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Ethics Committee

15 December 2022

**Name of Cabinet Member:**

N/A - Ethics Committee

**Director Approving Submission of the report:**

Chief Legal Officer

**Ward(s) affected:**

None

**Title:** Code of Conduct Update

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**Is this a key decision?**

No

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**Executive Summary:**

This report updates 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 Chief Legal Officer, in consultation with the Chair of the Ethics Committee.

**List of Appendices included:**

- (A) Letter from Lord Evans to the Rt Hon Simon Clarke MP, Secretary of State for Levelling Up, Housing and Communities, in light of the Government's recent response to the Committee's 2019 report on Local Government Ethical Standards, dated 4 October 2022

**Other useful background papers**

- Agenda and minutes for the Ethics Committee - 30th June 2022, 10.00am, see item 7: Report on the Government's March 2022 Response to Committee on Standards in Public Life Report of 2019:  
<https://edemocracy.coventry.gov.uk/ieListDocuments.aspx?CId=161&MId=12702&Ver=4>

**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 Chief Legal 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 The Committee on Standards in Public Life (CSPL)

Lord Evans, Chair of the CSPL, has written to the Rt Hon Simon Clarke MP, Secretary of State for Levelling Up, Housing and Communities, in light of the Government's response in March 2022 to the CSPL's 2019 report on Local Government Ethical Standards. The Government's report was presented to the Ethics Committee at its meeting on 30 June 2022, details of which can be found at the following hyperlink:

<https://edemocracy.coventry.gov.uk/ieListDocuments.aspx?CId=161&MId=12702&Ver=4>. A copy of the letter is attached at Appendix A of this report.

Lord Evans expressed disappointment that many of the CSPL's recommendations had not been accepted by the Government despite evidence presented suggesting that stronger arrangements were needed to support high ethical standards. Lord Evans has urged the Government to reconsider the CSPL's recommendations.

Members will be updated as this matter develops.

#### 1.2.2 Councillor B, Sunderland City Council, Tyne and Wear

A complaint was made after Councillor B made comments on social media about the relationship between two rival political parties including alleged inappropriate conduct between two particular Councillors on an Overview and Scrutiny Committee relating to a personal relationship.

At a hearing, the Council's Ethics Committee ruled "on the balance of probability" that the comments breached paragraph one of their Councillor Code of Conduct, requiring members "treat others with respect, including council officers and other elected members".

The comments were found to be "objectively incorrect" and Councillor B was asked to retract the statement before the matter reached hearing but refused to do so, with the investigating officer commenting that this was "disrespectful".

After considering potential sanctions for Councillor B, the panel issued a sanction of formal censure and recommended that Councillor B issue a written apology and delete the tweets that led to the complaint.

Further sanctions included the Monitoring Officer offering training to Councillor B on the appropriate use of social media by members of the council.

### **1.2.3 Independent investigation launched by East Devon District Council, regarding Former Councillor H**

Independent consultants have been appointed by East Devon District Council (EDDC) to carry out an independent investigation into the actions of the council following the allegations, criminal charges and subsequent conviction of Former Councillor H.

This investigation has been commissioned following a decision by Council on 28 September 2022 to appoint an independent body to look at this. The aim of the investigation is to understand the actions of staff and Councillors in the handling of matters relating to former Councillor H, and to recommend any improvements required for the Council going forward.

The Council have agreed a terms of reference for its investigation which can be viewed on the EDDC website.

Former Councillor H was a former Mayor of Exmouth and was an East Devon District Councillor from 2007 to 2019. He was imprisoned for 21 years after being convicted in August 2021 of historical sexual assault charges.

It is anticipated that a report on the investigation will be delivered to the Council in early 2023.

### **1.2.4 Councillors S and E, Guildford Borough Council**

Allegations of misconduct against Councillors S and E had been submitted in a formal complaint dated 29 June 2021.

The complaint related to the alleged failure of the Subject Members to comply with the Councillors' Code of Conduct in relation to the content of emails sent by the Subject Members, a WhatsApp message sent by Councillor S, and tweets posted by Councillor S in connection with enquiries by a local newspaper in respect of the election of the Conservative group leader in June 2021.

Informal resolution was unsuccessful and the matter was referred for independent investigation.

In June 2022 the Independent Investigator found the Subject Members had breached the Council's Code of Conduct through:

- (a) failure to treat others with respect (para 2 (1) of the Code); and
- (b) conducting themselves in a manner which could reasonably be regarded as bringing the office of councillor or the Council into disrepute or acting in a manner contrary to the Council's duty to promote high standards of conduct (para 4 of the Code).

The Council's Standards Sub-Committee conducted a local hearing into this matter in September.

Councillor S, asked the Investigating Officer where the line was drawn between a councillor working as a councillor and a councillor exercising freedom of expression in relation to the general discussion that took place between media and politicians.

The Investigating Officer explained that it was dependent upon the subject matter of the conversation, where a councillor speaks to the press about Council business, or issue in relation to the Council then they were, in his view, acting as a councillor.

Having heard the parties and on the balance of probabilities, the Sub-Committee resolved that there had been a breach of the Code of Conduct by the Subject Members on both counts.

In relation to the e-mails sent by Councillor E, the Sub-Committee considered first of all the question of whether they had been sent in a personal capacity or in Councillor E's capacity as a councillor. The Sub-Committee concluded that given that the emails related to a communication with a journalist about a matter relating to the Council, namely a group leadership election, they did meet the test of being made in the capacity of being a Councillor.

In considering the content of the emails, WhatsApp messages and tweets of Councillor S, the Sub-Committee again applied the test of whether these were made in a personal capacity or in Councillor S's capacity as a councillor. Again, considering the context, namely communication with a journalist in relation to a media enquiry about Council business, the Sub-Committee deemed that the e-mail and the WhatsApp messages were made in the capacity of being a councillor. The Sub-Committee considered that the tweets, regardless of whether or not made in the capacity of a councillor, should be regarded as being "fair comment and opinion" and therefore should not be considered to be a breach of the Code of Conduct.

Councillor S indicated that, notwithstanding the Sub-Committee's findings, they would not be making an apology.

In relation to sanctions the Sub-Committee resolved:

- (1) That, in the case of Councillor E, the following sanctions be applied:
  - Publish and report the Sub-Committee's findings in respect of Councillor E's conduct
  - Issue a formal letter of advisement as to the future conduct of Councillor E
  - Request Councillor E tender an apology to the complainant for their conduct.
  
- (2) That, in the case of Councillor S, the following sanctions be applied:
  - Publish and report the Sub-Committee's findings in respect of Councillor S's conduct
  - Issue a formal letter of advisement as to the future conduct of Councillor S
  - To issue formal censure to Councillor S for their conduct.

### **1.3 The local picture**

Complaints under the Code of Conduct

- 1.3.1** The Ethics Committee has requested that the Chief Legal Officer report regularly on any complaints received relating to Members of Coventry City Council.
- 1.3.2** The Chief Legal Officer has received four complaints since the date of the last meeting (29 September 2022) as at the date this report was written. In one matter No Further Action has been recommended. The other complaints remain outstanding. A Stage 1 Decision Notice was outstanding at the date of the last report and it is confirmed that this has now been finalised and a recommendation of no further action was made in this matter.
- 1.3.3** The Chief Legal 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**

The Ethics Committee are recommended 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 Chief Legal 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 the Chief Operating Officer (Section 151 Officer) and Chief Legal Officer**

#### **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/](http://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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