
Ethics Committee
Council

30 June 2022
6 September 2022

Name of Cabinet Member:

N/A - Ethics Committee

Director Approving Submission of the report:

Director of Law and Governance

Ward(s) affected:

None

Title: Annual Report of Ethics Committee 2021/22

Is this a key decision?

No

Executive Summary:

This report forms the sixth annual report of the Ethics Committee, setting out the work of the Committee over the last municipal year. In particular, it reports on:

- The Committee's review of the Complaints Protocol
- Guidance on Declarations of Interests
- Civility in public life, intimidation in public life and digital citizenship
- The operation of the new Code of Conduct

The report also details other, regular work of the Committee over the last year and sets out a brief overview of work to be undertaken in the 2022/23 municipal year. The Committee is asked to approve the report and recommend to full Council that it notes the report and considers whether there is any work that it would wish the Committee to undertake.

Recommendations:

The Ethics Committee is recommended to:

- (1) Approve the Annual Report of the Committee; and
- (2) Recommend that Council notes the Annual Report and considers whether there is any work within the Committee's terms of reference that Council would wish the Committee to undertake.

Council is recommended to:

- (1) To note the Annual Report of the Ethics Committee; and
- (2) To consider whether there is any work within the Committee's terms of reference that Council would wish the Committee to undertake.

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?

Yes – 6 September, 2022

Report title: Annual Report of Ethics Committee 2021/22

1. Context (or background)

- 1.1 The Council's Ethics Committee was established in 2012 following the introduction of new duties and responsibilities regarding ethical conduct in the Localism Act 2011. The Council as a whole has a legal duty to promote and maintain high standards of conduct by members and co-opted members of the authority. The Ethics Committee, through its work, assists in discharging this statutory duty.
- 1.2 The terms of reference of Ethics Committee also include:
- (a) Making recommendations to the Council on the appointment of "independent persons" under the Localism Act 2011;
 - (b) Approving and revising the Complaints Protocol which will set out the detailed procedures for considering complaints made against Elected and Co-opted Members under the Code of Conduct for Elected and Co-opted Members;
 - (c) Considering complaints made against Elected and Co-opted Members under the Code of Conduct for Elected and Co-opted Members in accordance with the Complaints Protocol;
 - (d) Monitoring the operation of the Code of Conduct for Elected and Co-opted Members and making appropriate recommendations to the relevant body;
 - (e) At the request of the member or co-opted member concerned, reviewing any decision of the Monitoring Officer not to grant a dispensation in relation to disclosable pecuniary interests in accordance with Section 33 of the Localism Act 2011;
 - (f) Monitoring the operation of the Code of Conduct for Employees and making appropriate recommendations to the relevant body;
 - (g) Considering complaints made against Elected Members of Finham Parish Council, Keresley Parish Council and Allesley Parish Council under the relevant Parish Council's Code of Conduct for Elected Members in accordance with the City Council's Complaints Protocol; and
 - (h) Considering any other matters which are relevant to the ethical governance of the Council, its Members or Employees.
- 1.3 The Committee approves a work programme for each year which includes regular reports as well as one off pieces of work. At its meeting in March 2017, the Committee agreed that in future it would submit an annual report to Council setting out the work that it has accomplished in the past year. This report comprises the sixth Annual Report of the Ethics Committee.

2. The Annual Report and Recommended Proposal

2.1 About the Committee

Ethics Committee comprised four councillors. In the municipal year 2021/22, the membership of the Committee was Cllr Walsh (Chair), Cllr Hetherington, Cllr Welsh and Cllr John Mutton. There was one named substitute members for the year, Cllr Mal Mutton. Although not members of the Committee, the four Independent Persons appointed by the Council are encouraged to attend the meetings where possible. The Committee held 4 scheduled meetings in 2021/22. Two meetings were held remotely in July and September 2021 and the meetings in December 2021 and April 2022 were held in person following the return to in-person Council meetings.

2.2 Code of Conduct Complaints

The Council received a total of 4 new formal complaints against councillors in the municipal year 2021/22. All complaints were recommended for no further action (at Stage One).

At its April 2022 meeting the Committee were due to consider an independent investigator's report into a complaint that a Councillor had breached the Code of Conduct in relation to four complaints outstanding from the previous municipal year. However the Code of Conduct hearing in this matter has been postponed until July 2022 as this meeting was not quorate.

2.3 The Committee's review of the Complaints Protocol

At its September 2021 meeting the Committee reviewed the Complaints Protocol (ie for complaints in relation to an elected Councillor or co-opted member of the Council, or of a parish council within its area, where the member has failed to comply with the council's Code of Conduct) and was satisfied that no revisions were required to the Complaints Protocol as a result of the adoption of the new Code of Conduct for Elected and Co-opted Members earlier in the year.

2.4 Guidance on Declarations of Interests

In December 2021 the Committee reviewed and approved the document: "Declaration of Interests – A Quick Guide for Elected Members", with reference to the Local Government Association's (LGA) Guidance to the Model Code of Conduct, published in July 2021.

The LGA produced Guidance on the Model Code of Conduct (Guidance) in July 2021. The Guidance clarified that there are three types of interest:

1. Disclosable Pecuniary Interests (DPIs)
2. Other Registerable Interests (ORIs)
3. Non-Registerable Interests (NRIs); and

And that there are then two situations following this:

1. Registration; or
2. Declaration

Members **must declare the interest**, not participate, not vote and leave the room when:

<i>It is a...</i>	<i>Unless...</i>
DPI	The Member has dispensation
ORI (“directly relates to”)	The Member has dispensation or members of the public can speak
NRI (“directly relates to”)	The Member has dispensation or members of the public can speak
NRI (“affects”)	The Member has dispensation or members of the public can speak OR if it is a less serious interest (having applied the test) when the Member can just declare it but stay, participate and vote

The Guidance includes a useful flowchart which has been adapted for the Council and incorporated into the “Declaration of Interests – A Quick Guide for Elected Members” document.

2.5 Civility in public life, intimidation in public life and digital citizenship

The LGA has been coordinating a programme of work entitled “Civility in Public Life”. This work is in response to the increasing concern about intimidation and toxicity of debate and the impact this has been having on democratic processes.

To support this work the LGA has now started to develop a range of guidance and tools to support councillors and candidates in their online communications (also known as their “Digital Citizenship”) as it is now recognised that online communication is intrinsic to democratic engagement.

The Ethics Committee has been monitoring the work of the LGA and considering how that work can be adopted as a local response to promote Civility in Public Life and Digital Citizenship.

- Through this programme of work the LGA is articulating good standards for anyone engaging in public and political discourse
- understanding the scale and impact of intimidation and abusive behaviour on membership organisations, and developing recommendations for achieving positive debate and public decision-making on a local level

- supporting LGA members and all democratically elected local representatives in addressing intimidation and abuse, so they deliver the best on behalf of their communities

Updates in respect of the Civility in Public Life work are as follows:

- a) The LGA has re-confirmed its commitment to promoting civility in public life and supporting the well-being of elected members, stating that the recent tragic death of Sir David Amess MP has brought this issue into marked focus. Everyone in public life should be able to go about their daily business without fear of attack and the LGA has also stated that it is a challenge that they are determined to meet.

To support this programme the LGA has issued a “Call for evidence of abuse and intimidation of councillors” consultation. The call for evidence is intended to capture elected members' experiences and emerging trends around abuse and intimidation from the public. It is anticipated that the evidence collected will help the LGA to develop a body of evidence to support its calls for legislative and systemic change and develop support for elected members.

- b) In July 2021 the LGA published supporting guidance on its Model Councillor Code of Conduct, which aims to help understanding of and allow for consistency of approach towards the Model Code.

Improving Digital Citizenship has always been a key element of the LGA’s Civility in Public Life work and is becoming increasingly important as our daily interactions continue to take place online and new technologies of information are constantly used to facilitate communication with citizens, officers and councillors. Online abuse and intimidation of local councillors and supporting officers working with them is a major challenge to local democracy and to the diversity of our local representatives.

The LGA’s work in respect of Digital Citizenship is ongoing but the following have been published to date:

- a) Rules of Engagement Info Graphic – the info graphic produced by LGA can be pinned to a member’s social media profile to outline the ways in which they intend to engage with people online. These rules are designed to give all users a clear ‘code’ by which they should operate, with a clear statement that users can be blocked, or posts deleted, if they fail to participate in a civil manner. Based on this infographic, Coventry specific ones have been created for Facebook, Twitter and Instagram and approved by the Ethics Committee.
- b) Signpost to further resources – in particular “Glitch” which is a UK charity that is working to end online abuse – particularly against women and marginalised people. It was founded in 2017 by then local politician, Seyi Akiwowo, after

she received a flood of abuse when a video of her speech at the European Parliament went viral. Through training, research, workshops, and programs, Glitch aims to build an online world that is safer for all.

Glitch's 'Fix the Glitch Toolkit 2.0' is designed to end online gender-based violence for Black women. It covers online gender-based violence, self-care, supporting women online when they experience online abuse, and how we can work to end online violence against Black women.

Before the Covid pandemic a consultation was being undertaken, sponsored by the Cabinet Member for Policing and Equalities that looked at challenges for City Council elected members and how to support participation in public service. More recently this work was picked up in the review of the offer to elected members around member support as a result of a different emerging landscape for elected members to operate in post Covid.

The consultation, entitled "Leader of our Communities – can we improve our service" was sent to all members. Overall, there were 31 responses received to the survey out of a possible total of 54. Responses from the consultation included experiences of intimidation and what support would help in managing or preventing such situations.

These consultation responses have been evaluated and are informing a targeted approach to supporting members in this area. One part of the proposed response being to raise awareness of the LGA guidance on intimidation and harassment alongside additional local protocol and guidance.

Civility in public life is supported through adherence to the requirements of the Code of Conduct for Elected and Co-opted Members in treating others with "respect". This is enhanced in the new Model Code of Conduct produced by the Local Government Association, which the Council adopted a revised version of with effect from the 2021/22 municipal year.

Digital Citizenship is supported through advice and guidance available from the Council's Communications Team. Earlier this year, the Social Media Protocol for Elected Members was updated to recommend ways in which councillors protect themselves online, how to respond to abusive messages, and encourages councillors to seek support where needed.

The Committee:

1. Noted the work that has been undertaken by the LGA and locally in promoting Civility in Public Life and Digital Citizenship

2. Supports the work that is taking place locally to adopt Civility in Public Life and Digital Citizenship, including approving the Rules of Engagement Info Graphics, and supporting officers in promoting this approach amongst members
3. Supports officers in promoting the LGA's consultation, amongst elected members; and
4. Requested that this item remains on the work programme of the Ethics Committee for continued review.

2.6 The operation of the new Code of Conduct for Elected and Co-opted Members

Since being issued by the Local Government Association (LGA) in December 2020, the Model Code of Conduct (Model Code) has been amended by the LGA twice on 27 January 2021 and 17 May 2021. Changes made in January 2021 have been incorporated into Coventry City Council's revised version of the Model Code (Revised Code) but changes from May 2021 remained outstanding. The amendments published in May 2021 were published without tracked changes. A further version of the amendments made in May 2021 with tracked changes was published by the LGA in September 2021. Most of the amendments were technical in nature and have been amended by the Monitoring Officer using her delegated authority other changes were made following consultation with the Cabinet Member for Policing and Equalities .

Further, in July 2021 the LGA published Guidance for the Model Code of Conduct (Guidance).

The Guidance is supporting guidance which is aimed to help understanding and consistency of approach towards the Model Code. The Model Code and Guidance, have been designed to encourage good conduct, and safeguard the public's trust and confidence in the role of councillors in local government.

The LGA will undertake an annual review of the Model Code and Guidance to ensure it continues to be fit for purpose, incorporating advances in technology, social media, case law and changes in legislation.

In summary the Guidance covers the following areas:

- **Application of the Model Councillors' Code of Conduct**

The Guidance confirms that the Model Code applies when Councillors are carrying out official duties, for example when considering or discussing local authority business, either as a councillor or representing the local authority on an outside body and the Model Code does not, therefore, apply solely when Councillors are in local authority meetings or on local authority premises.

The code applies to all forms of communication and interaction (paragraph 4.3 of the Revised Code).

The Guidance provides helpful examples of when Councillor activity will fall within the Model Code / Revised Code or not. It explains that for something to fall within the Model Code there must be a clear link to a local authority function or the individual's role as a Councillor.

If there is any ambiguity, as it is not always immediately apparent in which capacity a Councillor is acting, the Guidance recommends that it may be helpful if the Councillor can make clear to people in which capacity they are engaging with them.

The Guidance details that the use or attempt by an individual to use their position as a Councillor to seek to gain an advantage for themselves or someone close to them or to disadvantage someone is an attempt to misuse their position and therefore falls within the scope of the Code of Conduct. Examples given include writing to someone on local authority headed paper or using a local authority email address which may lead someone to assume the individual was writing in their capacity as a Councillor.

The Guidance also addresses Social Media and confirms that a Councillor simply describing themselves as "a Councillor" in a social media posting or at the top of their page or in their username or profile, for example, does not of itself mean that every posting they make is covered by the Model Code / Revised Code. There must be a link within the individual posting or thread to their role as a Councillor or to local authority business. However, even if the Councillor does not describe themselves as a Councillor they may fall within the scope of the Model Code / Revised Code if they are discussing local authority business. Each matter would need to be looked at on a case-by-case basis.

- **General Obligations**

1. **Respect** – means treating other Councillors, officers and members of the public and others with respect, in all forms of communication as failure to show respect can harm public confidence. Examples of respectful behaviour are being polite and courteous. The Guidance acknowledges that disrespectful behaviour is subjective and difficult to define but goes on to say that any behaviour that a reasonable person would think would influence the willingness of fellow councillors, officers or members of the public to speak up or interact with a Councillor because they expect the encounter will be unpleasant or highly uncomfortable fits the definition of disrespectful behaviour. Examples of disrespectful behavior are being rude, swearing and ignoring people trying to speak. The guidance reiterates the rules around Article 10 and freedom of speech and that there is an enhanced level of protection in politics including local government politics. The Guidance also outlines that the respect provisions are not intended to "gag" Councillors and prevent them making criticisms of officers but reminds them to do so respectfully, using the appropriate channels in their local authority and not bring their Council into disrepute.
2. **Bullying** – is unacceptable and should not be tolerated. Bullying can

impact not only the individual but the wider organisation and affect morale and operational effectiveness. Bullying may be characterised as offensive, intimidating, malicious, insulting, or humiliating behaviour, an abuse or misuse of power that can make a person feel vulnerable, upset, undermined, humiliated, denigrated or threatened. Bullying can take the form of physical, verbal, and non-verbal conduct but does not need to be related to protected characteristics. Bullying behaviour may be in person or by any other means of communication. Councillors should always be mindful of the overall potential impact of the behaviour on others as it can affect mental health.

Like disrespectful behaviour, bullying can also be difficult to define. When allegations of bullying are considered it's likely that both perspectives will be considered. Conduct is unlikely to be considered as bullying when it is an isolated incident of a minor nature, where it is targeted at issues, rather than at an individual's conduct or behaviour, or when the behaviour by both the complainant and councillor contributed equally to the breakdown in relations. However, the cumulative impact of repeated 'minor' incidents should not be underestimated.

3. **Harassment** – the Protection from Harassment Act 1997 states that harassment includes behaviour which alarms a person or causes a person distress or puts people in fear of violence and must involve such conduct on at least two occasions. It can include repeated attempts to impose unwanted communications and contact upon a victim in a manner that could be expected to cause distress or fear in any reasonable person. The Guidance advises that harassment of any kind whether direct or indirect is in no-one's interest and should not be tolerated. Like bullying, harassment can take the form of physical, verbal, and non-verbal conduct but does not need to be related to protected characteristics. Harassment may be in person, or any other means of communication. The factors likely to be considered when assessing allegations of harassment are whether the councillor knows or ought to know that their actions constitute harassment, whether a reasonable person would consider the actions to be harassment and the impact of the behaviour/conduct on victim. Examples of harassment include but are not limited to: unwelcome emails, inappropriate comments, physical contact threats or sexual harassment.
4. **Discrimination** – Councils have a duty under the Equality Act 2010 to promote equality and to eliminate unlawful discrimination and harassment. Under the Act the Council may be liable for any discriminatory acts which a Councillor commits. Councillors must be careful not to act in a way which may amount to any of the prohibited forms of discrimination, or to do anything which hinders the Council's fulfilment of its positive duties under the Act. Unlawful discrimination is where someone is treated unfairly because of a protected characteristic as follows:

- a. age

- b. disability
- c. gender reassignment
- d. marriage and civil partnership
- e. pregnancy and maternity
- f. race
- g. religion or belief
- h. sex and sexual orientation

Examples of discriminatory behaviour include but are not limited to: exclusion or treating someone less favourably based on any of the Protected Characteristics and comments, slurs, jokes, statements, questions, or gestures that are derogatory or offensive to an individual's or group's characteristics. The Guidance also mentions that Councillors should be aware of "unconscious bias" and ensure they make decisions based on evidence rather than assumptions.

5. **Impartiality of officers** – Officers must be politically neutral (unless they are political assistants) and should not be coerced or persuaded to act in a way that would undermine their neutrality. At the heart of the Councillor-Officer relationship is mutual respect and they should therefore be conducted in a positive and constructive way. Officers may sometimes give Councillors advice that they do not want to hear or does not suit their political views. They must be allowed to do this without fear of recriminations to allow for good decision-making looking at all relevant options.
6. **Confidentiality and access to information** – Council business is by law generally open and the Council should always operate as transparently as possible, there will be times – for example, when discussing a named individual or commercially sensitive information – when it is appropriate for local authority business to be kept confidential or treated as exempt information. In those circumstances, Councillors must not disclose confidential information, or information which you believe to be of a confidential nature, unless consent is obtained, there is a lawful requirement or it is in the "public interest". A Councillor is entitled to access information held by the local authority for the performance of their duties as a councillor. If a councillor wishes to use local authority information for any purpose other than in connection with their duties as a councillor, and that information is not in a publicly available document, however, then that councillor should submit a freedom of information request so that it can be given to them to use freely.
7. **Disrepute** – Councillors are trusted to make decisions on behalf of their community and their actions and behaviour are subject to greater scrutiny

than that of ordinary members of the public. The Article 10 right to freedom of expression is not unrestricted. Actions of Councillors may have an adverse impact on their role, other councillors and/or the Council and may lower the public's confidence. The Guidance advises that disrepute can be defined as a lack of good reputation or respectability. In the context of the Code of Conduct, a Councillor's behaviour in office will bring their role into disrepute if the conduct could reasonably be regarded as either: reducing the public's confidence in them being able to fulfil their role; or adversely affecting the reputation of the Council's Councillors, in being able to fulfil their role. The misconduct will need to be sufficient to damage the reputation of the Councillor's role or local authority, as opposed simply to damaging the reputation of the individual concerned.

- 8. Misuse of position** – Councillors should not take advantage of their responsibilities and opportunities to further their own or others' private interests or to disadvantage anyone unfairly. Even failed attempts to misuse position are a breach of the Model Code. Councillors who own land, or whose relatives or close associates own land, need to be particularly cautious where planning matters are concerned.
- 9. Misuse of resources and facilities** – Councillors may be provided with resources and facilities by the Council to assist them in carrying out their duties. These resources, eg stationery, printing, etc are given to help Councillors carry their roles more effectively and are not to be used for business (purely political or otherwise) or personal gain. They should be used in accordance with the purpose for which they have been provided and the Council's own policies regarding their use.
- 10. Gifts and Hospitality** – in order for a Councillor to protect their position and the reputation of the local authority, they should exercise caution in accepting any gifts or hospitality which are (or which they reasonably believe to be) offered to them because they are a councillor. The presumption should always be not to accept significant gifts or hospitality. However, there may be times when such a refusal may be difficult if it is seen as rudeness in which case a Councillor could accept it but must ensure it is publicly registered where over the value of £50. Declined gifts or hospitality reaching the threshold should also be declared. This will help the Council to identify if there are any patterns and to be aware of who might be seeking to influence the authority.
- 11. Declarations of interest** – Councillors must register two different categories of interests:
 - a. **Disclosable Pecuniary Interests** – these are categories of interests which apply to the Councillor and their partner. The categories are set out in regulations made under s27 of the Localism Act 2011 and knowing non-compliance is a criminal offence.

- b. Other registerable interests – these are categories of interest which apply only to the Councillor and which the LGA believes should be registered as an aid to transparency.

A helpful flow-chart is provided in the Guidance at Appendix 1: “Interests Flowchart”. This flow chart has been adapted for Coventry City Council and included in the “Declaration of Interests – A Quick Guide for Elected Members” document referred to at 2.4 of this Report.

2.7 Officer and Members Gifts and Hospitality

The Council has strict rules about when and if members and officers can accept gifts and/or hospitality. The Committee considers that this policy reflects the way in which the Council through its members and officers operates and provides more effective checks and balances on the receipt of gifts and hospitality. All directorates have a common register which requires gifts and hospitality to be approved by a senior officer. The Committee normally reviews these registers on average twice a year.

2.8 Other Work

The Committee has continued to receive regular reports on ethical standards cases across the country, where these have been available.

The Committee has also maintained a watching brief on work being undertaken by the Committee on standards in Public Life and locally on supporting members in dealing with challenges associated with public service, particularly in relation to intimidation and abuse.

2.9 Work Programme for 2022/23

Apart from regular reports on, among other things, Code of Conduct complaints, updates from the Monitoring Officer and officer and member gifts and hospitality, this year the Committee is looking at work in the following areas:

- Monitoring and responding to the Local Government Association’s work on civility in public life and Digital Citizenship
- Evaluating the Government’s response to the Committee on Standards in Public Life issued in March 2022
- Reviewing the operation of the new Code of Conduct for Elected and Co-opted Members
- A further review of Parish Councils and Standards

The Committee will also maintain a watching brief on any legislative changes arising from the Committee on Standards in Public Life’s report and recommendations of January 2019.

2.10 Recommendations

The Committee is recommended to

- (1) Approve the Annual Report of the Committee; and
- (2) recommend that Council notes the Annual Report and to consider whether there is any work within the Committee's terms of reference that Council would wish the Committee to undertake.

Council is recommended to

- (1) To note the Annual Report of the Ethics Committee; and
- (2) to consider whether there is any work within the Committee's terms of reference that Council would wish the Committee to undertake.

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

Not applicable.

5. Comments from Comments from Chief Operating Officer (Section 151 Officer) 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) climate change and the environment

None

6.6 Implications for partner organisations?

None at this stage

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Legal: Julie Newman	Director of Law and Governance	Law and Governance	06/06/22	08/06/22
Councillor Walsh	Chair of Ethics Committee		16/06/22	20/06/22

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