

Meeting:	Audit and governance committee
Meeting date:	Wednesday 29 November 2017
Title of report:	Code of Conduct questions
Report by:	Solicitor to the council (monitoring officer)

Classification

Open

Decision type

This is not an executive decision

Wards affected

(All Wards);

Purpose and summary

To consider questions raised at Council on 13 October 2017.

The two questions raised relate to this committee's function to promote and maintain high standards of conduct by members and co-opted members of the Council.

Recommendation(s)

That:

- (a) the committee considers the questions posed and provides a response.**

Alternative options

1. None, the questions were referred to this committee at the meeting of full council.

Key considerations

2. Mr Stow, the council's independent person, raised a question as a member of the public at the Council meeting on 13 October 2017. The question related to the question he raised at the last meeting of this committee and the concerns made when he was consulted on the annual report on the code of conduct complaints.

3. The question posed is;

The Department for Communities and Local Government (DCLG) has stated that transparency and openness should be the fundamental principle behind everything council's and other local government bodies do...". On 20 September the audit and governance committee decided to withhold parish and town council names from the Annual Report on Code of Conduct Complaints. How is this secrecy compatible with DCLG's fundamental principle?

4. There is no legal requirement to provide an annual report, it is one way however that the council promotes high standards. There is no legal requirement as to the form or content of any such report. There is no legal requirement to publish members or parish/ town councils names and our policy does not refer to doing so. The council's approach to date has been to provide information in statistical form, to enable identification of trends or risks.

5. The openness regulations of 2014 which caused the government to make the statement Mr Stow refers to relates to the publication of decisions and reports. The code of conduct annual report has complied with these regulations.

6. Nonetheless if the committee believe it will assist them in discharging the duty to maintain and uphold high standards of conduct to provide such names this can be provided.

7. The second question posed from Councillor Harvey is;

Please will the leader of the council provide this council with his assurance that the decision made on any code of conduct complaint which is informally determined by the monitoring officer – whether upheld or dismissed – can be relied upon in exactly the same manner as a complaint determined by a full Standards Panel; and that therefore this council's adopted Standards Procedure meets all of the objectives for the changes to the standards process which were intended in the Localism Act 2011?

8. As part of the annual monitoring officer's report to this committee in November 2015 the existing complaints procedure was identified as further work for the committee's work programme. In addition it was resolved that the committee would oversee the review via a working group with Mr John Sharman as the council's then independent person.

9. This committee approved the complaints process at its meeting on 9 May 2016.

10. Section 28 (6) of the Localism Act 2011 requires Herefordshire council to have in place arrangements under which (1) allegations can be investigated, and (2) decisions on allegations can be made.

11. Section 28 (7) contains the only procedural requirement and that is that the arrangements relating to decisions must include provision for the appointment by the authority of at least one independent person.
12. The council complies with the Localism Act 2011 and this committee has determined that monitoring officer resolution is appropriate, proportionate and can be relied upon for upholding high standards of conduct.

Community impact

13. Having an effective process for dealing with code of conduct complaints upholds principle A and G of the code of corporate governance by ensuring that councillors behave with integrity and that councillors are accountable for their actions. This should provide reassurance to the community that councillors are behaving in the best interests of their communities.

Equality duty

14. Under section 149 of the Equality Act 2010, the 'general duty' on public authorities is set out as follows:

A public authority must, in the exercise of its functions, have due regard to the need to -

- (a) eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under this Act;
 - (b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it;
 - (c) foster good relations between persons who share a relevant protected characteristic and persons who do not share it.
15. The public sector equality duty (specific duty) requires us to consider how we can positively contribute to the advancement of equality and good relations, and demonstrate that we are paying 'due regard' in our decision making in the design of policies and in the delivery of services. As this is a decision on back office functions, we do not believe that it will have an impact on our equality duty.

Resource implications

16. None arising from the recommendations.

Legal implications

17. As detailed in the report

Risk management

18. There are no risks arising directly from the report which is for information. Maintaining high standards of conduct mitigates risks to the reputation of the council. How the arrangements are managed can be cause for complaint and are dealt with by the chief executive. The fact that only recommendations can be made exposes the council to risk of criticism, this is a result of the national framework.

Consultees

19. None.

Appendices

20. None.

Background papers

None identified.