



CORPORATE GOVERNANCE COMMITTEE – 25TH JULY 2018

REPORT OF DIRECTOR OF LAW AND GOVERNANCE

ANNUAL REPORT ON THE OPERATION OF THE MEMBERS' CODE OF CONDUCT 2017/18

Purpose of Report

1. This report fulfils the requirement for the Monitoring Officer to report to the Committee on an annual basis on the operation of the Members' Code of Conduct in accordance with a decision of the Committee on 24th September 2012.

Background

2. In the light of the changes introduced in the Localism Act 2011 a new Members' Code of Conduct was adopted at the County Council meeting on 4th July 2012 following prior consideration at the Constitution Committee on 22nd June and the Corporate Governance Committee on 29th June that year.
3. The effect of the changes was to give this Committee responsibility for dealing with matters relating to the Code of Conduct for Members.
4. Detailed arrangements for dealing with allegations against Members were considered by this Committee on 24th September 2012 and a procedure for dealing with allegations was agreed.
5. The Committee received the report on 26th November 2012 to address concerns which had been received as to the steps which could be taken in the event that a Member who had been the subject of the complaints process refused to comply with the outcome of those procedures. Concerns were expressed at the lack of sanctions in the regime for dealing with the conduct of Members in the light of changes to the legislation and the Committee asked that in the event of non-compliance, the Monitoring Officer report the cases to this Committee. To date this situation has not arisen.
6. In January this year the Committee on Standards in Public Life launched a consultation to inform its review of local government ethical standards to:
 - Examine the structures, processes and practices in local government in England for:
 - maintaining codes of conduct for local councilors

- investigating alleged breaches fairly and with due process
 - enforcing codes and imposing sanctions for misconduct
 - declaring interests and managing conflicts of interest
 - whistleblowing
- assess whether the existing structures, processes and practices are conducive to high standards of conduct in local government
 - make any recommendations for how they can be improved
 - note any evidence of intimidation of councilors, and make recommendations for any measures that could be put in place to prevent and address such intimidation
7. The Council has participated in the review through this Committee. The Chair of the Committee on Standards in Public Life has indicated an intention to report to the Government by the end of the year.

Complaints received under the Members' Code of Conduct

8. Since May 2017 there have been seven complaints (relating to five members) received by the Monitoring Officer under the Members' Code of Conduct. These complaints were resolved as follows:

Outcome of complaint	Number of members
Resolved informally	2
Complaint did not meet threshold for further investigation as set out in the 'initial test'	2 (3 complaints)
Complaint upheld by Member Conduct Panel	1 (2 complaints)

9. In addition to the above, two complaints have been received but not followed up by the complainants.
10. As in previous years there are no trends in relation to the subject matter or in relation to the members who have been the subject of a complaint.
11. As members will be aware, complaints alleging failure to register a Disclosable Pecuniary Interest are matters for consideration by Leicestershire Police as the Localism Act 2011 has made such failures a criminal offence. No such complaints have been received during the period under review.

Member Conduct Panel

12. As referred to above, two complaints have been referred to the Member Conduct Panel for consideration both of which related to the same member, Mr M. H. Charlesworth CC, and arose out of the same events. The complaints were made by Mr. N. J. Rushton CC, the Leader of the County Council, and Dr.

T. Eynon CC, the Leader of the Labour Group.

13. The complaints alleged that comments made by Mr. Charlesworth CC at a meeting of the full County Council on Wednesday 27th September 2017 during its consideration of a report of the Independent Remuneration Panel on Members' Allowances, breached the code of conduct as Mr Charlesworth failed to show respect and courtesy towards the three independent members of that Panel.
14. The complaints were first referred to the Member Conduct Panel in December 2017 following an initial assessment and early assessment undertaken by me as the Monitoring Officer in accordance with the Council's approved Procedure for dealing with allegations of a breach of the Members' Code of Conduct. The Panel agreed that the complaints should be referred for investigation.
15. An independent investigator was subsequently appointed to conduct the investigation (Mr Jonathan Goolden of Wilkin Chapman LLP). His report and findings were received in May 2018 and thereafter referred to the Panel for consideration.
16. The Panel met on 26th June 2018. Mr Charlesworth did not attend, but taking account of his request for the Panel to carry on regardless of whether or not he attended, the Panel resolved to proceed in his absence. The Panel also agreed for the hearing to proceed in public, having taken account of Mr Charlesworth submission prior to the meeting that this should be the case.
17. The investigator attended to present his report and the independent person appointed in this case also attended to give her views.
18. The Panel unanimously agreed that it had been proven that Mr Charlesworth had breached paragraph 3.1 (you must treat others with respect) and 3.5 (you must not conduct yourself in a matter which could reasonably be regarded as bringing your office or the Authority into disrepute) of the Members' Code of Conduct when, at the meeting of the full County Council held on 27th September 2017, he made comments which called in to question the independence of the three members of the Independent Remuneration Panel who were not present at the meeting. These comments were unwarranted, unjustified and personalised, did not treat the Panel members with respect and thereby brought the office and the Authority into disrepute.
19. Having made the above decision, the Panel then decided unanimously to impose the following sanctions:
 - (i) That the Monitoring Officer write a formal letter to Mr Charlesworth setting out the decision of the Panel, the sanctions it has imposed, and its disappointment at having to make the decision that the Code of Conduct has been breached. A copy of this letter will be published on the Council's website and displayed on Mr Charlesworth's webpage for a year.

- (ii) That Mr Charlesworth send a letter of apology to each of the three members of the Independent Remuneration Panel within 14 days of receipt.
- (iii) That Mr Charlesworth make a public apology to the members of the Independent Remuneration Panel and the Council at the Council meeting to be held on 26th September 2018.
- (iv) That Mr Charlesworth undertake training to be organised by the Monitoring Officer on the Code of Conduct and in particular, the standards expected of members during meetings.

20. The formal letter referred to in (i) above was sent to Mr Charlesworth on Tuesday 3rd July and has been published on the Council's website and displayed on Mr Charlesworth's webpage. Attached to this were the three letters of apology to be sent to the members of the Independent Remuneration Panel as referred to in (ii) above.
21. At the time of writing this report, the 14 day timescale for Mr Charlesworth to send the letters of apology to each member of the Independent Remuneration Panel has not expired (19th July 2018). However, on 8th July, Mr Charlesworth sent an email acknowledging receipt of the formal letter and indicating that he would not make the apology or undertake training as ordered by the Member Conduct Panel. His response was copied to his Group Leader, Mr S. J. Galton CC. A further update will be provided at the meeting.

Recommendation

22. The Committee is asked to note this Report.

Equality and Human Rights Implications

None.

Background papers

Guide to the Leicestershire County Council Members' Code of Conduct

Leicestershire County Council's Procedure for dealing with allegations of a breach of the Members' Code of Conduct.

Report to the Corporate Governance Committee on 24 September 2012 - 'Arrangements for dealing with Member Conduct Complaints'

Report to the Corporate Governance Committee on 26 November 2012 - 'Arrangements for dealing with Member Conduct Complaints'

Circulation under the Local Issues Alert Procedure

None. However, copies of this report have been circulated to the following for information:

- Mr. M. H. Charlesworth CC as he was the subject of two complaints which are detailed in this report.
- Mr. S. J. Galton CC as the Liberal Democrat Group Leader.
- Mr. N. J. Rushton CC and Dr. T. Eynon CC as they were the complainants against Mr. Charlesworth CC.
- All Members of the Member Conduct Panel who attended the recent meeting to consider the investigation carried out in respect of the complaints made against Mr. Charlesworth.
- The three Members of the Independent Remuneration Panel.

Officer to contact

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