
Ethics Committee
Council

29 June 2023
18 July 2023

Name of Cabinet Member:

N/A - Ethics Committee

Director Approving Submission of the report:

Chief Legal Officer

Ward(s) affected:

None

Title: Annual Report of Ethics Committee 2022-23

Is this a key decision?

No

Executive Summary:

This report forms the seventh 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
- Online Safety Bill Update
- The Government's March 2022 Response to the Committee on Standards in Public Life Report of 2019
- Officer Member Protocol Review
- Civility in public life, intimidation in public life and digital citizenship
- Committee on Standards in Public Life Report entitled 'Leading in Practice'

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 – 18 July 2023

Report title: Annual Report of Ethics Committee 2022/23

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

In the municipal year 2022/23 Ethics Committee comprised four Councillors. The membership of the Committee was Cllr Nazir (Chair), Cllr Hetherton, Cllr Welsh and Cllr Bigham. There were two named substitutes, Cllrs Mutton and Seaman. 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 four scheduled meetings in 2022/23 (in June 2022, September 2022, December 2022 and March 2023). An additional Code of Conduct hearing was held in July 2022. All meetings were held in-person following the return to in-person Council meetings.

2.2 Code of Conduct Complaints

The Council received a total of 13 new formal complaints against councillors in the municipal year 2022/23. All complaints were recommended for no further action (at Stage One).

- 2.2.1** 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.

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. The Code of Conduct hearing in this matter was postponed until a separate meeting in July 2022 as this meeting was not quorate.

2.3 Online Safety Bill Update

At its June 2022 meeting the Committee reviewed the progress of the Online Safety Bill. In February 2022, the Department for Digital, Culture, Media & Sport (DCMS) issued a press release, entitled: *New plans to protect people from anonymous trolls online*. In summary central government have made additions to the Online Safety Bill to give Social Media users more control over what they see online and who can interact with them in an effort to fight against anonymous "trolls".

2.3 Government's March 2022 Response to the Committee on Standards in Public Life Report of 2019

A report was provided to the Committee at its June 2022 meeting outlining the Government's March 2022 Response to the Committee on Standards in Public Life Report (CSPL's) report of 2019, entitled *Local Government Ethical Standards* and to inform the Ethics Committee of relevant matters of concern in their work area on a national level.

The Committee on Standards in Public Life (the CSPL) was set up in 1994. It monitors, reports and makes recommendations on all issues relating to standards in public life. This includes not only the standards of conduct of holders of public

office, but all those involved in the delivery of public services. Its purpose is to help promote and maintain ethical standards in public life and thereby to protect the public interest through:

- monitoring standards issues and risks across the United Kingdom (by invitation in the devolved areas);
- conducting inquiries and reviews and making practical and proportional recommendations that are generally implemented;
- researching public perceptions on standards issues relating to specific areas of concern, and also over time.

Its terms of reference make it clear that it encompasses all involved in the delivery of public services, not solely those appointed or elected to public office.

Whilst it is a national body, having an overarching concern about public standards, its views and recommendations can be taken in account by local Government and other organisations delivering public services when designing, implementing and monitoring their own ethical standards regime.

The CSPL published a report on Local Government Ethical Standards in January 2019. The report reviewed the current framework established by the Localism Act 2011. The 2019 report provided assurance that the arrangements in place in local authorities are promoting and maintaining standards expected by the public and that the majority of local councillors do maintain high ethical standards.

The CSPL recommended though that some improvements were required, in particular, the need for maximum independence in local complaints processes and the need for greater sanctions, where appropriate, in the rare cases of significant or repeated breaches of the code of conduct.

One of the CSPL's key recommendations was that there should be a non-mandatory model code of conduct which has now been produced by the Local Government Association, and which the Council adopted a revised version of with effect from the 2021/22 municipal year.

In summary the Government have responded as follows (numbering refers to the CSPL's recommendation numbers):

Recommendation 1: The recommendation for a model code has been actioned and published by the Local Government Association (NB the Council adopted a revised version of the Model Code of Conduct with effect from the 2021/22 municipal year);

Recommendation 2: The Government agrees with the principal not to require public disclosure of home addresses for candidates and councillors and will engage with interested parties to ensure such disclosure is not required (whilst noting that it is important to register internally with the Monitoring Officer);

Recommendation 3: Creating a presumption that a Councillor is acting in an official capacity including on publicly accessible social media should be dealt with by use of the Code of Conduct recognising the boundary between public and private life (embedded in the Council's Code of Conduct);

Recommendation 4: Whilst keeping under review, the Government has no immediate plans to legislate for the Code of Conduct to apply when a Councillor claims to act or gives the impression as acting in their capacity (note this is in the LGA's model code and has been adopted by Coventry City Council);

Recommendation 5: Whilst keeping under review, the Government has no immediate plans to amend the Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012 to include other interests not currently specified;

Recommendation 6: It is for local authorities to set gifts and hospitality registration requirements. The register should be publicly available (as is the case at the Council);

Recommendation 7: Whilst keeping under review, the Government has no immediate plans to repeal s31 Localism Act in respect of participating in discussion or voting at a meeting where an interest, whether registered or not, exists and the interest is reasonably regarded as significant;

Recommendation 8: The Government does not accept that Independent Persons should be appointed for a fixed term of two years, renewable once, on the basis it would be unworkable. Discussions with Monitoring Officers has indicated that in practice most local authorities would likely find servicing this rate of turnover unachievable. "There is frequently a small pool of people capable and willing to undertake the role, who also fit the stringent specifications of being amongst the electorate, having no political affiliation, no current or previous association with the council, and no friends or family members associated with the council";

Recommendations 9 and 15: The Government does not agree that the Local Government Transparency Code should include decisions of the Independent Person. This document sets out the minimum data that local authorities should be publishing, the frequency it should be published and how it should be published. It does accept there is merit to the substantive policy suggestion but cautions it depends on the circumstances.

Recommendations 10, 13, 14 and 16: These recommendations all cover sanctions, power to establish decision making standards committees, right of appeal to the Local Government Ombudsman and its power to investigate, together with 6-month suspension powers.

The Government affirmed that the lack of suspension sanction was a deliberate policy decision by the coalition Government at the time of the Localism Act, to differentiate the new regime from that of the previous Standards Board stating that the Standards Board had a 'chilling effect on free speech' and that it would be 'undesirable to have a Government quango to police the free speech of councillors'.

The Government's position is that councillors are 'ultimately held to account via the ballot box' and that the Government has already recommended that

every political party ‘establish their own code of conduct for party members including elected representatives’.

Further the response insisted that “on the rare occasions” where notable breaches of the code of conduct had occurred, local authorities were not without sanctions under the current regime.

“Councillors can be barred from Cabinet, Committees, or representative roles, and may be publicly criticised. If the elected member is a member of a political group, they would also expect to be subject to party discipline, including being removed from that group or their party. Political parties are unlikely to reselect councillors who have brought their group or party into disrepute. All councillors are ultimately held to account via the ballot box.”

The Government has recommended that every political party establish their own code of conduct for party members, including elected representatives.

The Government has promised to engage with sector representative bodies of councillors and officers of all tiers of local Government “to seek views on options to strengthen sanctions to address breaches of the code which fall below the bar of criminal activity and related sanctions but involve serious incidents of bullying and harassment or disruptive behaviour”.

The CSPL had also called on the Government to clarify if councils may lawfully bar councillors from council premises or withdraw facilities as sanctions. “These powers should be put beyond doubt in legislation if necessary,” it had said.

In its response the Government said: “The criminal law, overseen by the police and courts, provides for more appropriate and effective action against breaches of public order, for anti-social behaviour, and against harassment.

Recommendation 11: The Government agrees in principle to the provision of legal indemnity to an Independent Person if their views or advice are disclosed but does not see the need to legislate for this, rather endorsing local authorities who already provide it.

Recommendation 12: The Government does not believe that there is a requirement to prescribe to local authorities the form and content of Standard Committee annual reports which are better addressed through the sector adopting as best practice a regular pattern of annual reporting by Standards Committees.

Recommendation 18: The Government does not agree that criminal offences in the Localism Act 2011 relating to Disclosable Pecuniary Interests should be abolished.

Recommendation 19: “Parish council clerks should hold an appropriate qualification, such as those provided by the Society of Local Council Clerks” was not responded to.

Recommendation 20: The Government does not agree it is necessary to amend s27(3) of the Localism Act 2011 to state that parish councils must adopt the code of conduct of their principle authority, but acknowledges there is merit in achieving consistency whilst noting instances to reflect local circumstances might be different.

Recommendation 21: Government has no plans to repeal s28(11) of the Localism Act 2011 to enable sanctions of parish councillors to be determined by their relevant principal authority but will give it further consideration.

Recommendation 22: The Government agrees in principle to amend The Local Authorities (Standing Orders) (England) (Amendment) Regulations 2015 to extend disciplinary protections for statutory officers (this would include the Monitoring Officer) to all disciplinary actions (not just dismissal) and will engage sector representatives of all tiers to seek views on the amendments.

Recommendation 23: The Government recommends that local authorities publish their whistleblowing policies and named contact as best practice and the Department for Levelling Up, Housing and Communities will work with local Government to advance transparency in the sector and support local Government to solidify transparent policies whilst encourage proactive publication of open data.

Recommendation 24: The Government is open to further representations on how local accountability can be strengthened and recognises that councillors being listed as prescribed persons for the purposes of the Public Interest Disclosure Act 1998 provides a further check and balance against corruption.

2.4 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:

As reported to the Committee last year, the LGA commissioned a call for evidence of abuse and intimidation of councillors, which was launched in October 2021. On 28 June 2022, the LGA published “Debate Not Hate: The impact of abuse on local democracy” (the LGA Report), a copy of which has been attached to this report at Appendix 1 and can also be found online at the following link:

<https://www.local.gov.uk/publications/debate-not-hate-impact-abuse-local-democracy> . LGA have identified that 7 out of 10 Councillors (ie the majority) have reported abuse. The LGA Report contains recommendations from the evidence gathered over the first 6 months.

The Recommendations made are as follows:

- **“Recommendation 1:** Councils and other relevant partners should take greater responsibility for the safety and wellbeing of councillors and take a proactive approach to preventing and handling abuse and intimidation against councillors. This should include addressing the impacts of abuse on councillors’ mental health and wellbeing and working in partnership with other agencies and councils to ensure that threats and risks to councillors’ safety, and that of their families, are taken seriously.
- **Recommendation 2:** The LGA should continue to gather and disseminate good practice from across the sector, consider what more can be done to prevent abuse and intimidation of councillors through the Civility in public life programme, and support councils and councillors when these incidents occur.
- **Recommendation 3:** Police forces should work to improve the consistency of responses to abuse of and threats made against councillors and take a risk-based approach that accounts for the specific risks that councillors face, as they do with other high-risk individuals, such as MPs. This should include identifying best practice in relation to councillor support and safety and sharing it across the country.
- **Recommendation 4:** The Government should prioritise legislation to put it beyond doubt that councillors can withhold their home address from the public register of pecuniary interests.
- **Recommendation 5:** The LGA should work with political parties, election and democratic officers, and organisations responsible for guidance to raise awareness of the options currently available and promote the practice of keeping home addresses private during the election process and once elected.

- **Recommendation 6:** Social media companies and internet service providers should acknowledge the democratic significance of local politicians and provide better and faster routes for councillors reporting abuse and misinformation online.
- **Recommendation 7:** The relevant Government department should convene a working group, in partnership with the LGA, to bring together relevant agencies to develop and implement an action plan to address the issue of abuse of local politicians and their safety.”

In respect to Recommendation 7, LGA have provided a link as follows:
<https://www.local.gov.uk/about/campaigns/debate-not-hate/debate-not-hate-sign-our-public-statement> to its “Debate Not Hate public statement” for Councillors, MPs and organisations to sign to support the work of the LGA and act as a call to action for the relevant Government department to form a working group. The Ethics Committee have signed the statement electronically.

2.5 Officer Member Protocol Review

At its meeting in September 2022, the Committee reviewed the Member / Officer Protocol (at Part 4D of the Council’s Constitution) following the observations of the Committee Members present at the Standards Hearing on 8 July 2022 in respect of Elected Members, when they are dealing with matters that relate to their own personal interests that need to be raised with the Council.

Officers have reviewed the Protocol and additional wording at paragraph 3.2(i) was proposed, as follows:

3. Expectations

3.1 What Members can expect from Officers:...

3.2 What Officers can expect from Members:...

- (i) **Members should not use their position or relationship with Officers to advance their personal interests or those of others or to influence decisions improperly.**
- (j) **Members may occasionally find that they have a personal interest in a matter that needs to be raised with Officers. Members should be clear about their personal interest and use appropriate language when contacting Officers in this instance. Close personal familiarity between individual Members and Officers can damage the relationship of mutual respect and prove embarrassing to Members and Officers. Members and Officers are encouraged to contact the Monitoring Officer for advice if they are concerned about this;**
- (k) **Members should not make detrimental remarks about individual Officers during meetings, in public or to the media; and**

(I) Members should at all times comply with the Member Code of Conduct.

The wording has also been considered by the Constitution Advisory Panel, Cabinet Member for Policing and Equalities and full Council and approved before being incorporated into the Constitution.

2.6 Committee on Standards in Public Life Report entitled ‘Leading in Practice’

At its March 2023 meeting the Committee considered a report published by the independent Committee on Standards in Public Life entitled ‘Leading in Practice’, a new report which shares examples and case studies gathered from public and private sector organisations on maintaining ethical organisational practices in January 2023.

Lord Evans, Chair of the Committee on Standards in Public Life, has also published an open letter to public sector Leaders asking questions to prompt reflection and discussion on the importance of ethical leadership, dated 24 January 2023.

2.7 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.

2.8 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
- Producing a Guide for Councillors on Chamber Skills and Etiquette following training that will take place this month.

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.

2.9 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 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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