
30 September 2021

Name of Cabinet Member:

N/A - Ethics Committee

Director Approving Submission of the report:

Director of Law and Governance

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 position with regard to matters concerning local authorities 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. Liverpool City Council

The Committee has previously been advised of issues relating to Liverpool City Council following the arrest of 5 people in connection with offences of bribery and witness intimidation.

In December 2020 the Secretary of State for Housing, Communities and Local Government appointed Max Caller CBE to lead a statutory Inspection at the City Council, to be completed by the end of March 2021. The Secretary of State requested consideration of the following functions of the council and their alignment with the best value duty:

- planning,
- highways,
- regeneration and
- property management functions and
- the strength of associated audit and governance arrangements in the exercise of those specified functions.

In addition, the inspection team was directed to consider whether the authority has effective arrangements in place for securing best value in the functions listed above.

The subsequent report was published in March 2021. The report found multiple failings in the way in which the services inspected were managed such as:

- Compliance with Standing Orders, regulations and the overriding legislation was clearly not part of the culture of the organisation.
- The failure to comply with the rules relating to Key Decisions, Scrutiny, exempt reports and probity was evident but there appeared to be no action to address this. There was evidence that officers were not supported and were exposed to aggressive challenge.

- There is insufficient resource at the top and in the corporate centre to drive changes and embed them Council wide.
- With regard to local authority companies, the principles of good company governance in a local authority context were not understood and best value not delivered.

Recommendations of the report

The report makes a number of recommendations amongst which are:

1. The appointment of commissioners for an initial period of three year.
2. Delegate to the commissioners the power to consider and consult on a proposal to change the electoral cycle to an all-out election every four years (form election by thirds).
3. Direct the council to prepare and implement an Improvement Plan. This is to include, among others:
 - Changes to the Constitution including delegations, the establishment of a standards committee, mandatory training of members, declarations of interests and gifts and hospitality
 - Prior commissioner approval for heads of terms for any property transaction
 - Review the roles and case for continuing with each subsidiary company of the council
 - Review the officer structure
 - Devise and implement a programme of cultural change for members and officers.

The Secretary of State has invited Liverpool City Council to make representations on the report, while indicating that he is minded to implement a package of measures based on the statutory report.

1.2.2 London Borough of Croydon

On 29 October 2020, a rapid non-statutory review was commissioned by the Secretary of State for Housing, Communities and Local Government to examine serious governance and risk management issues at the London Borough of Croydon. This was precipitated by concerns about governance, financial strategy and oversight and commercial investments at the Council. These concerns were reinforced by the Council's publicly declared intention to seek exceptional financial support from the MHCLG and the publication of a highly critical Public Interest Report on 23 October.

The subsequent report published in November 2020 found that the council “has had significant failings in leadership and management (particularly in sphere of financial management) and its governance and assurance mechanisms have failed in identifying, escalating and addressing risks”.

Amongst other things, the review draws attention to the Council’s poor track record in managing budgets, poorly managed commercial ventures, low levels of reserves, and reliance on development. The report says that the Council is “unfamiliar with taking and implementing difficult financial decisions and as a consequence it has engendered a culture of poor budget management and poor financial control”. The report asserts a “unanimity of view that these failings are attributable to the poor leadership and poor management of the Council over a number of years” and that fundamental “checks and balances appear not to have worked.”

One aspect of this was the way that control was perceived to be concentrated in the hands of the former leader and an inner circle of a small number of Cabinet members. There was a clear desire to pursue an ambitious growth agenda for Croydon and when elements of this growth could not be realised, rather than increased caution, it seems there was a continued desire to accentuate the positive. Officers were alleged to have been asked to re-word Cabinet reports to present the most favourable picture. The review found that the tone of many financial reports to Cabinet did not accurately reflect the seriousness of the Council’s financial position.

The report concludes that signs of a financial crisis had been present for some time but the assurance process failed and governance had been poor.

As a result of that report, the Minister announced in February 2021 that the Government would be appointing a new Improvement and Assurance Board at the Council. These would include members with specialist expertise in finance and commercial asset management. The Council has produced an Improvement Plan and will be expected to report on progress, which will be subject to scrutiny and monitoring.

1.2.3 Attleborough Town Council

Attleborough Town Council has agreed to pay more than £70,000 in costs and damages in relation to the way it treated two of its councillors. The council has admitted that in February 2020 the council passed an unlawful motion to remove both councillors from their positions and prevent them being appointed as either vice-chair or mayor for two years. The councillors had been the subject of allegations of bullying, harassment and intimidation against other councillors and employees but the Council failed to follow due process in dealing with these allegations. Any complaint that the Code of Conduct had been breached should have been dealt with by the Monitoring Officer and the Town Council had no power to investigate those complaints or impose its own sanctions.

The two councillors brought judicial review proceedings and in May 2021 a consent order was made which required the Council to set aside its decision of February 2020. It has also published a 100+ page document giving full details of the matter and has apologised unreservedly to the two councillors.

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 seven new complaints since the date of the last meeting (4 March 2021). In three cases the Chief Executive and Monitoring officer have decided to take no further action. Two cases are proceeding to Stage 2 and in the remaining two complaints, which were against more than one councillor, both are proceeding to Stage 2, but in respect of one councillor only. No further action is to be taken against the other named councillors.

1.3.3 The Monitoring Officer will update the Committee on any complaints received before the meeting and progress on those already received.

1.3.4 All complaints are handled in accordance with the agreed Complaints Protocol. No findings have been made by the Local Government Ombudsman in relation members of Coventry City Council. No complaints have been received by the Monitoring Officer in respect of a Parish Councillor.

2. Options considered and recommended proposal

Members of the Committee are asked to:

1. Note the position with regard to matters concerning local authorities nationally;
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 Director of Law and Governance

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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