

AUDIT & GOVERNANCE COMMITTEE – 20 APRIL 2016

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 2015/16.

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 recruited/appointed an additional 'independent person' as envisaged under the Act, to support these arrangements. The Monitoring Officer therefore has two such persons to assist him in reviewing complaints.
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.

Council governance

9. During the course of the year, the Chief Executive resigned from the Council and Full Council made new appointments to the positions of Head of Paid Service (Mr Peter Clark) and Monitoring Officer (Mr Nick Graham). The

Constitution was amended accordingly to reflect these changes and to ensure business continuity.

Democratic process

10. 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. As such, during the year, Full Council asked this Committee to consider what changes the Council could make which might widen the demographic representation of candidates/councillors from the forthcoming May 2017 elections. The Committee appointed and received a report from a Councillor Profile Working Group which produced recommendations. The Committee largely approved these, endorsing (for instance) revised webpages on becoming a councillor, a potential public event explaining the role of a county councillor to engender interest, and the piloting of the filming of member development sessions for members to view online.
11. 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

12. 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

13. 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

14. 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 **no such instances** in 2015/16.

Head of Paid Service – 'Cabinet Decisions'

15. Under the Council's Constitution, the Head of Paid Service 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 2015/16 this delegation was exercised on 4 occasions; all were related to exemptions to the requirements of the Contract Procedure Rules and required (and received) a legal (County Solicitor) and financial (Chief Finance Officer) appraisal.

The Monitoring Officer

16. 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.

Modern.Gov, transparency and access

17. 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 initially successfully used in the May 2013 county council elections and subsequent by-elections.
18. The system also manages the Council's Forward Plan and 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.

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 2015-16, the Monitoring Officer continued the process of member development and conference attendance. Scrutiny committee chairmen took part in a cluster of development activities led by the Institute of Local Government. A joint event was held between all councillors and Oxfordshire MPs on budget matters. Additionally, members generally took part in briefings with regard to:
- Safeguarding
 - Unitary status issues
 - Service and resource planning
 - Treasury management
 - Future of Children, Education and Families services
21. In addition, the Monitoring Officer issues guidance to members (by email) to give advice on a number of topics including:
- Disclosable Pecuniary Interests
 - Dispensations with regard to the February budget setting meeting
 - Bias and predetermination
 - Unitary status – issues around interests and voting

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

22. 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

23. 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.
24. 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

25. There have been no applications for dispensation.

The Number and Nature of Complaints of Breaches of the Code

26. There have been **two** new complaints against members during 2015-16 and one case from the previous year was also concluded. In the two new complaints, both alleged, effectively, that disrespect had been shown in communications. The complaints can be summarised as follows:

Complaint/allegation	Outcome
Disrespect shown in communications	No breach – voluntary apology given
Disrespect in tone during a meeting	No breach – voluntary apology offered
Inappropriate representations made to a Committee	No breach NB this complaint arose in 2014/15

Summary

27. 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

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

NICK GRAHAM

County Solicitor and Monitoring Officer
Contact: 01865 323910

Contact officer: Glenn Watson, Principal Governance Officer, 01865 815270.

April 2016