

Division(s):

AUDIT & GOVERNANCE COMMITTEE – 12 SEPTEMBER 2018

ANNUAL MONITORING OFFICER REPORT

Report by the Monitoring Officer

Introduction

1. The Audit and Governance Committee is responsible for promoting standards of conduct for elected councillors and co-opted members and for ensuring the integrity of the democratic decision-making process. Consequently, the Monitoring Officer reports annually to this Committee on relevant actions and issues that have occurred in the previous year. This report therefore summarises certain activities for the year 2017/18 i.e. immediately before and following the May 2017 County Council Election.

The Committee's responsibilities for ethical standards

2. The terms of reference of the Audit and Governance Committee contain the following roles:
 - To promote high standards of conduct by councillors and co-opted members
 - To grant dispensations to councillors and co-opted members from requirements relating to interests set out in the code of conduct for members
 - To receive report from member-officer standards panels appointed to investigate allegations of misconduct under the members' code of conduct.
 - To advise the Council as to the adoption or revision of the members' code of conduct.
3. This regime, stemming from the Localism Act 2011, demonstrates the Council's expectation that high standards of conduct will continue to be promoted and maintained among elected councillors and co-opted members.

Standards in Oxfordshire – overview of arrangements

4. The county, district and city councils in Oxfordshire maintain harmonised **Codes of Conduct**. This has the benefit of creating transparency and accountability for the public and also clarity of expectation for councillors who may also be members of more than one authority. This harmonisation is itself a key aspect in promoting and maintaining high standards across Oxfordshire. The Code is also held out to parish and town councils as a model to follow.

5. While each authority has adopted slightly different approaches to **handling complaints** about councillor conduct, there is a common theme of proportionality in these arrangements, as envisaged by the Localism Act. The Council has appointed an Independent Person to assist the Monitoring Officer in reviewing complaints about councillors.
6. In brief, the complaints process adopted by Oxfordshire County Council is as follows:
 - Each complaint is considered by the Monitoring Officer who, after consultation with the Independent Person, decide whether it merits formal investigation
 - The Monitoring Officer may seek to resolve issues informally without the need for formal investigation
 - The Monitoring Officer will determine the procedure to be adopted if a formal investigation is considered appropriate and this may involve the appointment of an Investigating Officer
 - The member complained of will normally be provided with a copy of the complaint
 - Following an investigation, a report will be prepared for the Monitoring Officer, copied to the member concerned
 - Following consultation with the Independent Person the Monitoring Officer may decide that the report is sufficient and that no further action is required
 - If there is evidence of failure to comply with the Code, the Monitoring Officer will either seek local resolution or constitute a local hearing through a Member Advisory Panel
 - A Members' Advisory Panel may only recommend certain sanctions:
 - Censure or reprimand
 - Publish its findings
 - Report its findings to full Council
 - Recommend removal from relevant body e.g. Cabinet, Committee etc.
 - Recommend training
 - Withdraw facilities
 - There is no right of appeal
7. The Members' Advisory Panel will be formed of members of this Committee.
8. In addition to these measures, the Council has implemented Register of Interests arrangements that are fully compliant with the Localism Act and subsequent government guidance and regulations.

Democratic process and post-election induction

9. Clarity and accountability in the decision making of the Council is an important bedrock for good member governance. Key to this is the diversity of representation and experience of county councillors.

10. The full County Council election was held on 4 May 2017. The poll and the count were successfully conducted in accordance with electoral law. The Electoral Commission, in an interview with the Returning Officer, was satisfied that the Council's election planning was sound and met the Electoral Commission's best practice.
11. Following the election, and to support councillors in their democratic roles, a Welcome Event was held on 12 May and a subsequent induction programme took place over the summer and autumn. This included service specific overviews, budgetary matters and briefings on the members' code of conduct, planning code, the Constitution and members' rights to information.
12. At the Annual Meeting in May 2017, a Leader and a Chairman were duly appointed as were council committees and their memberships, in accordance with local government legislation and the Council's Constitution.

Decision making governance

13. Given the Committee's role in overseeing good member governance, it is also appropriate to update this Committee from time to time on the exercise of aspects of this structure including:
 - Closed sessions – instances where the public have been excluded from meetings by virtue of the business being transacted
 - Cabinet Forward Plan – instances in which exceptions have occurred to the inclusion of items in the Forward Plan
 - Scrutiny call-in – instances where exemptions to the call-in procedures have been awarded by virtue of urgency of the business in question
 - Chief Executive decisions – instances where the Chief Executive has used delegated powers to undertake any function of the Cabinet

Closed Sessions

14. The public can be excluded from the whole or part of a meeting if the meeting is to discuss confidential or exempt information (as set out in Schedule 12A of the Local Government Act 1972, as amended). The Monitoring Officer, in his role of ensuring lawful decision making, has reviewed the number of times this has happened over the past year. The results are set out in the **Annex 1** to this report. In each case, the Monitoring Officer is satisfied that the reasons for closure were appropriate.

Cabinet – Forward Plan

15. Items for decision by the Cabinet over any forthcoming four-month period are included in a Forward Plan. Occasionally, decisions are needed on items that have not been included on a Forward Plan. These are dealt with by General Exception notices to the Forward Plan. The Monitoring Officer reviewed the instances in which this occurred and was satisfied with the reasons in each case. **Annex 2** lists the instances. It also lists additional non-key-decision items. There was one item agreed as a matter of special urgency.

Scrutiny Call-In

16. The Council's Scrutiny Procedure Rules (Rule 17a) allow for executive decisions to be **exempted from call-in** if they are deemed urgent and any delay would prejudice the council's interests. There was **one such instance** in 2017/18, as follows, with the reason for urgency given:

- Queen Street Experimental Traffic Regulation Order – “any delay would seriously prejudice the Council's interests, in that it would cause delay in the implementation of the TRO, prior to the new Westgate centre opening on Tuesday 24th October.”

Chief Executive – ‘Cabinet Decisions’

17. Under the Council's Constitution, the Chief Executive has delegated powers to undertake any function of the Cabinet after appropriate consultation. Any exercise of this function is reported to the Cabinet. During the year 2017/18 this delegation was exercised on 11 occasions; all were related to exemptions to the requirements of the Contract Procedure Rules and required (and received) a legal (Director of Law & Governance) and financial (Director of Finance) appraisal.

The Monitoring Officer

18. Monitoring Officers from Oxfordshire's county and district councils have continued to meet together to discuss issues of common concern. This comparison of experiences has been particularly useful in monitoring the operation of the harmonised codes of conduct and the registration of members' interests. It also proved useful through the development of Special Interest Groups – which involve the sharing of good practice around a range of legal, democratic and electoral issues which are then reported to the overall Monitoring Officer group. This year also included meetings in preparation for the introduction of the General Data Protection Regulations.

Modern.Gov, transparency and access

19. Modern.Gov is the software package adopted by the Council (and also used in some district councils across Oxfordshire) for creating, tracking and publishing council meeting agendas, reports and minutes. It also contains a module for elections which was successfully used in the May 2017 county council elections both for displaying results and subsequently publishing councillors' web pages.

20. It has also been used successfully in-year for managing the Council's Forward Plan and for publicising meetings and agendas, committee appointments, as well as appointments to outside bodies. The system is also able to publish (on the website) parish council contact names and details.

To Promote and Maintain High Standards of Conduct by Councillors and Co-opted Members

21. It is a core duty of this Committee to promote and monitor high standards of conduct by councillors and co-opted members.
22. This formed a core part of the councillor induction programme (in terms of code of conduct training). But advice was also issued as regards:
 - ‘Purdah’ guidance on councillor responsibilities with regard to the use of council publicity and resources during the 2017 General and District Council election periods
 - Disclosable Pecuniary Interests
 - Dispensations with regard to the February budget setting meeting

To advise the Council as to the adoption or revision of the members’ code of conduct.

23. To enable the Committee to advise the Council on adopting or revising a members’ code of conduct, it is important that the Committee is kept up to date with any issues arising from the operation of the code, both in terms of experience and any future amendments to the regulations or legislation.

Declaration of interests

24. There is still a requirement to declare disclosable pecuniary interests at meetings if they are not otherwise included in the Register and to register them thereafter. Declarations need to be made unless a dispensation has been given. It is useful for this Committee to be updated on the instances in which these provisions have been observed.
25. The usual safeguards are in place including a reminder to members of the need to declare interests at all meetings, and all agendas contain a standard item headed “Declarations of Interest”. The item refers to detailed guidance attached to the agenda setting out how and when to declare an interest.

Number and Outcome of Applications for Dispensations

26. There have been no applications for dispensation.

The Number and Nature of Complaints of Breaches of the Code

27. There were **two** complaints against members during 2017-18. In both of these complaints, the complainants’ dissatisfaction in part stemmed, I believe, from a particular expectation of councillor conduct. Both demonstrated the importance of the space within which councillors work on an individual and community level. In both of these cases, it was not found that the Code of Conduct had been breached.

Complaint/allegation	Outcome
Alleged inaction in relation to a constituent's concerns	No breach found. Factual basis not agreed and 'councillor performance' in a role is not in itself a Code of Conduct matter. Complaint was also considerably later than the events to which they related.
Alleged dismissive comments by councillor in a community-meeting setting.	Factual basis of alleged conduct not agreed on evidence; alleged conduct more in keeping with robust local discussion and therefore no breach.

Ethical standards – call for evidence

28. This Committee, via a group of members appointed for the purpose, responded during the year to the Government's 'call for evidence' on potential changes to the ethical standards regime for elected politicians. The Committee endorsed the Group's views on, for example, the desirability of greater clarity in model Codes as what constitutes bullying behaviours. This also coincided with Full Council's decision in December 2017 to deplore the use of social media and online platforms to denigrate members of the public and elected politicians.

County Council Elections & Post Election Governance

29. It was important that post-election governance be carried out. This duly happened including:
- Declarations of acceptance of office: the vast majority of the statutory declarations of acceptance of office were completed at the County Election Count on 5 May; with the remainder at the 12 May Welcome Event.
 - Register of members' interests: all returning and newly elected councillors have either submitted or updated their register entries.
 - Biographical details: all members were encouraged to give a pen-portrait biography for inclusion on the Council's website to help the public recognise them and what they are bringing to their roles
 - Access to information: In addition to two sessions on councillors' access rights to information, all councillors have been linked to a dedicated 'Councillor Link Officer' in Democratic Services, to act as a route-finder for councillors. The Council's Locality Meetings for councillors in those defined areas have also be a means of gaining and informing the councillor perspective.

Governance Review

30. Following a decision of both Council and Cabinet, a Governance Review Task Group of this Committee has been formed to review potential future forms of local governance, including a potential return to a committee system. This Group has been briefed on the legal basis for any options and has undertaken a series of fact-finding and exploratory visits to other local authorities which have operated differing decision-making systems. The visits were preceded by a whole council survey seeking councillor views on the current and potential decision-making arrangements. During Autumn 2018 a whole council workshop will take place and the Task Group will then reconvene to consider all the evidence and formulate recommendations.

Summary

31. This annual review highlights the progress that has been made, particularly following the May 2017 elections, in implementing the code of conduct for members, in promoting and maintaining high standards of conduct and public accountability. The commitment to encouraging high standards continues and will form a key part of the future decision-making arrangements, and in the partnership between Cherwell District Council and this Council agreed in summer 2018.

RECOMMENDATIONS

32. **The Committee is RECOMMENDED to consider and endorse the report.**

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