Subject Member owes towards the Council's Officers not to do anything that will or is likely to undermine the mutual duty of trust and confidence.

3.4 The Investigating Officer concluded that on the balance of probabilities the Subject Member did fail to comply with paragraphs 3(i), (j) and (k) of the Council's Code of Conduct.

The full Report is attached at Appendix 5 together with the documents referred to in the Report.

4. Response to the Investigating Officer's Report

4.1 Under the Council's Complaints Protocol, all parties have an opportunity to consider the Report and make a formal response to the Report, if they so wish.

4.2 In this case the Complainant did not make any comment on the Report.

4.3 The Subject Member made the following comments:

"Thank you for the report which I have read in full.

I have no further comments to make other than to say I look forward to all the correspondence being in the public domain."

4.4 The Council's Independent Person, Peter Wiseman, was provided with a copy of the Report and was asked to confirm his continuing agreement to act as the Independent Person, which he gave. Mr Wiseman will be present at the meeting.

5. Hearings Procedure

5.1 Attached to this report at **Appendix 3** is the Hearing Procedure that will be followed during the hearing into this complaint. The Chair will have the right to depart from the procedure where he or she considers it appropriate to do so.

6. Options Available to the Committee

6.1 At the end of the hearing, the Committee must consider whether the complaint has been upheld. The Committee may decide, on the information/representations before it that:

- The Subject Member has not failed to comply with the Code of Conduct
- The Subject Member has failed to comply with the Code of Conduct in whole or in part.

6.2 In the event that the Committee finds that the Subject Member has failed to comply with the Code of Conduct, it must consider what sanctions, if any, it should apply. The sanctions available to the Committee are to:

- decide to take no action;
- publish its findings in respect of the member's conduct;

- (iii) send a formal letter of censure to the member;
- (iv) report its findings to the Council either for information or to recommend censure of the member;
- (v) recommend to the member's Group Leader that the member be removed from any or all Committees or Sub-Committees of the Council (where applicable);
- (vi) recommend to the Leader of the Council that the member be removed from the Cabinet, or removed from particular portfolio responsibilities (where applicable);
- (vii) recommend the Monitoring Officer to arrange training for the member.

Any recommendation made under (v) to (vii) above will require the cooperation of all parties.

- 6.3 Where a Subject Member does not accept a sanction which has been imposed upon him/her by the Ethics Committee, the Monitoring Officer will submit a report to full Council which will then consider what action, if any, it should take as a result of the Subject Member's failure.

7. Results of consultation undertaken

- 7.1 Both the Complainant and the Subject Member have been consulted at each stage of these proceedings.

8. Timetable for implementing this decision

- 8.1 Any decisions of the Committee will be implemented within an appropriate time frame.

9. Comments from Director of Finance and Corporate Services

9.1 Financial implications

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

9.2 Legal implications

The Council is required under Section 28 of the Localism Act 2011 to adopt a suitable Code of Conduct and to have in place arrangements under which allegations of failure to comply with the Code may be investigated and decisions on allegations can be made. The hearing into this complaint meets this requirement and assists the Council in promoting and maintaining high standards of ethical behaviour as is required under section 27 of the Act.

10. Other implications

a. How will this contribute to the Council Plan (www.coventry.gov.uk/councilplan/)?

Not applicable

b. How is risk being managed?

Failure to consider and deal appropriately with complaints about councillors' behaviour could lead to damage to the Council's reputation as well as that of individual councillors. The hearing into this complaint is designed to ensure that the Council discharges its duty to promote and maintain high standards of conduct.

c. What is the impact on the organisation?

The hearing is to consider whether the behaviour of the Subject Member breached the Code of Conduct and as such will have no direct impact on the organisation. Nevertheless, the conclusions reached by the Committee may be relevant to other councillors.

d. Equality and Consultation Analysis (ECA)

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

e. Implications for (or impact on) climate change and the environment

None

f. Implications for partner organisations?

None

Report author:

Name and job title: Carol Bradford, Corporate Governance Lawyer, Regulatory Team

Directorate: Place

Tel and email contact: 024 7697 7271 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:				
Suzanne Bennett	Governance Services Officer	Place	8/11/19	11/11/19
Names of approvers for submission: (officers and members)				
Finance: Graham Clark	Lead Accountant – Business Partnering	Place	11/11/19	11/11/19
Adrian West	Members and Elections Team Manger	Place	11/11/19	12/11/19
Director: Barry Hastie	Director of Finance and Corporate Resources	Place	11/11/19	11/11/19
Members: Cllr Walsh	Chair of Ethics Committee		12/11/19	12/11/19

This report is published on the council's website:
www.coventry.gov.uk/councilmeetings

Appendix 1: Member/Officer Protocol

PART 4D: MEMBER OFFICER PROTOCOL

1. Status of this Code

- 1.1 This Protocol seeks to offer guidance on some of the issues which most commonly arise in relation to the relationships between Members and Officers.
- 1.2 The Protocol is partly a statement of current practice and convention. In some respects, however, it seeks to promote greater clarity and certainty. In particular, it covers the behaviour that is expected between Members and Officers.
- 1.3 The Protocol gives guidance only but it may be taken into account if there is a complaint about a Member or an Officer. Members must observe the Members' Code of Conduct. Any complaints received in relation to alleged breaches of the Code of Conduct will be considered initially by the Monitoring Officer. Officers are also obliged to comply with the Code of Conduct for Employees. Any complaints received about Officers behaviour or conduct will be considered by the relevant managers.

2. Roles of Members and Officers

Officers and Members both serve the public but they have different roles. Officers are employees of the Council and are politically neutral. Their role is to advise Members and implement the policies of the Council to the best of their abilities. Members are office holders and will often belong to a political party. They are obliged to exercise their own judgement in respect of matters before them but may also legitimately pursue party political objectives. Employees are answerable to the Chief Executive, not to individual Members (whatever office they hold), but there should be good communication between senior officers and Members with special responsibility for their area of work.

3. Expectations

3.1 *What Members can expect from Officers:*

- (a) A commitment to the authority as a whole, not to any political group;
- (b) A working partnership;
- (c) An understanding of and support for respective roles, workloads and pressures;
- (d) Timely responses to enquiries and complaints in accordance with agreed standards: (see paragraph 7)
- (e) Professional advice, not influenced by political views or preference;
- (f) Regular up-to-date information on matters that can be reasonably considered appropriate and relevant to the Member's needs, having regard to any individual responsibilities that they have and positions that they hold;

- (g) Awareness and sensitivity to the political environment;
- (h) Respect and courtesy;
- (i) Training and development in order to carry out their roles effectively;
- (j) Not to have personal issues raised with them by Officers outside the agreed procedures;
- (k) Officers should not try to persuade individual Members to make a decision in their personal favour or raise things to do with their employment with individual Members. Nor should they approach individual Members with allegations about other Officers. They should use the Council's grievance, whistle blowing and disciplinary procedures instead; and
- (l) Compliance with the Employee Code of Conduct.

3.2 *What Officers can expect from Members:*

- (a) A working partnership;
- (b) An understanding of and support for respective roles, workloads and pressures;
- (c) Political policy direction and leadership;
- (d) Respect and courtesy;
- (e) Members should generally restrict their discussion on strategic or significant issues to more senior officers (that is the Chief Executive, Deputy Chief Executives, Directors or Heads of Service); Members should raise all queries on operational matters initially with Directors or Heads of Service who will ensure that Members receive a prompt response.
- (f) Members are encouraged to use regular briefings and/or normally make appointments before visiting Officers in order to try to avoid frequent unscheduled interruptions;
- (g) Members should not pressure Officers to work outside their normal hours or to do anything they are not allowed to do or that is not part of their normal work;
- (h) Not to be subject to bullying, harassment or intimidation. Members should have regard to the seniority and experience of Officers in determining what constitutes a reasonable request. Members with special responsibilities should be particularly aware of this;
- (i) Members should not use their position or relationship with Officers to advance their personal interests or those of others or to influence decisions improperly;
- (j) Members should not make detrimental remarks about individual Officers during meetings, in public or to the media; and
- (k) Members should at all times comply with the Member Code of Conduct.

4. **Limitations on behaviour**

The distinct roles of Members and Officers necessarily impose limitations upon behaviour. By way of illustration and not as an exclusive list:

- (a) Personal relationships between individual Members and Officers can confuse the separate roles and get in the way of the proper discharge of the authority's functions. In this situation, others may feel that a particular Member or Officer may be treated more favourably.
- (b) Personal relationships should be avoided. Where they do exist, the officer concerned must notify his or her manager.
- (c) The need to maintain the separate roles means that there are limits to the matters on which Members may seek the advice of Officers, both in relation to personal matters and party-political issues;
- (d) Relationships with particular individuals or party groups should not be such as to create public suspicion that an employee favours that Member or group above others.

5. Politeness and respect

- 5.1 Members and Officers should show each other politeness and respect. Members have the right to challenge Officers' reports or actions, but they should avoid personal and/or public attacks; and ensure their criticism is fair and constructive.
- 5.2 Officers should not publicly criticise Council decisions even if they do not personally agree with those decisions.

6. Complaints about Members or Officers

- 6.1 If an Officer feels a Member is not treating them with politeness and respect, they should consider talking to the Member directly. If they do not feel they can talk to the Member or talking to the Member does not help, they should talk to their Head of Service or Director immediately. The manager approached will talk to the Member or the Leader of their political group and may also tell other senior officers. The Officer will be told the outcome. Officers may also make a complaint alleging a breach of the Members' Code of Conduct.

7. Members' enquiries

- 7.1 Officers should answer Members' enquiries, in whatever form, within five working days. If that is not possible, they should send a holding reply. Where a Senior Officer considers that the enquiry received is inappropriate, the Member should be advised of this and the reason or reasons why the enquiry is considered to be inappropriate. Members should contact a more senior officer in the event that a response is not received within this time. The Chief Executive may be asked to resolve any issues arising from unreasonable delays in responding to Members' enquiries.

Casework

- 7.2 Where a Member is making an enquiry of Officers as part of their ward casework, Officers will normally assume that they have the implicit consent of an individual to disclose personal information about them to the Member but only where:
 - the Member represents the ward in which the individual lives;

- the Member makes it clear that they are representing the individual in any request for their personal information to the local authority; and
- the information is necessary to respond to the individual's complaint.

In all other cases Officers may need to seek the explicit consent of the individual to share their personal data with the Member in order to comply with the Data Protection Act 1998.

- 7.3 Personal information about third parties (i.e. individuals who have not sought the Member's assistance) may only be shared with a Member where the law permits this. See also paragraphs 8.1.3 and 8.1.4 below.

8. Information and advice

8.1 *Requests for written information*

- 8.1.1 Members should be provided with adequate information about services or functions on which they may be called upon to make decisions or to scrutinise the decisions of others, or which affect their constituents. This information will normally be made routinely available by Officers in the form of reports, departmental plans etc. Members are encouraged to make use of existing sources of information wherever possible.

- 8.1.2 Written information supplied to a Member regarding the implications of current Council policies or containing statistical information about Council services may be copied to the relevant Cabinet Member.

- 8.1.3 The Leader of the Council or Leader of any other political group may request the Chief Executive or the relevant Deputy Chief Executive, or other designated Officer to prepare reports on matters relating to the authority for consideration by the group. Such requests must be reasonable and should not seek confidential information in relation for instance to casework or personal details of applicants for services.

- 8.1.4 Wherever possible, such requests will be met. However, if the Officer considers that the cost of providing the information, or the nature of the request is unreasonable or inappropriate, the request will be referred to the Chief Executive for determination, where necessary in consultation with the Leaders of the political groups. Requests will also only be met where they comply with data protection or other legal requirements.

- 8.1.5 Officer reports to political groups should be limited to a statement of relevant facts, identification of options and the merits and demerits of such options for the authority. Reports should not deal with any political implications of the matter.

8.2 *Briefings*

- 8.2.1 In order for them to discharge their responsibilities Cabinet Members will be briefed by senior officers (Deputy Chief Executives, Directors or Heads of Service) on service issues, proposals and policy development either on an ad hoc or a regular basis, in accordance with the requirements of the Member involved.

- 8.2.2 The other political party groups may also have nominated Shadow Cabinet Members

and, if those so request, the relevant senior officers will make themselves available to meet with them to brief them on service issues. The other political party groups should be aware that at times the amount of information that officers can share with them may be limited due to issues of confidentiality.

- 8.2.3 The content of these informal briefing sessions shall remain confidential as between Officers and the political group concerned.

8.3 *News items*

When an event or development occurs in the city which has or will have a significant impact on the Council or city residents, the Chief Executive will ensure that the Leaders of all political groups are informed as soon as possible.

8.4 *Ward Members*

- 8.4.1 Senior officers should ensure that Ward Members are given information relevant to their ward where appropriate. As well as letting Ward Members know when there has been a significant incident in their ward, Ward Members should be notified about the following types of issue:

- Public consultation events affecting their wards;
- Proposed changes to services sited within their wards;
- Applications and proposals in their wards

- 8.4.2 Ward Members should be invited by Officers to public events, such as openings, festivals etc., in their wards regardless of political affiliation.

- 8.4.3 The Media and Communications Team will advise Cabinet Members of 'photo shoots' taking place. The team will aim to give 48 hours' notice of any photo shoot to the Cabinet Member.

- 8.4.3 If Officers organise a public meeting about a specific ward issue, all the Ward Members should be invited and given as much notice as possible.

- 8.4.4 If Officers undertake consultation about specific ward issues they should consult the Members for that ward at the start of the consultation.

- 8.4.5 Ward Members should be told in advance about anything which particularly affects their ward and which is potentially controversial.

8.5 *Officer attendance at Group Meetings*

- 8.5.1 The Leader of the Council or Leader of any other political group may ask the Chief Executive or relevant Deputy Chief Executive to give or arrange a private briefing for the party group on a matter of relevance to the Council.

- 8.5.2 Any briefings offered to or requested by a party group will be offered to the other party groups.

- 8.5.3 While Officers may attend political group meetings at which individuals who are not elected Members may be present, Members need to understand that those Officers' ability to share confidential information with the Group may be limited. In particular

Officers will not be able to share personal information with third parties present if to do so would cause the Council to breach the Data Protection Act 1998.

- 8.5.4 Decisions at group meetings are not Council or Cabinet decisions and party groups do not have any delegated authority to make formally binding decisions.

8.6 *Advice for Members with special responsibilities*

- 8.6.1 The Lord Mayor, Cabinet Members and Committee Chairs can ask the Chief Executive, Deputy Chief Executives, Directors and Heads of Service for extra background information and advice on different courses of action.

- 8.6.2 Although these Members have additional responsibilities and different relationships because of their more frequent contact with Officers, these Members must still respect the impartiality of Officers. This includes not asking them to undertake work of a party-political nature, or to do anything which would prejudice that impartiality.

- 8.6.3 The Leaders of minority political groups can ask the Chief Executive, Deputy Chief Executives, Directors or Heads of Service for background information or more details about items coming to the next meeting of a Committee or Cabinet. The appropriate Chair or Cabinet Member will be entitled to receive the same information.

- 8.6.4 Party Group Leaders can ask for advice on presenting their budget in a correct and accurate form. This will be given in confidence.

9. Members' briefings on agendas and reports

9.1 *Briefings on agendas*

Deputy Chief Executives, Directors and Heads of Service will give briefings on full Council, Cabinet and Committee agendas to the Leader and Deputy Leader and Committee Chairs as appropriate.

9.2 *Consultation on agendas*

The Leader will be consulted on agendas for the Cabinet. Committee Chairs will be consulted on agendas for their Committees.

9.3 *Requests for reports*

- 9.3.1 Instructions for reports to come to Cabinet or Committees can only come from the Leader, Cabinet, a Cabinet Member in respect of the Cabinet and a Committee or a Committee Chair in respect of Committees. Cabinet Members may ask for reports to come to their Cabinet Member meetings.

- 9.3.2 Whilst Cabinet Members have political responsibility for drawing up proposals for consideration or for the agenda for a forthcoming meeting, it must be recognised that in some situations an Officer will be under a professional duty to submit a report. Similarly, senior officers will always be fully responsible for the contents of any report submitted in his/her name. This means that any such report will be amended only where the amendment reflects the professional judgement of the author of the report. Any issues arising between a Cabinet Member and a senior officer in this respect should be referred to the Chief Executive for resolution in conjunction with the Leader of the Council.

10. Support services to Members and Political Groups

Support services should only be used for Council business. They should never be used for private purposes, for party political or campaigning activity.

11. Correspondence

11.1 *Between Members and Officers*

If emails or letters between Officers and Members are copied to someone else, they should say so. Blind copies should not be sent. Members should not forward information received from an Officer to a constituent or member of the public if that information is expressed to be private or confidential.

11.2 *Letters on behalf of the Council*

Letters on behalf of the Council will normally be sent by Officers rather than Members. The Leader or Committee Chairs may write some letters on behalf of the Council, for example representations to government ministers. Members must never send letters that create obligations or give instructions on behalf of the Council.

12. The Council as an Employer

The Council as a whole employs its Officers. The appointment and dismissal of Officers and any disciplinary or grievance proceedings will be carried out in accordance with the Employment Procedure Rules and any other agreed policies and procedures.

13. Responsibility for this Code

The Monitoring Officer has overall responsibility for this Protocol and will periodically review how it is working.

Appendix 2: Complaints Protocol

COVENTRY CITY COUNCIL

ETHICS COMMITTEE

COMPLAINTS PROTOCOL

1. INTRODUCTION

- 1.1 This protocol sets out how a complainant ("Complainant") may make a complaint ("Complaint") that an elected Councillor or co-opted member of this Council, or of a parish council within its area, ("Councillor") has failed to comply with their council's Code of Conduct for Councillors ("Code").
- 1.2 The protocol also sets out how the Council will deal with a Complaint.

2. THE CODES OF CONDUCT

- 2.1 The Council has adopted a Code of Conduct for Elected and Co-opted Members, which is available on the Council's website.
- 2.2 Each parish council is also required to adopt a Code of Conduct. The parish councils' Codes are available:
 - (a) on any website operated by the respective parish council;
 - (b) on the City Council's website (if we have been given a copy); or
 - (c) on request from the respective parish clerk ("Clerk").

3. MAKING A COMPLAINT

- 3.1 In order to ensure that we have all the information which we need to be able to process a complaint, Complaints must be submitted on the standard Complaint Form, which can be downloaded from the Council's website.
- 3.2 Complaints must be sent to the Monitoring Officer (see contact details below).
- 3.3 If a Complaint is received other than on the standard Complaint Form, we will not consider it but we will send the Complainant a copy of the form for completion. If anyone needs assistance completing the form, they can contact the Monitoring Officer.
- 3.4 Complainants should give us their name and a contact address or email address, so that we can acknowledge receipt of the Complaint and keep them informed of its progress. If a Complainant wants to keep their name and address confidential, they should indicate this on the standard Complaint Form. In this case we would not disclose their name and address to the Councillor without the Complainant's prior consent. However, the Council does not

normally investigate anonymous complaints or complaints where the Complainant wishes their details to remain confidential, unless there is a clear public interest in doing so.

3.5 Within 5 working days of receiving a Complaint, the Monitoring Officer will usually:

- (a) acknowledge receipt to the Complainant;
- (b) send a copy of the Complaint to the Councillor, unless the Monitoring Officer considers that this may prejudice any investigation;
- (c) send a copy of the Complaint to the Clerk (where the complaint relates to a parish councillor).

3.6 The Monitoring Officer will also notify the Councillor that they have the right to seek the views of the Independent Person (see paragraph 11 below). The Independent Person's contact details can be obtained from the Monitoring Officer (see contact details below).

3.7 The Monitoring Officer will keep the Complainant, the Councillor and the Clerk (where appropriate) informed of the progress of the Complaint, unless the Monitoring Officer considers that this may prejudice any investigation.

4. WILL THE COMPLAINT BE INVESTIGATED?

4.1 Where possible and appropriate, the Monitoring Officer will seek to resolve the Complaint informally, without the need for a formal investigation. Such informal resolution may involve the Councillor accepting that their conduct was unacceptable and offering an apology, or other remedial action by the Council or the respective parish council.

4.2 The Monitoring Officer will review every Complaint received and, in conjunction with the Chief Executive, take a decision as to whether it merits formal investigation. They will have regard to, but are not bound to follow, the guidelines set out in Appendix 1. This decision will normally be taken within 15 working days of receipt of the Complaint. Before making the decision, the Monitoring Officer and Chief Executive will consult with the leader of the political group to which the Councillor belongs (if appropriate) and will also consult with the Independent Person as to whether an investigation is appropriate. The Independent Person will be given an opportunity to review and comment on allegations which the Monitoring Officer and Chief Executive are minded to dismiss as being without merit, vexatious or trivial.

When the Monitoring Officer has taken a decision, they will inform the Complainant, the Councillor and the Clerk (where appropriate) of their decision and the reasons for that decision.

4.3 Where the Monitoring Officer requires additional information in order to come to a decision, they may ask the Complainant, the Councillor or the Clerk (where appropriate) for such information. Where a Complaint relates to a parish councillor, the Monitoring Officer may also seek the views of the respective parish council before deciding whether the Complaint merits formal investigation.

4.4 If the Complaint alleges criminal conduct or breach of a regulation by any person, the Monitoring Officer has the power to call in the Police and/or other regulatory agencies. In such cases it may be necessary to postpone consideration of the Complaint until the Police or other action has been concluded.

4.5 If the Monitoring Officer decides not to investigate a Complaint, they will nevertheless report this to the next ordinary meeting of the Ethics Committee and to the relevant parish council (where appropriate) for information.

5. HOW IS AN INVESTIGATION CONDUCTED?

- 5.1 If the Monitoring Officer decides that a Complaint merits formal investigation, they will, where appropriate after consultation with the Independent Person, appoint an Investigating Officer who may be another senior officer of the Council, an officer of another Council or an appropriately experienced external investigator.
- 5.2 The Investigating Officer will decide whether they need to meet or speak to the Complainant to understand the nature of the Complaint and so that the Complainant can explain their understanding of events and suggest what documents the Investigating Officer needs to see, and who they need to interview.
- 5.3 The Investigating Officer would normally write to the Councillor and ask them to provide their explanation of events, and to identify what documents the Investigating Officer needs to see and who they need to interview. In exceptional cases, the Investigating Officer may delay notifying the Councillor until the investigation has progressed sufficiently.
- 5.4 At the end of the investigation, the Investigating Officer will produce a draft report and will send copies of that draft report, in confidence, to the Complainant and to the Councillor, to give them both an opportunity to identify any matter in that draft report with which they disagree or which they believe requires more consideration.
- 5.5 Having received and taken account of any comments on the draft report, the Investigating Officer will send their final report to the Monitoring Officer.

6. WHAT HAPPENS IF THE INVESTIGATING OFFICER CONCLUDES THAT THERE IS NO EVIDENCE OF A FAILURE TO COMPLY WITH THE CODE OF CONDUCT?

- 6.1 The Monitoring Officer will review the Investigating Officer's report. If they are satisfied that the Investigating Officer's report is sufficient, the Monitoring Officer will send a copy of the Investigating Officer's final report to the Complainant, the Councillor, the Independent Person and the clerk of the parish council (where appropriate) and notify them that they are satisfied that no further action is required. If the Monitoring Officer is not satisfied that the investigation has been conducted properly, he or she may ask the Investigating Officer to reconsider their report.
- 6.2 The outcome of such investigations will be reported to the next ordinary meeting of the Ethics Committee and the relevant parish council (where appropriate) for information.

7. WHAT HAPPENS IF THE INVESTIGATING OFFICER CONCLUDES THAT THERE IS EVIDENCE OF A FAILURE TO COMPLY WITH THE CODE OF CONDUCT?

- 7.1 The Monitoring Officer will review the Investigating Officer's report and will then either send the matter for a hearing by the Ethics Committee or, after consulting the Independent Person, seek Summary Resolution (see below).

Summary Resolution

- 7.2 The Monitoring Officer may consider that the matter can reasonably be resolved without the need for a hearing. In such a case, they will consult with the Independent Person and with the Complainant and seek to agree what they consider to be a fair resolution which also helps to ensure higher standards of conduct for the future. Such a resolution may include the Councillor accepting that their conduct was unacceptable and offering an apology, and/or other remedial action by the Council or the relevant parish council (where appropriate).

- 7.3 If the Councillor complies with the suggested resolution, the Monitoring Officer will report the matter to the Ethics Committee and the relevant parish council (where appropriate) for information, but will take no further action.

Referral for Hearing

- 7.4 If the Monitoring Officer considers that Summary Resolution is not appropriate, or the Councillor does not comply with any suggested resolution, then the Monitoring Officer will refer the Investigating Officer's report to the Ethics Committee for a hearing to decide whether or not the Councillor has failed to comply with the respective Code of Conduct and, if so, whether to take any action in respect of the Councillor.

Hearing Procedure

- 7.5 The Monitoring Officer will conduct a "pre-hearing process", requiring the Councillor to give their written response to the Investigating Officer's report, in order to identify what is likely to be agreed and what is likely to be in contention at the hearing.
- 7.6 The Chair of the Ethics Committee may issue directions as to the manner in which the hearing will be conducted.
- 7.7 The procedure for hearings is set out in Appendix 2: Hearing Procedure.
- 7.8 The Investigating Officer may ask the Complainant to attend the hearing to give evidence. The Complainant does not otherwise have the right to speak at the hearing but they may usually attend as a member of the public.

8. WHAT ACTION CAN THE STANDARDS COMMITTEE TAKE WHERE A COUNCILLOR HAS FAILED TO COMPLY WITH THE CODE OF CONDUCT?

- 8.1 The Council has delegated to the Ethics Committee such of its powers to take action in respect of individual councillors as may be necessary to promote and maintain high standards of conduct.
- 8.2 The sanctions available to the Ethics Committee are set out in Appendix 2: Hearing Procedure.

9. WHAT HAPPENS AFTER A HEARING?

- 9.1 As soon as reasonably practicable, the Monitoring Officer will prepare a formal decision notice, in consultation with the Chair, and send a copy to the Complainant, the Councillor and the clerk of the parish council (where appropriate). They will also make that decision notice available for public inspection on the Council's website for at least 12 months after the hearing.

10. WHO ARE THE ETHICS COMMITTEE?

- 10.1 The Ethics Committee is a committee of the City Council. It is appointed by the City Council and comprises five Councillors and must reflect the political make-up of the council.

11. WHO IS THE INDEPENDENT PERSON?

- 11.1 The Independent Person is a person who has been appointed by a majority of all the Councillors on the City Council.

11.2 A person cannot be the Independent Person if they:

- (a) are, or have been within the past 5 years, a Councillor, co-opted member or officer of the Borough Council;
- (b) are or have been within the past 5 years, a Councillor, co-opted member or officer of a parish or town council within the Council's area, or
- (c) are a relative, or close friend, of a person within (a) or (b) above.

11.3 In 11.2(c) above, "relative" means:

- (a) A spouse or civil partner;
- (b) Someone living with the other person as husband and wife or as if they were civil partners;
- (c) A grandparent of the other person;
- (d) A lineal descendent of a grandparent of the other person;
- (e) A parent, sibling or child of a person within sub-paragraphs 11.3(a) or (b);
- (f) A spouse or civil partner of a person within sub-paragraphs 11.3(c), (d) or (e); or
- (g) Someone living with a person within sub-paragraphs 11.3 (c), (d) or (e) as husband and wife or as if they were civil partners.

11.4 The Independent Person is invited to attend all meetings of the Ethics Committee. Their views are sought and taken into consideration:

- (a) before the Monitoring Officer decides whether to investigate a Complaint in the circumstances set out in paragraph 4.2 above;
- (b) before the Monitoring Officer decides whether to refer an investigated Complaint for hearing or for Summary Resolution;
- (c) before the Committee takes any decision on whether the Councillor's conduct constitutes a failure to comply with the respective Code of Conduct; and
- (d) as to any action to be taken following a finding of failure to comply with the respective Code of Conduct.

11.5 The Independent Person can also be consulted by the Councillor.

12. APPEALS

12.1 There is no right of appeal for the Complainant or for the Councillor against a decision of the Monitoring Officer or of the Ethics Committee.

12.2 If someone feels that the City Council has failed to deal with a Complaint properly, they may make a complaint through the Council's ordinary complaints process. This process would not re-consider the original complaint but would consider the way in which that complaint had been handled.

13 REVISION OF THESE ARRANGEMENTS

13.1 The Ethics Committee may amend these arrangements, and has delegated to the Chair of the Committee the right to depart from these arrangements where they consider that it is expedient to do so in order to secure the effective and fair consideration of any matter.

14 CONTACT DETAILS

14.1 The Council's Monitoring Officer is:

Julie Newman
Coventry City Council
Council House
Earl Street
Coventry
CV1 5RR

Tel: 024 7683 31606

Email: julie.newman@coventry.gov.uk

Appendix 1

ASSESSMENT GUIDELINES

The Monitoring Officer will have regard to these guidelines when deciding whether or not a Complaint should be investigated but they are not bound to follow them.

1. CIRCUMSTANCES WHERE THE MONITORING OFFICER MAY DECIDE TO ARRANGE A FORMAL INVESTIGATION

- 1.1 Where the allegation discloses a potential breach of the Code that the Monitoring Officer considers sufficiently serious to justify the time and cost of an investigation.

2. CIRCUMSTANCES WHERE THE MONITORING OFFICER MAY DECIDE THAT A COMPLAINT SHOULD NOT BE FORMALLY INVESTIGATED

- 2.1 Where it is possible and appropriate to resolve the Complaint informally, without the need for a formal investigation.
- 2.2 Where the Complaint is about someone who is no longer a Councillor.
- 2.3 Where the Complaint does not disclose a potential breach of the Code.
- 2.4 Where the information provided by the Complainant is insufficient to enable the Monitoring Officer to make a decision as to whether the Complaint should be referred for investigation or other action. In this case, the Complainant will be advised that it is possible to resubmit the Complaint with further information.
- 2.5 Where a substantially similar allegation has previously been made by the Complainant, or the Complaint has been the subject of an investigation by another regulatory organisation. In this case, the Monitoring Officer will only refer the Complaint for investigation or other action if they consider that there is a compelling reason to do so.
- 2.6 Where the Complaint is about something that happened more than 6 months ago, or where the lapse of time means there would be little benefit or point in taking action now. It is acknowledged, however, that where a delay has arisen as a result of criminal or other legal proceedings, or there are other good reasons for the delay, it may still be appropriate to refer the Complaint for investigation or other action.
- 2.7 Where the Complaint is anonymous or where the Complainant wishes to remain confidential unless the Monitoring Officer considers that there is a compelling reason to do so.
- 2.8 Where the Complaint discloses a potential breach of the Code of Conduct, but the Monitoring Officer considers that the Complaint is not serious enough to warrant further action.

- 2.9 Where the Complaint appears to be malicious, politically motivated or tit-for-tat, unless a serious matter is raised in the Complaint.

Appendix 2

HEARING PROCEDURE

1. BACKGROUND

- 1.1 This document sets out the procedure which the Ethics Committee will follow in hearing and determining allegations that a Councillor or co-opted member of the Council, or of a parish council within Coventry, has breached the respective council's Code of Conduct.
- 1.2 The purpose of the hearing is to decide whether or not a Councillor has failed to follow the respective Code and, if so, to decide whether or not any sanction should be imposed and what form any sanction should take.
- 1.3 The purpose of this document is to provide an efficient and effective hearing process that will help the Committee to deal with all the issues that need to be resolved in a way that is appropriate and fair to the Complainant and the Councillor. It will thereby promote public confidence in the Council's ability to deal fairly and properly with alleged breaches of the Codes of Conduct.
- 1.4 The procedure has been prepared with regard to relevant legislation, including the Localism Act 2011.
- 1.5 If there is any inconsistency between this procedure and the requirements of legislation the latter will prevail. Any matter not covered in this procedure will be determined by the Committee with regard to the relevant legislation.

2. INTERPRETATION

- 2.1 "Code" means the Code of Conduct for Councillors/Members of the respective Council.
- 2.2 "Councillor" means the councillor who is the subject of the allegation being considered by the Ethics Committee, unless stated otherwise. It also includes the Councillor's nominated representative (if any).
- 2.3 "Independent Person" means the Independent Person appointed by the Council for this purpose (see paragraph 11 of the Complaint Procedures).
- 2.4 "Investigating Officer" means the person appointed by the Monitoring Officer to carry out the investigation. It also includes the Investigating Officer's nominated representative (if any).
- 2.5 "Legal Adviser" means the officer responsible for providing legal advice to the Committee. This may be the Monitoring Officer, another legally qualified officer of the Council, or someone appointed for this purpose from outside the Council.

3. REPRESENTATION

- 3.1 The Councillor and/or the Investigating Officer may be represented or accompanied during the meeting by another person. However, a party to the hearing will only be permitted to be legally represented with the permission of the Committee.

4. LEGAL ADVICE

- 4.1 The Committee may take legal advice, in private if necessary, from its Legal Adviser at any time during the hearing or while they are considering the outcome. The substance of any legal advice given to the Committee should be shared with the Complainant, the Councillor and the Investigating Officer if they are present.

5. INTRODUCTIONS

- 5.1 The Chair will formally introduce all the members of the Ethics Committee and everyone else involved in the hearing.

6. PRELIMINARY MATTERS

- 6.1 The Legal Adviser will explain how the Committee is going to run the hearing and how witnesses will be dealt with (if any).
- 6.2 The Legal Adviser will also seek to resolve any preliminary issues before the hearing starts. If these cannot be agreed, the Committee shall decide them.

7. THE INVESTIGATING OFFICER'S CASE

- 7.1 The Investigating Officer will briefly describe the essence of the Complaint by reference to their report (including exactly what was alleged to have been said or done) and point out any significant disagreement as to the facts. The Investigating Officer may only introduce new matters with the agreement of the Committee.
- 7.2 With the Committee's permission, the Investigating Officer may then call such witnesses as are necessary to substantiate their conclusion that the Councillor has failed to comply with the respective Code.
- 7.3 The procedure for each witness shall be:
- (a) The Investigating Officer shall ask them questions;
 - (b) The Councillor may ask them questions;
 - (c) The Committee may ask them questions;
 - (d) The Investigating Officer may ask them further questions to clarify matters raised by the Councillor and/or the Committee during their questioning.
- 7.4 The Committee may ask the Investigating Officer questions.

8. THE COUNCILLOR'S CASE

- 8.1 The Councillor will then have the opportunity to state their case by reference to their written response to the Investigating Officer's report. The Councillor may only introduce new matters with the agreement of the Committee.
- 8.2 With the Committee's permission, the Councillor may then call such witnesses as are necessary to substantiate their case.
- 8.3 The procedure for each witness shall be:
- (a) The Councillor shall ask them questions;
 - (b) The Investigating Officer may ask them questions;
 - (c) The Committee may ask them questions;
 - (d) The Councillor may ask them further questions to clarify matters raised by the Investigating Officer and/or the Committee during their questioning.

8.4 The Committee may ask the Councillor questions.

9. SUMMING UP THE CASES

9.1 The Investigating Officer will then sum up their case.

9.2 The Councillor will then sum up their case.

10. THE INDEPENDENT PERSON'S VIEW ABOUT BREACH OF THE CODE

10.1 The Committee must take advice (orally or in writing) from the Independent Person before making a decision about whether or not the Councillor has breached the respective Code.

11. DECISION

11.1 The Committee will then decide whether or not they believe that the Councillor has failed to follow the respective Code.

11.2 The decision of the Committee will be announced in public and short reasons for the decision given.

12. IF THE COUNCILLOR HAS NOT FAILED TO FOLLOW THE CODE

12.1 If the Committee decides that the Councillor has not failed to follow the Code, the Committee may then consider whether to make any recommendations to the respective Council with a view to promoting high standards of conduct among councillors.

13. IF THE COUNCILLOR HAS FAILED TO FOLLOW THE CODE

13.1 If the Committee decides that the Councillor has failed to follow the Code, the Investigating Officer will be asked to make any representations about:

- (a) whether the Committee should apply a sanction; and, if so,
- (b) what form any sanction should take.

13.2 The Councillor will then be asked to make any representations about these matters.

13.3 The Committee may question the Investigating Officer and the Councillor to make sure that they have the information they need in order to make an informed decision.

13.4 The Committee must take advice (orally or in writing) from the Independent Person before making a decision about any sanction.

13.5 The Committee may impose one or more of the following sanctions:

- (a) Publish its findings in respect of the Councillor's conduct;
- (b) Report its findings to the Council or to the respective parish council (where appropriate) for information;
- (c) Recommend to the Councillor's political group leader (or in the case of councillors who are not part of a political group, recommend to the respective Council or Committees) that they be removed from any or all Committees or Sub-Committees of the respective Council;
- (d) Recommend to the Leader of the Council that the Councillor be removed from the Cabinet, or removed from particular portfolio responsibilities;
- (e) Recommend to the Council that the Leader of the Council should be removed as Leader;

- (f) Instruct the Monitoring Officer, or recommend the respective parish council (where appropriate), to arrange training for the Councillor and/or other councillors;
- (g) Recommend to the Council, or to respective parish council, that the Councillor be removed from all outside appointments to which they have been appointed or nominated by the Council or by the respective parish council;
- (h) Withdraw, or recommend to the respective parish council that it withdraws, facilities provided to the Councillor by the relevant Council, such as a computer, website and/or email and internet access; or
- (i) Exclude, or recommend to the respective parish council that it excludes, the Councillor from the relevant Council's offices or other premises, with the exception of meeting rooms which are necessary for attending Council, Committee and Sub-Committee meetings.

13.6 The Council has no power to suspend or disqualify the Councillor nor to withdraw councillors' basic or special responsibility allowances.

13.7 The Committee may impose a sanction to begin immediately or within a period of six months after the imposition of the sanction.