
Ethics Committee

9 December 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 - Update

The Committee has previously been advised of issues relating to Liverpool City Council. Government inspectors were sent to investigate the Labour-run council after five people were arrested in relation to allegations of fraud, bribery, corruption, misconduct in public office and witness intimidation at the council.

They included the then Mayor of Liverpool, who has since stood down. All deny the allegations and the investigation is ongoing.

The government review found a dysfunctional council, which frequently undertook deals that did not provide good value for taxpayers.

Liverpool City Council has said it accepts all the report's findings and it was one of the most difficult periods in its history.

Setting out its response to the government, the council said it would work with commissioners appointed to oversee parts of the authority and use the report as an opportunity to "reset" itself and "remove, practices and behaviours of both officers and members which have no place in our council."

1.2.2 Councillor R, Farnham Royal Parish Council, Buckinghamshire

A parish councillor has won a High Court challenge over a decision by a Deputy Monitoring Officer (DMO) to uphold a complaint that he had breached its Code of Conduct for Members.

The parish council accused Councillor R of breaching paragraph 3.1 of its Code of Conduct which refers to behaving in a respectful way and not acting in a way that could bring the council into disrepute.

The complaint against Councillor R, was that he had made misrepresentations about other councillors, and suggested that they secretly supported building on greenbelt at a public meeting.

It was also said that he had met separately with residents and repeated those misrepresentations and he had refused to apologise or retract those misrepresentations.

Subsequent efforts to resolve the issue with Councillor R were unsuccessful. He denied the allegations

An external solicitor was asked to assess the complaint on the papers and concluded that Councillor R had breached the Code of Conduct and that there was no evidence to justify Councillor R's accusations that these councillors were secretly supporting development on the Green Belt.

The DMO agreed with the assessor and also noted that the allegations were made in an open forum where members of the public were present.

The DMO concluded that the claimant was in breach of the Code of Conduct, but also that the complaint did not warrant a referral for investigation.

Councillor R brought a claim for judicial review over the DMO's decision on the following bases:

- the DMO's decision failed to make any clear findings as to what Councillor R actually said at the meeting.
- the DMO failed to consider Article 10 (freedom of speech) in sufficient detail.
- the DMO treated another Councillor in relation to a similar allegation more favourably, in finding that their behaviour had not reached the threshold to breach the Code of Conduct.

The High Court concluded that Councillor R's claim should succeed for the following reasons:

- it was accepted that neither the external solicitor or DMO made clear findings as to what the Councillor R actually said in the meetings. Given the importance that was placed upon his statements, for the purposes of the Code of Conduct and Article 10, it was a significant failing in the assessment and decision-making process not to be clear on what was actually said.
- it was found that the DMO's interpretation and/or application of Article 10 was flawed, and she failed to give effect to the claimant's enhanced right of political expression.
- although it was only recommended that Councillor R apologise, it was a violation of Article 10 to subject the claimant to the complaints procedure, and to find him guilty of a breach of the Code of Conduct.

- although the matters were factually different, the approach should have been the same as with the other Councillor identified as a comparator and the comparator was more favourably treated.

Finding that there had been a violation of Article 10, the judge quashed the decision.

1.2.3 Former Councillor L, Allerdale Borough Council, Cumbria

An Allerdale councillor has been sentenced to six weeks in prison after pleading guilty to sending a threatening email to his local MP and the borough council's chief executive.

The MP for Workington who received the email, welcomed the court's decision as a "defence of both individuals and democracy".

Workington Magistrates' Court sentenced former Councillor L for breaching section 127(1)(a) and (3) of the Communications Act 2003, which says a person is guilty of an offence if they send a message that is grossly offensive or of an indecent, obscene or menacing character.

Upon handing down the sentence on 19 October 2021, the District Judge mentioned the serious nature of threatening MPs and referred to the recent "tragic" events surrounding the death of MP, Sir David Amess.

The Former Councillor's case was aggravated by his record for "disorder and violence" and "more particularly by the fact that it was committed whilst subject to a suspended sentence recently imposed for threats to neighbours and your appalling behaviours towards officers that day," according to the judge.

The MP added that "...the Chief Executive of Allerdale Borough Council, has not chosen that political life. He is a paid officer undertaking an often difficult role diligently, efficiently, and with good grace."

The Independents removed former Councillor L from its ranks following the sentencing.

Allerdale Borough Council confirmed that following conviction, under S80 of the Local Government Act 1972, the Councillor was automatically disqualified as a councillor with immediate effect.

1.2.4 Councillor M, Maldon District Council, Essex

In September 2021 Maldon's joint standards committee upheld six complaints of bullying against Councillor M, who was also found to have deliberately attempted to undermine the Code of Conduct process, bringing his authority into disrepute.

Four complaints were submitted by other councillors and two by the council's corporate leadership team.

Allegations included that Councillor M persistently singled out an officers and members for criticism with aggressive and intimidating behaviour.

It was reported that Councillor M made repeated attempts to undermine and publicly discredit the process including by livestreaming his investigation interview on Facebook Live – which resulted in the council having to report a personal data breach to the Information Commissioner. The personal data breach related to disclosure of an investigation of another Councillor.

The committee upheld all six complaints and found that Councillor M's behaviour during the investigation process showed contempt for the Nolan principles of accountability and integrity and also brought his office and authority into disrepute. The investigation in relation to the Councillor was also found to be confidential at investigation stage unless there was an overwhelming public interest in disclosure before the investigation was complete.

A letter from the deputy monitoring officer, to Councillor M informing him of the committee's decisions noted: "The Joint Standards Committee also wished to place on record our concern that your response to the letter was to want to receive this letter of censure, so you can wear it as a hat.

"It is very disappointing that you continue to fail to understand the impact that your words have on people who cannot answer back."

The letter noted: "You are of course perfectly entitled to criticise officers and members. Indeed, it is part of your job. The problem – and it is a very serious problem – is that councillors are the employer of officers and any criticism must be raised appropriately via an appropriate channel."

Sanctions were as follows:

- formally censure Councillor M.
- restrict access to IT and email.
- recommendation for removal from all committees, working groups or outside body for the remainder of the municipal year (due to be considered by Full Council on 4 November).
- recommend that Councillor M is provided with and accepts training on conflict management and resolving disputes.

1.2.5 Councillor H, deputy leader of Melton Borough Council, Leicestershire

Councillor H, deputy leader of Melton Borough Council has been suspended from the Conservative party and forced to step down as deputy leader of the council after

allegedly telling an audience he wanted women to stand up so he could look at them. He is said to have made the comments in the closing moments of the Best of Melton Awards event in September 2021.

Councillor H, was talking about the effects of the pandemic and how he had missed events when he asked the women in the room to stand up so he could see and praise them on their attire.

The Conservative party has suspended Councillor H for 21 days pending an investigation, meaning he cannot serve his deputy leadership role or as the portfolio holder for growth and prosperity on the council.

The position will be updated at the next meeting.

1.2.6 Councillors Y and T, Shaftesbury Town Council, Dorset

A Dorset Council hearing decided Shaftesbury town Councillors Y and T had failed to show respect by insulting colleagues during debates, breaching their code of conduct. Both were accused of using rude language towards other colleagues and Councillor Y was removed from several meetings for their behaviour.

Councillors Y and T said they had questioned the council's proposals to spend £500,000 on a 3G pitch for the town football club - roughly equivalent to the council's annual budget and there had been a campaign against them as a result.

Both have been ordered to apologise after they were found to have brought a council into disrepute and must also attend an approved code of conduct course.

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 meeting (30 September 2021) as at the date this report was written.
- 1.3.3 The Monitoring Officer will update the Committee on any further 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.

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

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

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 the Council Plan (www.coventry.gov.uk/councilplan/)?

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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Legal: Julie Newman	City Solicitor and Monitoring Officer	Law and Governance	22.11.2021	23.11.2021
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