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Ethics Committee

30 March 2023

**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:**

None

**Other useful background papers**

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 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 Councillor D, Teignbridge District Council, Devon**

The Local Government and Social Care Ombudsman has found that Teignbridge District Council's investigation into a Member's conduct was flawed. Councillor D complained to the Ombudsman that the Teignbridge failed to follow due process when investigating him, leading to him being "unfairly sanctioned" with damage to his "personal and professional reputation".

He complained that the council:

- initiated an investigation without receiving any complaint about his conduct which is contrary to the law and its own policy;
- misled him into believing such a complaint had been made;
- did not disclose details of any such complaint as might have been made; and
- did not carry out due diligence of an independent investigator appointed to investigate the complaint.

The Ombudsman found fault with a "number of aspects" of the Council's investigation. It concluded that the investigation was not prompted by a formal written complaint, contrary to the law.

The Ombudsman considered section 28 of the Localism Act 2011, which says: "to trigger any investigation of an alleged breach, the Council must receive details of that allegation in writing".

The Ombudsman revealed that during its investigation, the Council said that "it is apparent that no formal complaint was received with regards to the conduct of Councillor D". But that its Monitoring Officer did receive "written complaints/concerns/ allegations" about Councillor D which they "considered were written allegations".

The Council suggested it would be "perverse" if its Monitoring Officer then had to require a "written complaint" if they were aware of inappropriate conduct.

It suggested to the Ombudsman that "the full records of the complaints received by the Monitoring Officer may have been lost due to the passage of time", the report revealed.

The Council also did not give the Member enough information about his alleged breaches of its Code, the Ombudsman suggested.

Teignbridge introduced new allegations during the process, but the independent investigator appointed to look at the case did not make it clear to Councillor D whether these were part of the investigation, the report noted.

The Ombudsman also found that the inquiry into Councillor D's conduct was conflated with accusations levelled at another Councillor who was also being investigated at the same time.

The report revealed that the Council failed to reflect on the investigation and consider whether due process had been followed after Councillor D raised legitimate concerns about the way the investigation was being carried out.

Lastly, the Council failed to consider Cllr D's enhanced right to free speech as an elected representative, which was relevant when the Council considered his justification for certain comments he acknowledged making or posted on social media, the Ombudsman said.

The Ombudsman made a number of recommendations to improve the Council's processes following the investigation, but it has revealed the Council has "not yet agreed to accept these".

To remedy the injustice caused, the Ombudsman recommended the Council:

- apologise to Councillor D, accepting the findings of this investigation;
- rescind its decision notice of 22 July 2020 upholding the complaint Councillor D breached the Code and ensure this is no longer available on its website. In its place it should provide a statement saying the notice has been withdrawn following this investigation and provide a link to this report.

The Ombudsman also recommended that the Council should ensure it has a written procedure for Officers and Independent Investigators asked to consider standards complaints.

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

At the last meeting of the Ethics Committee on 15 December 2022, it was reported that Independent consultants had 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 was commissioned following a decision by the 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.

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.

East Devon District Council (EDDC) admits an employee was told about the investigation in two safeguarding meetings held before Councillor H was arrested in 2016. But it said the individual who attended was bound by “confidentiality” rules.

Former Councillor H was first arrested for the offences in summer 2016, but he stayed on as a Councillor until May 2019 - before being made an Honorary Alderman in December that year.

An independent review into the response of Devon County Council's Local Authority Designated Officer (LADO) Service to Allegations of Abuse was published in January 2023.

It said that a LADO meeting was held in 2014 after historic allegations were made against former Councillor H, but after discussions with police no further action was taken.

Two meetings were held in 2016 - in March and April - when police were investigating allegations of abuse.

These meetings considered former Councillor H's contact with children and it was established he did not work with children and there was no allegation of abuse at that time.

A further discussion was agreed but a meeting did not take place.

The independent review found no evidence this left any child at risk.

The report makes the following recommendations:

- The service should make sure that there is clarity about the role of the LADO service both within Devon County Council and with partners so that the service has oversight only of those cases which meet the remit set out in guidance
- The service should make sure discussions are recorded sufficiently thoroughly so that the rationale behind decisions, including decisions about holding meetings and who should attend these, is clear
- The service should make sure that the discussion of allegations is fully transparent to those against whom these have been made, in line with the need to keep children safe
- The service should track work effectively to make sure this is brought to a clear conclusion and not allowed to drift or be lost

East Devon District Council was asked what actions it took to mitigate any risk that Councillor H could have posed to young people.

In a statement it said: "East Devon District Council never officially knew that Councillor H had been charged by Devon and Cornwall Police until this news was made public.

"The EDDC officer who had attended the LADO meetings mentioned in the DCC report was in attendance under the strictest condition of maintaining confidentiality."

The decision-making process that led to Councillor H being honoured as an Honorary Alderman is subject to another investigation, which the Council has declined to comment on until its findings are published.

Devon County Council said in a statement the independent review had concluded there "were no missed opportunities to safeguard children".

A spokesperson added: "We do acknowledge, however, that while the Council has been found to have responded appropriately to circumstances at the time, its oversight could have been sharper.

"Since that time much has changed with improved processes in place to respond to children's safeguarding concerns.

"We will continue to... review our procedures and strengthen our safeguarding practice."

Devon and Cornwall Police said: "The appropriate and agreed route for sharing sensitive information with relevant partners is through the LADO process.

"Once a partner has been informed of the risk, it is down to them to manage this issue internally as they see fit.

"We believe that East Devon District Council, with the support of Devon County Council, are undertaking an internal review into this process."

### **1.2.3 Former Councillor J, Cheshire East Council**

In January 2023, Grant Thornton published a Report in the Public Interest on the impact of the Cheshire East Council's culture and governance arrangements during 2014 -2018. During this period it was under the leadership of Councillor J and entered into a subsequent period of instability lasting to 2018. It found:

"...a pattern of bullying and inappropriate behaviour on the part of the former leader, which whilst denied by him, led to distortions to good governance... This led moreover to increasing tensions between different officers, different members and the all-important relationship between the two groups."

The report found the then Chief Executive and Chief Operating Officer (COO) did too little to rein in Councillor J.

The COO at one point holidayed at Councillor J's Spanish villa, which the report said: "Indicates the closeness of the relationship between the former Leader and the former Chief Operating Officer and the extent to which the normal propriety had been distorted between the two."

A large part of the report deals with how the Council came to award a contract to a business run by Councillor J's friend - with whom he went into business after leaving the Council - and how the friendship between the two was close enough to be a declarable interest, despite his assertions that she was only his physiotherapist.

In relation to standards, Grant Thornton noted: "Given the nature of the former Leader's conduct, the matters reported here were relevant to the Council's then code of conduct for Members and also the officer/member relations protocol.

"It is of major concern to us that these standards' mechanisms played little part in addressing the issues. Certain officers and Members perceived that the local standards framework would be ineffective against an individual in the former leader's position of power."

Grant Thornton hope that their report will "encourage the ongoing debate around the effectiveness of the standards regime for local government and support mechanisms for both officers and Members facing the same intractable difficulties".

### **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 (15 December 2022) as at the date this report was written. One is ongoing. In one no further action has been taken.
- 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 Interim Chief Executive (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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