
Monitoring Officer's Annual Report to the Governance and Ethics Committee – 2018/19 Year End

Committee considering report: Council on 21 May 2019

Portfolio Member: Councillor Dominic Boeck

Date Portfolio Member agreed report: 14 March 2019

Report Author: Sarah Clarke

Forward Plan Ref: C3424

1. Purpose of the Report

- 1.1 To provide an update on local and national issues relating to ethical standards and to bring to the attention of Members any complaints or other problems within West Berkshire.
- 1.2 To present the Annual Governance and Ethics Report to Full Council.

2. Recommendation

- 2.1 Members are requested to note the content of the report.
- 2.2 The report to be circulated to all Parish/Town Councils in the District for information.

3. Implications

- 3.1 **Financial:** There are no financial issues arising from this report. However the costs associated with external investigations may lead to a budget pressure.
- 3.2 **Policy:** Revised policy and changes to processes adopted at Council in May 2012 and reviewed in December 2013 and September 2016.
- 3.3 **Personnel:** There are no personnel issues associated with this report
- 3.4 **Legal:** There are no legal issues arising from this report. The matters covered by this report are generally requirements of the Local Government Act 2000 in so far as appropriate and the Localism Act 2011 and its supporting regulations.
- 3.5 **Risk Management:** The benefits of this process are the maintenance of the Council's credibility and good governance by a high standard of ethical behaviour. The threats are the loss of credibility of the Council if standards fall. Adherence to the requirements of the Code of Conduct also reduce the risk of the Council's decisions being subject to legal challenge.

3.6 **Property:** There are no property issues associated with this report

3.7 **Other:** A diminution in standards of behaviour by elected Members could have a significant reputational impact on the Council

4. Other options considered

4.1 Not to produce the report. There is no legal obligation to produce this report, so not doing so would be an option. However, it is considered that an annual report provides a good overview of work being undertaken, and may assist in identifying any significant problems or developing trends. This overview is also helpful in ensuring full transparency regarding complaints. Not producing this report is therefore not recommended as an option.

Executive Summary

5. Introduction / Background

- 5.1 Following the enactment of the Localism Act 2011 a number of changes were made to the Standards Regime. As part of the governance arrangements adopted by West Berkshire Council, it was agreed that the Monitoring Officer would produce an annual report for the Governance and Ethics Committee and that it would be presented to Full Council at the Annual meeting. The report would also be circulated to all Town and Parish Councils.
- 5.2 The key issues identified in the report are:
- One dispensation was granted by the Monitoring Officer during 2018/19
 - During 2018/19, 22 formal complaints were received by the Monitoring Officer. Of these complaints, 20 were about parish councillors, 1 related to a co-opted councillor and 1 complaint was about a district councillor. This was an increase on the number of complaints received in the previous year 2017/18, when 16 complaints were received.
 - No further action was taken on 14 of the complaints following the initial assessment. Of the remainder, 3 complaints were withdrawn, 2 complaints were referred for investigation and one complaint is still being processed and informal resolution was sought in two cases.
 - Following two matters that were referred for investigation, changes were made to the Social Media Protocol for Members and the Member Development Programme.
 - The Committee on Standards in Public Life have published their report on Ethical Standards in Local Government on 30th January 2019. Legislative changes would be required to enact all of the proposals in that Report.
 - The amount of gifts and hospitality received by officers is broadly similar to last year although the total number of items recorded by Members has improved significantly over the past 12 months.

6. Proposal

- 6.1 Members are asked to note the content of the report and agree that it should be circulated to all Town and Parish Councils for information.

7. Conclusion

- 7.1 Although there are a relatively high number of complaints, these are limited to related matters at a very small number of parishes. It is of note that only two matters were referred for investigation.
- 7.2 It is the opinion of the Monitoring Officer that standards of conduct at all levels across the district remain high, which is to be commended.

8. Appendices

- 8.1 Appendix A – Data Protection Impact Assessment
- 8.2 Appendix B – Equalities Impact Assessment
- 8.3 Appendix C – Supporting Information
- 8.4 Appendix D – Members Register of Gifts and Hospitality
- 8.5 Appendix E – Officers Register of Gifts and Hospitality

Appendix A

Data Protection Impact Assessment – Stage One

The General Data Protection Regulations require a Data Protection Impact Assessment (DPIA) for certain projects that have a significant impact on the rights of data subjects.

Should you require additional guidance in completing this assessment, please refer to the Information Management Officer via dp@westberks.gov.uk

Directorate:	Resources
Service:	Legal
Team:	
Lead Officer:	Sarah Clarke
Title of Project/System:	Governance of the Code of Conduct
Date of Assessment:	15 February 2019

Do you need to do a Data Protection Impact Assessment (DPIA)?

	Yes	No
Will you be processing SENSITIVE or “special category” personal data? Note – sensitive personal data is described as “data revealing racial or ethnic origin, political opinions, religious or philosophical beliefs, or trade union membership, and the processing of genetic data, biometric data for the purpose of uniquely identifying a natural person, data concerning health or data concerning a natural person’s sex life or sexual orientation”	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Will you be processing data on a large scale? Note – Large scale might apply to the number of individuals affected OR the volume of data you are processing OR both	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Will your project or system have a “social media” dimension? Note – will it have an interactive element which allows users to communicate directly with one another?	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Will any decisions be automated? Note – does your system or process involve circumstances where an individual's input is “scored” or assessed without intervention/review/checking by a human being? Will there be any “profiling” of data subjects?	<input type="checkbox"/>	X
Will your project/system involve CCTV or monitoring of an area accessible to the public?	<input type="checkbox"/>	X
Will you be using the data you collect to match or cross-reference against another existing set of data?	<input type="checkbox"/>	X
Will you be using any novel, or technologically advanced systems or processes? Note – this could include biometrics, “internet of things” connectivity or anything that is currently not widely utilised	<input type="checkbox"/>	X

If you answer “Yes” to any of the above, you will probably need to complete [Data Protection Impact Assessment - Stage Two](#). If you are unsure, please consult with the Information Management Officer before proceeding.

Appendix B

Equality Impact Assessment - Stage One

We need to ensure that our strategies, policies, functions and services, current and proposed have given due regard to equality and diversity as set out in the Public Sector Equality Duty (Section 149 of the Equality Act), which states:

- “(1) 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; this includes the need to:***
 - (i) remove or minimise disadvantages suffered by persons who share a relevant protected characteristic that are connected to that characteristic;***
 - (ii) take steps to meet the needs of persons who share a relevant protected characteristic that are different from the needs of 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, with due regard, in particular, to the need to be aware that compliance with the duties in this section may involve treating some persons more favourably than others.***
- (2) The steps involved in meeting the needs of disabled persons that are different from the needs of persons who are not disabled include, in particular, steps to take account of disabled persons' disabilities.***
- (3) Compliance with the duties in this section may involve treating some persons more favourably than others.”***

The following list of questions may help to establish whether the decision is relevant to equality:

- Does the decision affect service users, employees or the wider community?
- (The relevance of a decision to equality depends not just on the number of those affected but on the significance of the impact on them)
- Is it likely to affect people with particular protected characteristics differently?
- Is it a major policy, or a major change to an existing policy, significantly affecting how functions are delivered?
- Will the decision have a significant impact on how other organisations operate in terms of equality?
- Does the decision relate to functions that engagement has identified as being important to people with particular protected characteristics?
- Does the decision relate to an area with known inequalities?
- Does the decision relate to any equality objectives that have been set by the council?

Please complete the following questions to determine whether a full Stage Two, Equality Impact Assessment is required.

What is the proposed decision that you are asking the Council to make:	None. This is a report on work undertaken.
Summary of relevant legislation:	Localism Act 2011 – Requirement to maintain high standards of conduct
Does the proposed decision conflict with any of the Council's key strategy priorities?	No
Name of assessor:	Sarah Clarke
Date of assessment:	15 February 2019

Is this a:		Is this:	
Policy	No	New or proposed	No
Strategy	No	Already exists and is being reviewed	Yes
Function	No	Is changing	No
Service	No		

1 What are the main aims, objectives and intended outcomes of the proposed decision and who is likely to benefit from it?	
Aims:	To review local arrangements for the regulation and governance of ethical conduct.
Objectives:	To maintain high standards of ethical conduct.
Outcomes:	High standards of conduct achieved in all aspects of conduct.
Benefits:	High levels of trust and confidence in decisions being taken by the Council.

2 Note which groups may be affected by the proposed decision. Consider how they may be affected, whether it is positively or negatively and what sources of information have been used to determine this. (Please demonstrate consideration of all strands – Age, Disability, Gender Reassignment, Marriage and Civil Partnership, Pregnancy and Maternity, Race, Religion or Belief, Sex and Sexual Orientation.)		
Group Affected	What might be the effect?	Information to support this
Age	None	
Disability	None	

Gender Reassignment	None	
Marriage and Civil Partnership	None	
Pregnancy and Maternity	None	
Race	None	
Religion or Belief	None	
Sex	None	
Sexual Orientation	None	
Further Comments relating to the item:		

3 Result	
Are there any aspects of the proposed decision, including how it is delivered or accessed, that could contribute to inequality?	No
Please provide an explanation for your answer: There is no decision for the Council to take.	
Will the proposed decision have an adverse impact upon the lives of people, including employees and service users?	No
Please provide an explanation for your answer: There is no decision for the Council to take.	

If your answers to question 2 have identified potential adverse impacts and you have answered 'yes' to either of the sections at question 3, or you are unsure about the impact, then you should carry out a Stage Two Equality Impact Assessment.

If a Stage Two Equality Impact Assessment is required, before proceeding you should discuss the scope of the Assessment with service managers in your area. You will also need to refer to the [Equality Impact Assessment guidance and Stage Two template](#).

4 Identify next steps as appropriate:	
Stage Two required	
Owner of Stage Two assessment:	
Timescale for Stage Two assessment:	

Name: Sarah Clarke

Date: 15/02/19

Please now forward this completed form to Rachel Craggs, Principal Policy Officer (Equality and Diversity) (rachel.craggs@westberks.gov.uk), for publication on the WBC website.