

Division(s):

## **AUDIT & GOVERNANCE COMMITTEE – 6 SEPTEMBER 2017**

### **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 2016/17 including the run-up to the May 2017 election and consequent governance actions.

#### **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 reports 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 had appointed two Independent Persons to assist the Monitoring Officer (in a statutory role) in reviewing complaints about councillors. One person has resigned at the end of March 2017 and a recruitment exercise will shortly be undertaken by the Monitoring Officer.
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, decides 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 Members' 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 pre-election publicity**

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. As such, and following the recommendation of a Councillor Profile Working Group of this Committee, a public event was held at County Hall in September 2016 about *Becoming a County Councillor*. The first of its kind by Oxfordshire County Council, this was well attended and well received. It was accompanied by revised web pages on becoming a councillor and the publication of a guide on the same subject. Four county councillors also took part in a video on *Becoming a Councillor*, commissioned in-house, to set out the councillor role, ahead of the May 2017 county elections. This still appears on the Council website to aid public understanding of the councillor role.

### *Pre-election Publicity – ‘Purdah’*

11. Ahead of the formal county (and general) election period, specific guidance and publicity was issued to all staff and councillors about the statutory rules on avoiding political publicity during this sensitive period. This included intranet articles and updated policies. The Council’s Principal Governance Officer provided an advice service to staff and councillors about conduct during the pre-election period and this was well-used, indicating that the Monitoring Officer’s encouragement to staff to consider the implications had been well received.

### ***Decision making governance***

12. 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*

13. 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

14. 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 were no items included as a matter of special urgency.

#### Scrutiny Call-In

15. 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 2016/17.

#### Chief Executive – 'Cabinet Decisions'

16. 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 2016/17 this delegation was exercised on 9 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

17. 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

18. 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 elections and subsequent by-elections. The preparations for the May 2017 county election also featured the use and development of this system.

19. 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. Preparations for the county election also included preparedness for making changes to these matters.

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

20. It is a core duty of this Committee to promote and monitor high standards of conduct by councillors and co-opted members.

21. Owing to the Council Term nearing its end, the incidence of councillor development was less than in previous years. Instead, principally from the New Year onwards, planning was begun on arrangements for a full post-election induction programme. This involved discussion with members and senior managers on the importance of achieving a member-led approach to development. 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

***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 2016-17. 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.

<b>Complaint/allegation</b>	<b>Outcome</b>
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 conflict of interest in a community matter and consequential "inappropriate, unprofessional and dismissive" comments by councillor in a community-meeting setting.	No conflict of interest found and therefore no breach.  Factual basis of alleged conduct not agreed on evidence; alleged conduct more in keeping with robust local discussion and therefore no breach.

## **County Council Elections & Post Election Governance**

27. It was important that post-election governance be well-prepared in advance of the County Elections and that it be promptly carried out. This proved to be the case. In summary:
- 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.
  - Welcome Event: the Council's induction programme for councillors began with a welcome event for *all* county councillors on 12 May to give a timely introduction to the Council and its services, challenges and commitment to councillor-led working

- Induction: throughout the Spring an induction programme was developed in consultation with councillors and senior managers. The intervention of the general election meant that the programme proper did not fully start until June and is now continuing apace into the Autumn. In addition to the suite of governance, constitution and service overviews, aspects of the programme are also being delivered in supported by the Local Government Association peer councillors. The overall aim being a focus on putting councillors first.
- Access to information: The induction has already usefully emphasised a key priority of keeping councillors informed and there will be further work across the organisation to ensure councillors are kept informed of significant issues in their communities, as is their right under the Constitution. All councillors have also 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 will also be a means of gaining and informing the councillor perspective.

## Summary

28. This annual review highlights the progress that has been made in implementing the code of conduct for members, in promoting and maintaining high standards of conduct and public accountability; and in preparing for the new council following the May 2017 County Elections. That new programme of support and development is fully under way.

## RECOMMENDATION

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

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