
Ethics Committee

29 June 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

Is this a key decision?

No

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

At the last meeting of the Ethics Committee on 30 March 2023, it was reported that 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.

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

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 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 but recommended for the future that there was more clarity around the role of the LADO, better record keeping and tracking of work to ensure matters are not left to drift.

Since then, in March 2023 an independent consultancy agency has produced a report into EDDC's response to the situation. It has concluded that the Monitoring

Officer was placed in “an unenviable position”, when police told him in 2016, at a LADO meeting that Councillor H, a prominent Councillor, was under investigation for child sex offences but ordered him not to disclose this.

The report concluded that the Monitoring Officer at the time could not have alerted anyone without breaking confidentiality imposed by the police, especially as the Councillor chose not to disclose to the Council that he was under police investigation or had been arrested and charged.

It said that as a consequence there was nothing that EDDC could have done so long as it was in the dark as to the offence.

The report added “It is not clear why the police would seek to maintain this strict requirement of confidentiality following the LADO meeting in November 2016.

No formal action could have been taken against Former Councillor H before he was convicted and there is no evidence that his offending continued during his term as a councillor or that he abused his council position to enable him to carry out offences.

“In our view the code of conduct and allied standards process are not effective tools to promote desired behaviours, nor to effectively address poor behaviours amongst elected members,” the report said.

“Criminals and those flouting the rules are routinely unlikely to do the honourable thing and self-report their actions to appropriate authorities. In the existing legal and procedural framework, this is a likely outcome and an ever-present risk.”

The report noted comments from the East Devon Conservative Association “suggest that they may have had more remit to impose sanctions on [Councillor H] than were available to East Devon”.

The report said that although the Honorary Alderman title conferred no special powers there had been “no evidence of any qualitative assessment of the merits of those nominated, nor any explanation of how they had, in practice, delivered the ‘eminent services’ that qualified them for the award”. It said there should be a codified protocol for the bestowing of the honour.

The report also criticised the wider culture at the Council. It said there was “a concerning culture of fear and hostility amongst both Councillors and officers”.

It went on: “Some Councillors reported feeling fearful of asking any questions or raising concerns of any nature at Council meetings for fear of being attacked, harassed, or targeted for doing so.

“Such a culture is not conducive to the effective governance of any organisation. It is also a hindrance to creating an environment in which matters relating to safeguarding can be discussed openly and constructively. There is a real, present and significant risk that any future safeguarding concerns will not be raised and handled effectively.”

1.2.2 Councillor K, Braintree District Council, Essex

Councillor K wrote on her community Facebook page that she did not want "sex flags" on her local high street after a local resident volunteered to buy Pride stickers for businesses to put in their windows.

Four complaints were made under the Local Authority's Councillor Code of Conduct. An independent investigation found that her behaviour was in breach of their Code.

In April 2023 the Monitoring Officer advised that it would be beneficial for Councillor K to undergo Equality Act and emotional intelligence training and issue an apology.

Councillor K was suspended by her party for 28 days. The Councillor has confirmed that they stood by the comments but were considering the training and apology.

Councillor K had already made a decision not to stand for re-election in May prior to this issue.

1.2.3 Councillor E, Pembrokeshire Council

In April 2023 Councillor E is alleged to have made racist comments about Black people and is being investigated by his party.

Councillor E's voice has been identified on an audio recording of comments which emerged online. The Councillor has refused to confirm whether or not the voice is his but that he has self-referred himself to the Public Services Ombudsman under the Welsh system and would not comment further.

The Ombudsman's office confirmed it had received a self-referral. That does not necessarily mean a formal investigation will be launched.

Pembrokeshire Council have confirmed that they are aware of the allegation.

The Committee will be notified on any further updates of this matter.

1.2.4 Councillor P, Colchester Council

A report produced by an independent council investigator revealed that Councillor P referred to councillors "hating each other", adding: "Elect Muppets – get a comedy show." The investigation examined four complaints made against Councillor P.

The Governance and Audit Committee determined that the Councillor's behaviour breached the Code of Conduct.

The committee recommended that Councillor P should be issued with a reprimand and given extra training on adherence to the Code of Conduct.

Councillor P decided not to stand for re-election in May prior due to this issue.

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 no new complaints since the date of the last meeting (30 March 2023) as at the date this report was written.
- 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.
- 1.3.5** Since the last meeting a complaint against a Councillor, that was received in October 2022, has now been resolved but in line with the complaint's process is now being reported to the Committee.

The complaint related to the behaviour of a Councillor at a Council meeting, two separate allegations were made and these were referred to an independent investigator for consideration. The independent investigator considered that there had been no breach in respect of one of the allegations as the behaviour complained about amounted to "political speech and was protected by the right of freedom of expression. However, the second allegation was found to have been a breach as the behaviour complained about was not "political speech" and was disrespectful.

During discussions with the investigator the Councillor reflected on their behaviour and offered to apologise. As a result, it was proposed that rather than referring the matter to the Ethics Committee for a hearing the matter be dealt with by way of summary resolution. The Councillor eventually did apologies to the complainant. This approach was endorsed by the Independent Person who reviewed this decision.

As part of the decision notice the Monitoring Officer whilst determining the matter could be dealt with by way of summary resolution raised her disappointment in respect of the Councillor's prevarication and failure to respond to the Monitoring Officer and the apparent lack of respect for the process of maintaining standards in public life.

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 Chief Finance 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 One Coventry Plan

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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