

AUDIT & GOVERNANCE COMMITTEE – 2 JULY 2014

ANNUAL MONITORING OFFICER REPORT

Report by the Monitoring Officer

Introduction

1. The Audit & Governance Committee is responsible for promoting standards of conduct for elected councillors and co-opted members. 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 2013/14.

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 worked closely together in the formation of harmonised **Codes of Conduct** which have now been adopted by each authority. 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 has also been 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 recruited two independent persons – Mrs Ann Griffiths and Dr Nina Alphey - to support these arrangements. In brief, the 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
6. The Members' Advisory Panel will be formed of members of this Committee.
7. 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

8. An important bedrock for good member governance is clarity and accountability in the decision making of the Council. Changes to the structure of decision-making came into effect following the May 2013 elections to maximise councillor engagement and to make policy implementation and performance management more integrally aligned. Council asked that these arrangements be reviewed a year after their coming into operation and in

preparation for that the Monitoring Officer has carried out a review of councillor views about the arrangements.

9. A cross-party sounding board of members was appointed by this Committee (consisting of members of it) to assist the Monitoring Officer in his consideration of the review. The sounding board has met several times (to advise on the member consultation and to consider its outcomes) and the Monitoring Officer's review is currently on-going.
10. 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

11. 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

12. 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 items included as a matter of special urgency plus additional non-key-decision items.

Scrutiny Call-In

13. 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 were two such instances in 2013/14 and these are listed in **Annex 3**.

Chief Executive Decisions

14. 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 2013/14 this delegation was exercised on 9 occasions; all except one related to exemptions to the requirements of the Contract Procedure Rules and required (and received) a legal (County Solicitor) and financial (Chief Finance Officer) and procurement (Service Manager – Procurement) appraisal.

The Monitoring Officer

15. Monitoring Officers from Oxfordshire's county and district councils have continued to meet together to discuss issues of common concern, and this has been particularly useful in implementing the changes to the standards regime, the development of harmonised codes of conduct and the implementation of revised process for 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.

Modern.Gov, transparency and access

16. 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 2013 county council election and in the subsequent by-election for the Watlington Division in March this year.
17. The system also manages the Council's Forward Plan and e-petitions. Councillors' web pages are also updated using information from the system, including responsibilities (such as Chairman or Cabinet Member), 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.
18. While no longer a legal requirement, the Council has continued to maintain an online petition scheme to enable members of the public to create petitions to which other members of the public may subscribe. During 2013-14, five such petitions were created.

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

19. It is a core duty of this Committee to promote and monitor high standards of conduct by councillors and co-opted members.
20. During 2013-14, the Monitoring Officer continued the process of member induction by arranging for the delivery of key presentations on constitutional

matters for councillors. Further induction sessions were held earlier in July on the *Code of Conduct* and the *Planning Code of Practice*. In September, staff from democratic services led a session for members on *Motions, Questions, Rights and Responsibilities*, acquainting members on the constitutional rules for presenting views and obtaining information. In addition, a session was also arranged for members on *Planning Conditions*, building on the earlier induction for members of the Planning and Regulation Committee. Targeted sessions were also held for the Audit & Governance Committee generally and for the members of its Appeals & Tribunals Sub-Committee. A briefing was also held for Cabinet Members on the protocols for working with the media.

21. The Council has also assisted members in their completion of Disclosure and Barring Service checks (formerly 'criminal records checking'), as agreed by Council.
22. In addition, the Monitoring Officer issued guidance to members (by email) to give advice on a number of topics including:
 - Disclosure and Barring Service checks
 - Disclosable Pecuniary Interests
 - Dispensations with regard to the February budget setting meeting
 - Deadlines for Cabinet questions
 - Giving apologies and arranging substitutions for attendance at meetings
23. The ***Guide for Candidates*** was updated following the May 2013 elections and was issued to all candidates in the Watlington by-election of March 2014. As previously, this included a section on the code of conduct and the principles of public life. The ***Welcome Pack*** for councillors was also given to the successful candidate.

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

24. 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.
25. During the year, the Monitoring Officer undertook a review of the Code of Conduct (as reported to this Committee in January), following the issue of revised guidance from the Department for Communities and Local Government (DCLG) about the subject of non-pecuniary interests. In keeping with the establishment of the Oxfordshire Code, the review was conducted jointly with City/District Councils to ensure a consistency of approach. In the event, no changes were made to the Oxfordshire code as it was found already to be compliant in any case with the DCLG guidance.
26. Periodically the Monitoring Officer will remind members of the need to reconsider their Register of Interests entries in case they are in need of

review. All councillors complied with the initial registration following the May 2013 elections and now, a year on, these registrations are formally being reviewed with each person.

27. 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.
28. Similarly it is useful for the Committee to be kept informed, annually, of the numbers of alleged breaches of the code of conduct (see paragraph 31 below).

Declarations of Interest

29. 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

30. There have been no applications for dispensation.

The Number and Nature of Complaints of Breaches of the Code

31. There have been three complaints against members during 2013-14. In all cases no breach of the code was found and in two of the instances, following investigations, it was felt appropriate to issue a reminder about the nature of language used in correspondence.

Summary

32. This annual review highlights the progress that has been made in implementing the code of conduct for members and in promoting and maintaining high standards of conduct and public accountability.

RECOMMENDATION

The Committee is RECOMMENDED to consider and endorse the report.

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Background Papers: Nil

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