

STANDARDS COMMITTEE

Day: Tuesday
Date: 1 November 2022
Time: 4.00 pm
Place: Committee Room 1 - Tameside One

Item No.	AGENDA	Page No
1.	APOLOGIES FOR ABSENCE	
2.	DECLARATIONS OF INTEREST To allow Members an opportunity to declare any personal or prejudicial interests they may have in any items on the agenda. Members with a personal interest should declare that at the start of the item under consideration. If Members also have a prejudicial or disclosable pecuniary interest they must withdraw from the meeting during the consideration of the item.	
3.	MINUTES The minutes of the meeting of the Standards Committee on the 5 April 2022 to be approved as a correct record.	1 - 4
4.	LOCAL GOVERNMENT (DISQUALIFICATION) ACT 2022 To receive a report from the Head of Paid service.	5 - 8
5.	ETHICAL STANDARDS UPDATE To receive a report from the Head of Paid service.	9 - 32
6.	PROCEDURE UNDER STANDARDS FRAMEWORK To receive a report from the Head of Paid service.	33 - 44
7.	APPOINTMENT OF INDEPENDENT PERSON(S) TO THE AUDIT COMMITTEE To receive a report from the Head of Paid service.	45 - 50
8.	REGISTER OF INTERESTS AND GIFTS AND HOSPITALITY The Register of Interests and Gifts and Hospitality will be available for inspection at the meeting.	
9.	DISCUSSION PERIOD FOR MEMBERS TO RAISE ISSUES (IF ANY)	
10.	URGENT ITEMS To give consideration to any other matters arising. To be accepted at the discretion of the Chair of the meeting.	

From: Democratic Services Unit – any further information may be obtained from the reporting officer or from Louis Garrick, Senior Democratic Services Officer, to whom any apologies for absence should be notified.

Item No.	AGENDA	Page No
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11. DATE OF NEXT MEETING

To note that the date of the next meeting of the Standards Committee will take place on 4 April 2023.

From: Democratic Services Unit – any further information may be obtained from the reporting officer or from Louis Garrick, Senior Democratic Services Officer, to whom any apologies for absence should be notified.

STANDARDS COMMITTEE

5 April 2022

Commenced: 4.00pm

Terminated: 4.35pm

Present: Mrs Bracken (Chair)

Councillors Boyle, Dickinson, McNally, Ricci, M Smith and Parish
Councillor Travis

In Attendance: Sandra Stewart Director of Governance and Pensions
(Monitoring Officer)

Apologies for Absence: Mrs Barnes and Councillors Kitchen and S Homer

12. DECLARATIONS OF INTEREST

There were no declarations of interest submitted by Members of the Standards Committee.

13. MINUTES

The minutes of the Standards Committee meeting on the 14 December 2021 were approved as a correct record.

The Director of Governance and Pensions (Monitoring Officer) gave an update in respect of the Member Code of Conduct, which was recommended for adoption at the last meeting.

Members were informed that on 18 March 2022, The Department for Levelling Up, Housing and Communities has finally responded – more than two years after its publication – to the Committee on Standards in Public Life's report on *Local Government Ethical Standards*.

The headline of the response was: don't expect any changes to the legislation but there are a number of examples of best practice for local authorities to adopt. The CSPL published its 20th report on the subject of ethical standards in local government in January 2019. In the report, the CSPL made 26 recommendations, which included various amendments to primary and secondary legislation. Members were reminded that they had previously considered a report, which identified a number of examples of best practice which it considered local authorities could implement without the need for changes to legislation.

In the meantime, the Local Government Association followed up on the CSPL's first recommendation – the adoption of a model code of conduct – which was published in December 2020 and subsequently amended a few times each of which had been adopted by the Council.

On Friday 18 March 2022, in a letter from Kemi Badenoch MP, Minister for Equalities and Levelling Up Communities, the government issued its response to the CSPL report.

The Monitoring Officer reported that among the more important aspects of that response are:

On the issue of “official capacity”, local authorities should not apply an automatic presumption that any comment made by a councillor – regardless of the context – is subject to the code of conduct. The boundary between an elected representative's private and public life should be acknowledged.

Recommendation 3 of the report was that there should be a “rebuttable presumption” that a councillor's behaviour in public is done in their official capacity. The CSPL did *not* suggest that “any

comment” made by a councillor “irrespective of the context and circumstances” should be “automatically presumed” to be subject to the Code.

It was noted that it was disappointing that the government did not take the opportunity to provide greater clarity or guidance on this important and frequently contested issue.

In the meantime, it was noted that chapter 2 of the CSPL report provides guidance on how to define “official capacity” which can be applied without the need for amendments either to the legislation or local codes of conduct. In particular: what counts as “relevant public behaviour” should be “drawn more broadly” for councillors; and comments on publicly-accessible social media sites are likely to be considered as done in public and therefore in an official capacity.

- **On disclosable pecuniary interests, there are no plans to add to the list of DPIs or to abolish the criminal offences relating to DPIs.**

The government’s view is that the fairly narrow approach taken by the Localism Act 2011 to the registration and declaration of councillors’ “disclosable pecuniary interests” – underpinned by the threat of criminal sanctions – remains a “necessary and proportionate safeguard and deterrent against corruption”.

There have been only a small handful of successful prosecutions for DPI-related offences. Prosecutions tend not to be brought because it will rarely be in the public interest to do so: breaches are often inadvertent and usually not done with any intent for personal gain. Criminalisation of DPI breaches often results in unacceptable delays in progressing otherwise straightforward code of conduct complaints because a referral to the police needs to be made.

- **On sanctions for breaches of the code of conduct, the government does not intend to give local authorities greater powers to punish councillors.**

The government points out that the removal of the power of suspension or disqualification of councillors was a deliberate policy decision. Reinstating that power would “effectively reinstate [the] flawed [Standards Board] regime” which was in force prior to the Localism Act 2011.

There is certainly merit in the government’s position that “councillors are ultimately held to account via the ballot box”. However, to some extent, that assumes a level of public engagement with local politics, which is unrealistic, especially in many parts of the country which do not have a thriving local press to hold councillors to account.

Admittedly, there is no easy solution, but a system, which cannot impose meaningful sanctions on councillors who refuse to play by the rules – especially independent councillors not subject to party discipline – risks undermining confidence in local government standards particularly for the majority of those who do.

14. UPDATE ON RECRUITMENT OF INDEPENDENT PERSONS

The Director of Governance and Pensions (Monitoring Officer) explained that, following notice of the retirement of Ms Valerie Bracken and Ms Jacqueline Barnes, an advertisement had been placed on Tameside’s website for Independent Persons to replace them in the roles of Chair and Deputy Chair of the Standards Committee. The closing date was imminent and following this, any applications could be considered and interviews arranged. She added that there was an expectation that appointments would be reported to the meeting of Annual Council on 24 May 2022.

15. TRAINING RESOURCE PACK: LGA COUNCILLORS MODEL CODE OF CONDUCT

The Director of Governance and Pensions (Monitoring Officer) made reference to the Training Resource Pack circulated with the agenda, which had been produced by the LGA in respect of the Councillors Model Code of Conduct.

The Director sought Members views with regard to utilising the pack for a Member training session for all Members. This could be particularly useful soon after the forthcoming Local Elections, to capture any newly elected Councillors.

Committee Members expressed their support for the training session as outlined by the Director, highlighting Declarations of Interest and Social Media as particular areas for attention. They commented specifically on the complex nature of Declarations of Interest in respect of the Planning process and for Members of the Speakers' Panel (Planning).

RESOLVED

That the content of the Training Resource Pack: LGA Councillors Model Code of Conduct be noted and that this be utilised to deliver a Member Training session for all Members following the forthcoming Local Elections on 5 May 2022 and annual Council on the 24 April 202

16. REGISTER OF INTERESTS AND REGISTER OF GIFTS AND HOSPITALITY

Members were advised that the Register of Interests and Register of Gifts and Hospitality were available online for inspection.

17. DISCUSSION PERIOD FOR MEMBERS TO RAISE ISSUES (IF ANY)

No items were raised during the discussion period.

18. URGENT ITEMS

There were no urgent items for consideration.

19. DATE OF NEXT MEETING



It was noted that the date of the next scheduled meeting of the Standards Committee was 6 September 2022.

20. PRESENTATION TO THE RETIRING CHAIR, MRS VALERIE BRACKEN

The Chair, Mrs Valerie Bracken, was presented with a bouquet of flowers as a token of appreciation and in recognition of her tenure with the Standards Committee with a similar bouquet being sent to Jacqueline Barnes who was also standing down after a decade of supporting the Council.

CHAIR

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REPORT TO:	STANDARDS COMMITTEE
DATE:	1 November 2022
REPORT OF:	Sandra Stewart – Chief Executive
SUBJECT MATTER:	LOCAL GOVERNMENT (DISQUALIFICATION) ACT 2022
REPORT SUMMARY:	The purpose of this report is to inform the Standards Committee of the new grounds for disqualification from being elected to, or being a member of, a local authority that have been introduced by the Local Government (Disqualification) Act 2022.
RECOMMENDATION(S)	That the Standards Committee note the report and the revised standard for being an elected local authority member.
FINANCIAL IMPLICATIONS: (Authorised by Borough Treasurer)	There are no significant financial issues arising from this Report.
LEGAL IMPLICATIONS: (Authorised by Borough Solicitor)	The promotion and maintenance of high standards of conduct by councillors is an important part of maintaining public confidence in both the council and its members. Failure to do so could have significant reputational implications.
RISK MANAGEMENT:	Standards Committees should be aware of the National position in order that consistency of approach is taken in respect of setting and advising on local ethical and standard issues.
LINKS TO COMMUNITY PLAN:	Support the current arrangements for ethical and corporate governance of the Authority to ensure that the public can have confidence in local government.
ACCESS TO INFORMATION	NON-CONFIDENTIAL This report does not contain information which warrants its consideration in the absence of the Press or members of the public
REFERENCE DOCUMENTS:	The background papers relating to this report can be inspected by contacting the report author, Sandra Stewart, Chief Executive & Head of Paid Service:  Telephone: 0161 342 3502  e-mail: Sandra.Stewart@tameside.gov.uk

1. BACKGROUND

- 1.1 The Local Government (Disqualification) Act 2022 (“the 2022 Act”), which came into force on 28 June 2022, introduces new grounds on which a person is disqualified from being elected to, or holding, certain positions in local government in England, including the position of councillor. This new disqualification relates to individuals who are subject to certain notification requirements or orders relating to sexual offences. While there was already a disqualification that applied to individuals who within five years before the day of election, or since their election, had been convicted in the United Kingdom, the Channel Islands or the Isle of Man of any offence and had been sentenced to imprisonment (whether suspended or not) for a period of not less than three months without the option of a fine, that pre-existing disqualification would not necessarily apply to individuals subject to the aforementioned notification requirements or orders.
- 1.2 In 2017 the Government consulted on proposals to update the disqualification criteria for councillors, London Assembly members and elected mayors to bring them into line with both modern sentencing practice and the values and high standards of behaviours the electorate have a right to expect of the elected members that represent them. In October 2018 the government issued a summary of responses to that consultation and gave a commitment to seek to legislate to ensure that the disqualification criteria would be amended to also include individuals who are subject to either the notification requirements set out in the Sexual Offences Act 2003 (commonly known as ‘being placed on the sex offenders register’) or a Sexual Risk Order made under section 122A of the Sexual Offences Act 2003.
- 1.3 The 2022 Act gives effect to the Government’s commitment to legislate in this area. It expands the new disqualification criteria beyond the offences consulted upon in 2017 to ensure that they are specific and comprehensive in disqualifying individuals subject to the relevant notification requirements or relevant orders imposed in respect of sexual offences, and includes the territorial equivalents of such notification requirements and orders in the devolved nations (and the Isle of Man and Channel Islands) in the event that someone subject to such territorial equivalents subsequently stands for elected office in England.

2. THE NEW DISQUALIFICATION

- 2.1 The 2022 Act introduces a new disqualification, inserted as Section 81A of the Local Government Act 1972. Under that section a person is disqualified from being elected to, or being a member of, a local authority in England if the person is subject to: a) any relevant notification requirements, or b) a relevant order.
- 2.2 “Relevant notification requirements” means the notification requirements of Part 2 of the Sexual Offences Act 2003 (or equivalent requirements applying in the Channel Islands or the Isle of Man).
- 2.3 “Relevant order” means: a) a sexual harm prevention order under section 345 of the Sentencing Code; b) a sexual harm prevention order under section 103A of the Sexual Offences Act 2003; c) a sexual offences prevention order under section 104 of that Act; d) a sexual risk order under section 122A of that Act; e) a risk of sexual harm order under section 123 of that Act; or f) certain equivalent legislation to the above applying in the devolved nations, the Channel Islands or the Isle of Man.
- 2.4 A person who is subject to any relevant notification requirements referred to at paragraph 2.2 above is not to be regarded as disqualified until: a) the expiry of the ordinary period allowed for making an appeal or application against the conviction, finding, caution, order or certification in respect of which the person is subject to the relevant notification requirements, or b) if such an appeal or application is made, the date on which it is finally

disposed of or abandoned or fails because it is not prosecuted.

- 2.5 Similarly, a person who is subject to a relevant order referred to at paragraph 2.3 above is not to be regarded as disqualified until: a) the expiry of the ordinary period allowed for making an appeal against the relevant order, or b) if such an appeal is made, the date on which it is finally disposed of or abandoned or fails because it is not prosecuted.
- 2.6 The disqualification introduced by the 2022 Act does not operate retrospectively. Therefore, it does not disqualify a person who became subject to any relevant notification requirements or a relevant order before the 2022 Act came into force on 28 June 2022.
- 2.7 Consequential changes to the rules for administering elections have also been made (either by the 2022 Act itself or under secondary legislation), including to the prescribed consent to nomination form. Candidates are now required to declare when standing that they are not disqualified under the newly inserted Section 81A of the Local Government Act 1972.
- 2.8 It should be noted that during any election or post-election period or during a term of office, any claim that a person is disqualified cannot be investigated by the Local Authority or the Returning Officer but is a matter for the police or an election court.

3. RECOMMENDATION

- 3.1 The recommendation is set out at the front of this report.

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REPORT TO:	STANDARDS COMMITTEE
DATE:	1 November 2022
REPORT OF:	Sandra Stewart – Chief Executive
SUBJECT MATTER:	ETHICAL STANDARDS UPDATE
REPORT SUMMARY:	This report is intended to brief members on any developments and news on matters of local government ethics.
RECOMMENDATION(S)	Members are asked to consider the report and comment on its contents (as applicable) and note its contents.
FINANCIAL IMPLICATIONS: (Authorised by Borough Treasurer)	There are no significant financial issues arising from this Report.
LEGAL IMPLICATIONS: (Authorised by Borough Solicitor)	The promotion and maintenance of high standards of conduct by councillors is an important part of maintaining public confidence in both the council and its members. Failure to do so could have significant reputational implications.
RISK MANAGEMENT:	Standards Committees should be aware of the National position in order that consistency of approach is taken in respect of setting and advising on local ethical and standard issues.
LINKS TO COMMUNITY PLAN:	Support the current arrangements for ethical and corporate governance of the Authority to ensure that the public can have confidence in local government.
ACCESS TO INFORMATION	NON-CONFIDENTIAL This report does not contain information which warrants its consideration in the absence of the Press or members of the public
REFERENCE DOCUMENTS:	The background papers relating to this report can be inspected by contacting the report author, Sandra Stewart, Chief Executive & Head of Paid Service:  Telephone: 0161 342 3502  e-mail: Sandra.Stewart@tameside.gov.uk

1. INTRODUCTION

- 1.1 This report is intended to brief members on any developments and news on matters of local government ethics.
- 1.2 It will look at news items and any relevant case law, as well as any recent published decisions from other local authorities or any of the existing standards boards.
- 1.3 It will also provide an update on the work of the CSPL that follows on from their report 'Ethical Standards in Local Government'.

2. COMMITTEE ON STANDARDS IN PUBLIC LIFE

- 2.1 The independent Committee on Standards in Public life was established 25 years ago. Its remit has evolved but its role has broadly remained the same – to advise the Prime Minister, national and local government and the public on trends, issues and concerns about standards in public life.
- 2.2 Evidence-based recommendations and reports by the Committee over the years have led to the establishment of many of the standards bodies that exist today.
- 2.3 The Committee doesn't investigate individual cases but acts as the guardians of the Seven Principles of Public Life – the Nolan Principles. Everyone in public office at all levels – Ministers, civil servants, NHS staff, the police, council officers – all who serve the public or deliver public services should uphold the principles of accountability, honesty, integrity, objectivity, selflessness, openness and leadership.
- 2.4 To mark their 25th anniversary, the Committee commissioned a piece of work on the standards landscape.
- 2.5 The report, which can be found here: [Standards Landscape Final Version 1 .pdf \(publishing.service.gov.uk\)](#) provides an overview of the standards landscape effective in the central and local government and administration of the United Kingdom (UK). It provides a snapshot of the standards regime 25 years after the establishment of the Committee on Standards in Public Life in 1994 and offers a vantage point from which to view its changing shape and form.
- 2.6 Attached herewith is a standards matters summary at **Appendix A**.
- 2.7 Correspondence; Evidence from the Minister of State for the Constitution and Devolution; (26 April) Chloe Smith MP, Minister of State for the Constitution and Devolution, has written to Lord Evans submitting the government's written evidence to the Committee's Standards Matter 2 review <https://www.gov.uk/government/publications/evidence-from-the-minister-of-state-for-the-constitution-and-devolution> This is a precis set out at **Appendix B** of how the government believe standards operate. Since then there have been Three Prime Ministers, Johnson, Truss and now Sunak so it will be interesting to know if this is the prevailing view.
- 2.8 Watchdog urges Levelling Up Secretary to rethink position on local government standards, citing "clear frustration" within councils at limited powers to tackle poor behaviour. The Committee on Standards in Public Life (CSPL) has called on the Government to reconsider its position on the powers of local authorities to sanction councillors for poor behaviour.
- 2.9 In March this year the Government rejected a recommendation by the standards watchdog in its 2019 *Local Government Ethical Standards* report that local authorities should be able to suspend councillors without allowances for up to six months for breaches

of the code of conduct.

- 2.10 The report had also recommended that councillors be given the right to appeal to the Local Government and Social Care Ombudsman if their local authority imposed a period of suspension. The Ombudsman would have been given the power to investigate the allegation and impose a binding decision on the council.
- 2.11 However, in its formal response the Government said: *“There is no provision in current legislation for a sanction to suspend a councillor found to have breached the code of conduct, and this was a deliberate policy decision by the Coalition Government at the time of the Localism Act 2011 to differentiate from the previous, failed Standards Board regime. The Standards Board regime allowed politically motivated and vexatious complaints and had a chilling effect on free speech within local government. These proposals would effectively reinstate that flawed regime.”*
- 2.12 In a letter to Levelling Up Secretary, Simon Clarke (pictured), this week (20 October), the CSPL’s chair, Lord Evans, said: *“While we note the government’s commitment to further work to support local government, the Committee is very disappointed that many of its careful recommendations have not been accepted. We aimed in that report to produce a balanced, considered package of recommendations to strengthen the arrangements in place whilst respecting the benefits of a localised approach. It was clear from our evidence that the sector backed our call to strengthen the arrangements in place to support high ethical standards. There is clear frustration within local authorities at the limited powers within the local government standards regime to address poor behaviour by a minority of individuals.”*
- 2.13 Lord Evans urged the Secretary of State to reconsider the Committee’s recommendations, adding that it *“would welcome a conversation with you to understand how you are taking forward the government’s stated aim to work with local authorities and their representative organisations to ensure that local government is supported in reinforcing its reputation for ethical local standards”*. He added: *“Across all tiers of local government, decisions are taken about a wide range of local services using public funds, so it is important that there are robust governance arrangements that command public confidence.”*
- 2.14 In July the chair of Camden Council’s Standards Committee wrote to the CSPL to note that the Government’s decision not to implement the watchdog’s recommendations on sanctions had left the local government standards regime with very few powers at a local level. “In effect, the most severe sanction available to local authorities is a finding of a breach of the Code of Conduct. While in councils such as Camden with already high standards, group discipline and close media scrutiny, this does not have any detrimental effect, in other councils without such controls councillors who have behaved very badly will remain in office,” Cllr Richard Cotton said.

3. RECENT PUBLISHED DECISIONS

Code of conduct decision – social media posts

- 3.1 A town council member has been found by Durham Council’s Standards Committee hearing panel to have brought Spennymoor Town Council into disrepute by posting racist and Islamophobic material on social media, and in a separate complaint, was found to have bullied two town council officers in breach of the town council’s Code of Conduct for members (the Code). For context, Durham Council Standards Committee deal with complaints about the behaviour of Durham County councillors and town/parish councillors within County Durham. In respect of the complaint about racist and Islamophobic material posted on social media, the member had two social media accounts, one where he identified himself as a councillor, and one which he did not. Posts were automatically shared between the two profiles. The question was whether the member was acting,

- claiming to act or giving the impression he was acting as a representative of the town council when the posts were shared between the two profiles.
- 3.2 The independent Investigating Officer took into account the Committee for Standards in Public Life (CSPL) report, Ethical Standards in Local Government, on the issue of members acting in their “official capacity” and social media.
 - 3.3 The member said the posts were merely expressing his personal opinions in a “private capacity as an individual” the posts never mentioned he was a councillor. The member stated the user settings were set to “friends” only being able to view the posts, however it was found that any Facebook user could view the posts.
 - 3.4 In taking the CSPL report into account, the Investigating Officer stated that the posts by the member could be seen or interpreted as being published in an official capacity as the accounts were not independent of each other; the posts were accessible and could receive “enormous exposure.” He stated *“It’s not done in private. It’s not the equivalent of a conversation with a close friend behind closed doors. It’s the opposite of that”*.
 - 3.5 The Investigating Officer cited the guidance from the Public Services Ombudsman for Wales which is contained in the CSPL report: “ If you refer to yourself as councillor, the code will apply to you. This applies in conversation, in writing, or in your use of electronic media.... If you refer to your role as councillor in any way or comments you make are clearly related to your role, then the code will apply to any comments you make there. Even if you do not refer to your role as councillor, your comments may have the effect of bringing your office or authority into disrepute ...” Having found that the town council’s Code applied to the posts, the next question the Investigating Officer considered was whether the posts breached the Code. The member stated that he was not a racist and had the posts been racist or discriminatory, these would have been removed by Facebook under its Community Standards. The member maintained his posts were protected under his right to freedom of expression.
 - 3.6 The Investigating Officer described the posts as “on the wrong side of the line” between free speech and an “attack on all Muslims, a denial of their right to live in this country”. He further stated, “not only do they single out a specific group – Muslims – for offensive treatment; they offend against anyone who values democratic principles, such as pluralism, mutual respect and tolerance.”
 - 3.7 One of the posts also indicated support for a white supremacist conspiracy theory, and when read alongside other posts by the member, the posts were racist and were not protected in law under the right of freedom of expression and could therefore be considered a breach of the Code in failing to show respect to others. In a separate complaint involving the same member, the Investigating Officer found that the member was disrespectful and bullying towards two town council officers which included discussing whether one officer’s employment should be terminated.
 - 3.8 The remarks made in an official capacity about the officers, some on social media, despite a previous warning, were described as unfounded, unfair, distressing, humiliating, undermining and embarrassing. The behaviour harmed the public interest in good administration. The member stated that he was “being open and honest” and trying to defend himself. He never intended to bully staff and apologised. The above complaints were considered by Durham County Council’s Standards Committee hearing panel, which upheld the Investigator’s recommendations that the member had breached Spennymoor Town Council’s code of conduct for members.
 - 3.9 Under sanctions, the member was required give a written apology to one of the officers; take part in mediation; undertake training on the Code of Conduct; undertake training on Member- Officer relations, as well as Equality and Diversity training within three months of the hearing. <https://www.durham.gov.uk/media/36927/Standards-Committee-Hearing->

Disqualification

- 3.10 A Maldon District Council member has been disqualified after being found guilty at Chelmsford Crown Court in February 2022 of breaching a non-molestation order. The member was given eight months in prison (suspended for 18 months). Section 80(1)(d) of the Local Government Act 1972 states that if a custodial sentence of three months or more is handed down, then the elected member is automatically disqualified.
- 3.11 Previously in September 2021, Maldon District Council (the Council) upheld six complaints against the member who was found to have failed to treat others with respect; bullied officers and other members; to have disclosed confidential information about another member on social media; and had deliberately attempted to undermine the Council's Code of Conduct process, bringing his office and the Council into disrepute.
- 3.12 Prior to the conviction, the Standards Committee had been due to consider another investigation report into further complaints made about his disruptive behaviour at subsequent council meetings. <https://www.bbc.co.uk/news/uk-england-essex-60560151>

Conduct at Planning Meeting

- 3.13 The Monitoring Officer for Babergh and Mid Suffolk District Council was forced to bring a planning committee to a halt mid-session after some councillors were seen to be passing a document to each other that was not part of the planning application papers before the committee.
- 3.14 The document was a feasibility plan showing an earlier alternative layout for a development site and dates from 2020. Once the issue was raised, the Council's Monitoring Officer immediately adjourned the meeting to investigate any procedural irregularities. Each committee member was interviewed by the Monitoring Officer and there was no evidence that there had been any attempt to influence the committee members or Councillor disqualified after receiving 8 month suspended sentence Councillor removed from Planning Committee until further training provided influence the outcome of the planning decision when the document was circulated by some of the committee members. Members confirmed that they considered the document to be immaterial to the planning application.
- 3.15 During the investigation, one committee member revealed information that demonstrated that they "did not have the requisite skills and understanding of the planning process" and has been removed from the committee until further training on the planning process is provided.
- 3.16 The Monitoring Officer concluded that the integrity of the planning process had not been undermined by the circulation of the old plan as members had not been influenced when the plan was shared. Members were instructed to disregard the document, however due to the planning committee not being able to reconvene in its original form, the application heard at the committee was struck through, and the process will start afresh, that is, the officer will repeat their presentation and the speakers will be invited to repeat their submissions to ensure the process is fair, transparent and legally sound. <https://www.midsuffolk.gov.uk/news/statement-regarding-investigation-into-procedural-irregularities-during-babergh-planning-committee-meeting/>
- 3.17 The report of the Council's Monitoring Officer can be found here: <https://www.midsuffolk.gov.uk/assets/Communications/Planning-Committee-10-August-2022-Investigation-Report.pdf>

4. DECLARATIONS OF INTEREST

- 4.1 Members ordinarily complete their register within the 28 day period of being elected. However, members are reminded that this is a live document and therefore needs to be reviewed regularly to ensure it is up to date. Failure to keep their register of interests up to date could lead to a complaint being received against a member that it is not accurate and also misleading.
- 4.2 In order to improve compliance and act as a prompt all elected members were asked to confirm their records were correct at the last Council meeting in September. The records are currently being updated.

5. RECOMMENDATION

- 5.1 Members are asked to consider the report and comment on its contents (as applicable) and note its contents.

Public Standards in England

Committee on
Standards in
Public Life



The independent Committee established and promotes the Seven Principles of Public Life (the Nolan Principles), and can review how standards are upheld in any process, policy area, or institution. It advises the Prime Minister and can make recommendations to any public body. It has no statutory power to enforce its recommendations.

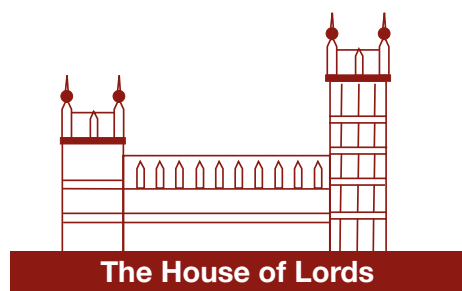


Members of Parliament (MPs) are subject to a **Code of Conduct**. The Code is supplemented by a Guide to the Rules.

The **Parliamentary Commissioner for Standards** receives complaints, investigates breaches of the Code, and keeps MPs' registers of interests.

The **Committee on Standards** oversees standards issues and the work of the Commissioner.

The **Independent Parliamentary Standards Authority (IPSA)** governs MPs' expenditure.



Peers must sign up to a **Code of Conduct**.

The **Lords Commissioner for Standards** investigates complaints and breaches of the Code, as well as monitoring Lords' expenses.

The **Conduct Committee** oversees the work of the Commissioner and reviews the Code of Conduct.



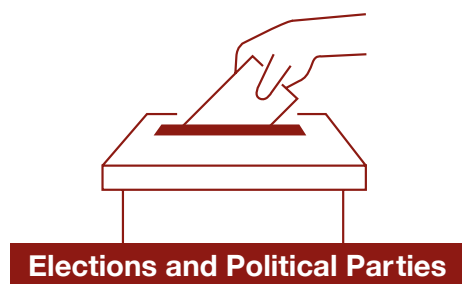
Ministers, including Cabinet members, are subject to the **Ministerial Code**.

The **Independent Adviser on Ministers' Interests** investigates breaches of the Ministerial Code at the request of the Prime Minister.

The **Advisory Committee on Business Appointments (ACOBA)** considers the propriety of the employment of Ministers and the most senior civil servants on leaving public office, advising on any employment restrictions.

The **House of Lords Appointments Commission** recommends individuals for appointment as non-party Peers and vets for propriety the nomination of peers by political parties.

The independent **Commissioner for Public Appointments** regulates the way Ministers appoint senior positions in public bodies.



The **Electoral Commission** regulates elections and donations to political parties.



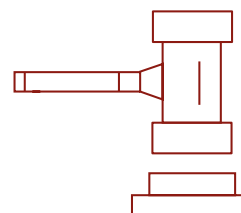
The Civil Service

Civil Servants are subject to the **Civil Service Code** and the **Civil Service Management Code**.

The **Civil Service Commission** administers and promotes the Codes and arbitrates on unresolved complaints.

The **Parliamentary and Health Service Ombudsman** makes final decisions on unresolved complaints against the government, public authorities, and NHS England.

Parliament's Public Administration and Constitutional Affairs Committee (PACAC) oversees and scrutinises the Civil Service and the Parliamentary and Health Service Ombudsman.



The Judiciary

The **Guide to Judicial Conduct** outlines a set of non-binding principles for judges, coroners, and magistrates to follow.

The **Judicial Conduct Investigations Office** investigates complaints about the conduct of the judiciary.

The independent **Judicial Appointments Commission** selects candidates for judicial office.

The **Judicial Appointments and Conduct Ombudsman** handles complaints about the judicial appointments process.



Local Government

Local Authorities create their **own codes of conduct**, registers of members' interests, and procedures for investigating complaints.

The **Local Government and Social Care Ombudsman** can investigate a local authority's handling of a complaint, and recommend if an investigation should be re-run.



Third Party Actors

The **Office of the Registrar of Consultant Lobbyists** manages a register of lobbyists and ensures industry follows the requirements of the register.

Private providers of public services are subject to a **Suppliers Code of Conduct**.

Standards Matter Review response

The overall architecture of the UK ethics system

1. This paper provides the Government's view on the UK ethics system and how ethical standards are upheld in public life. It explains the overall architecture of the UK ethics system, and sets out how existing mechanisms ensure the conduct of public servants and the stewardship of public resources are in the national interest rather than personal interests or the interests of others.
2. The United Kingdom does not have a codified constitution. As the Cabinet Manual sets out, the conduct and operation of Her Majesty's Government rests on statutes, court judgements, conventions and Parliament. This includes the constitutional convention that executive power is exercised by the Sovereign's Government, and the position of the executive in relation to the devolved administrations and international institutions.¹
3. The UK's constitutional order has evolved over time and within this, the roles of the Prime Minister and Cabinet are governed largely by convention, including the convention that the Prime Minister is the Sovereign's principal adviser. This means that, in relation to the Ministerial powers that are derived from the Royal Prerogative (the residual power inherent in the person of the Sovereign), these prerogative powers are exercised mostly on the advice of the Prime Minister.
4. The Prime Minister therefore has overall responsibility for the organisation of the Executive. It is for the Prime Minister alone to advise the Sovereign on the exercise of the Royal Prerogative powers in relation to Government, such as the appointment, dismissal and acceptance of resignation of other Ministers. Ministers hold office as long as they have the confidence of the Prime Minister. He or she is the ultimate judge of the standards of behaviour expected of a Minister and the appropriate consequences of a breach of those standards.
5. The Prime Minister holds his or her position by virtue of their ability to command the confidence of the House of Commons and, in common with all Ministers, is accountable to Parliament for the decisions and actions of the Executive.
6. Separately, the Civil Service is an integral and key part of the Government of the United Kingdom. It supports the government of the day in developing and implementing its policies, and in delivering public services. Civil servants are accountable to Ministers. It is logical that the ethical codes for the Government, along with the lines of accountability they set out, mirror this constitutional position.
7. The UK ethics system takes a principles-based approach to upholding public integrity. This approach, and the range of checks and balances which the ethics system incorporates, enables the UK to uphold and ensure government in the public interest for public good in the way most befitting our constitution and system of

¹ <https://www.gov.uk/government/publications/cabinet-manual>

government. Both the stewardship of public resources and the conduct of public servants should be in the national interest. There are two areas of focus: the use of public money, overseen by the Treasury (and ultimately Parliament), and the use of public position and information, overseen by the Cabinet Office (and held to account by Parliament and the public).

Specific systems which cover stewardship of public resources

8. The public, and Parliament acting on their behalf, have a right to expect that funds raised using powers agreed by Parliament will be used for the purposes intended in the public interest. Public servants have a contractual duty, through the Civil Service Code, to carry out their fiduciary obligations responsibly.² Her Majesty's Government utilises a range of principles and processes to ensure that public resources continue to be used in the public interest, for the purposes intended.
9. Managing Public Money (MPM) is the framework which sets out how public money (that is, income to the Government from taxes, levies and charges) is to be accounted for and spent by the Government.³ It also sets out requirements for civil servants to ensure that public spending demonstrates value for money, and provides a framework for advice to Ministers on such matters. The Permanent Secretary, or head of a department, is the Accounting Officer and is personally responsible for ensuring the requirements of MPM are followed. This includes personally accounting to Parliament. This is one of the very few areas where civil servants are directly accountable to Parliament rather than through their Ministers. It creates an important tension in the system to ensure that public spending is appropriately challenged, and that short-term political pressure or private interests do not lead to decisions that are not in the public interest.
10. Parliament votes to allocate money to departments and the National Audit Office undertakes audits against how departments spend money and manage resources, both from departments' annual accounts and in certain areas against value for money considerations.
11. The National Audit Office is independent of the Government and supports the Comptroller and Auditor General, who reports to the Public Accounts Committee (PAC). The Permanent Secretary, as the Accounting Officer, is accountable to the PAC for the use of public money and assets within their department.
12. MPM is owned by a team within HM Treasury. The head of this team, the 'Treasury Officer of Accounts' (TOA), is a senior official whose role is to advise and support the Government on difficult questions of public spending. The TOA provides advice to Accounting Officers on the proper spending of public money, and attends every meeting of the Public Accounts Committee to provide Parliament assurance that spending decisions are taken in accordance with MPM.

² <https://www.gov.uk/government/publications/civil-service-code/the-civil-service-code>

³ <https://www.gov.uk/government/publications/managing-public-money>

13. At a high level, MPM asks that spending decisions meet the standards set out with respect to regularity, propriety, feasibility and value for money – this is explicitly supported by the Seven Principles of Public Life.
14. MPM is supplemented by more detailed guidance on risk and fraud (for example, the Orange Book on risk management in Government or the Functional Standard on counter fraud), and is supported by the professional communities and Functions in Government who lead on these issues.⁴ These professional communities and Functions work across government to ensure that deep expertise is embedded and available to Departments where needed.
15. While the Orange Book does not itself set out the procedure by which a public body should design and operate risk management, it does set out a principles-based approach that provides flexibility and judgement in the design, implementation and operation of risk management, informed by relevant standards and good practice. Where relevant, the Orange Book directs departments to other standards and guidance, including related functional and professional standards and codes of practice.
16. Her Majesty's Government has also invested in bringing together cross-government expertise on fraud under the Government Counter Fraud Function, which is centred in the Cabinet Office. This brings together the 16,000 people who work in the public sector to find, investigate and reduce fraud against the public sector.
17. The Function has also created the Government Counter Fraud Profession, thereby establishing the Professional Standards and Competencies that an individual has to demonstrate to be considered a Counter Fraud Professional. There are 7,000 members of the profession, including civil servants, local authority staff and police officers.
18. Her Majesty's Government has also undertaken a consultation on a Green Paper on transforming public procurement.⁵ The proposals in the Green Paper are intended to shape the future of public procurement in this country for many years to come. The Government's goal is to speed up and simplify our procurement processes, place value for money at their heart, and unleash opportunities for small businesses, charities and social enterprises to innovate in public service delivery. The UK will improve transparency in public procurement with a new and modern process that is more digital, faster, automatically-transparent, easier for small and entrepreneurial firms to compete through, and also more resilient against corruption and fraud.

⁴ <https://www.gov.uk/government/publications/orange-book>
<https://www.gov.uk/government/publications/government-functional-standard-govs-013-counter-fraud#:~:text=The%20Counter%20Fraud%20Functional%20Standard,and%20their%20arms%2Dlength%20bodies.&text=The%20publication%20of%20the%20Counter,government's%20commitment%20to%20fighting%20fraud.>

⁵ <https://www.gov.uk/government/consultations/green-paper-transforming-public-procurement>

Conduct and integrity of those in public office

19. The Seven Principles of Public Life (the Nolan Principles) outline the ethical standards to which all those working in the public sector are expected to adhere.⁶ The Seven Principles underpin the Ministerial Code, and they are applied and shaped for civil servants and Special Advisers in the core values of the Civil Service Code and Special Adviser Code.
20. The Ministerial Code requires Ministers to maintain high standards of behaviour and provides guidance on how Ministers should act and arrange their affairs in order to uphold these standards.⁷ The Prime Minister is the ultimate judge of the standards of behaviour expected of a Minister and the appropriate consequences of a breach of those standards.
21. The Civil Service Code sets out the standards of behaviour expected of civil servants, and outlines the core values which support good government and ensure the achievement of the highest possible standards in all that the Civil Service does.⁸ The Code of Conduct for Special Advisers sets out the standards of behaviour expected of special advisers, and aims to reinforce the political impartiality of the permanent Civil Service by distinguishing the source of political advice and support.⁹ Both of these codes of conduct are contractually binding, and both are given a statutory basis by the Constitutional Reform and Governance Act (CRaGA) 2010.
22. The Code of Conduct for Board Members of Public Bodies sets out the personal and professional standards expected from those who serve on the boards of Her Majesty's Government departments, non-ministerial departments, executive agencies, non-departmental public bodies, and national public corporations. It forms part of their terms of appointment.¹⁰
23. The principles set out in the codes of conduct apply in three stages:
 - a. on appointment to office or to a role;
 - b. when conducting that role; and
 - c. on departure from the role.
24. At these stages there are established procedures and guidance setting out what is required.

⁶ <https://www.gov.uk/government/publications/the-7-principles-of-public-life>

⁷

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/826920/August-2019-MINISTERIAL-CODE-FINAL-FORMATTED-2.pdf

⁸ <https://www.gov.uk/government/publications/civil-service-code/the-civil-service-code>

⁹

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/832599/201612_Code_of_Conduct_for_Special_Advisers.pdf

¹⁰

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/809093/Code-of-Conduct-for-Board-Members-of-Public-Bodies-2019-WEB.PDF

Appointing to HMG roles

25. The appointment of Ministers is made by Her Majesty the Queen, on the recommendation of the Prime Minister. While it is a matter for the Prime Minister of the day who she or he recommends, factors such as their standing in their political party, their public profile and reputation and specific issues and causes that they pursue as part of public life may be considered.
26. The appointment of civil servants is regulated by the independent Civil Service Commission, which sets the recruitment principles that must be followed and authorises any exceptions. The Civil Service Commission is established by statute to provide assurance that civil servants are selected on merit on the basis of fair and open competition; and to help safeguard an impartial Civil Service. The role of the Civil Service Commission is set out in the CRAGA.
27. Appointments to the most senior roles are directly overseen by the Civil Service commissioners. Commissioners personally chaired more than 160 recruitment competitions in 2019-20. The Commission also carries out audits to ensure all of the 72 Civil Service organisations that it regulates are making appointments, at all levels, according to the recruitment principles, and investigates any reported breaches of the principles. In 2019-20, the Commission found 8 breaches of the recruitment principles (to put this in perspective, nearly 45,000 people were appointed to roles in the Civil Service in that year).
28. Special advisers are temporary civil servants appointed in accordance with Part 1 of the CRAGA. Special advisers are a critical part of the team supporting Ministers. They add a political dimension to the advice and assistance available to Ministers while reinforcing the political impartiality of the permanent Civil Service by distinguishing the source of political advice and support.
29. The Governance Code on Public Appointments sets out the principles that should underpin all regulated public appointments, including those appointments that Ministers have delegated to others.¹¹ The Commissioner for Public Appointments provides independent assurance that public appointments are made in accordance with these principles, and has a number of functions set out in the Public Appointments Order in Council 2019.¹² The Governance Code sets out that public appointments processes should be designed to ensure that the best people, from the widest pool of candidates, are appointed to these roles.
30. Outside the appointment structures explained above, direct appointments may be appropriate for short-term advisory roles, for example to lead a government review or to advise on, or champion, a specific subject. Before deciding that a direct appointment is needed, Ministers, on advice from their officials, should be clear about the need for and nature of the role. It is for a Minister to determine whether to make a

¹¹ <https://www.gov.uk/government/publications/governance-code-for-public-appointments>

¹² <https://publicappointments.cabinetoffice.gov.uk/wp-content/uploads/2019/04/2019-Public-Appointments-Order-In-Council.pdf>

direct appointment. The prior approval of the Prime Minister to appoint a specific individual must be sought before any commitment is entered into.

31. Before appointment, the information that may be accessed by the appointee once he or she has been appointed must be made clear, as well as the security requirements associated with the material. Appointees may not access material that Ministers would not be able to access, and may not make information public outside of the Government's own approach to publication. Direct appointments are not 'public appointments' for the purposes of the Public Appointments Order in Council and Governance Code made pursuant to that Order. However, the usual public law principles applicable to all ministerial decision-making still apply. Appointments must be rational, procedurally fair and non-discriminatory. Such appointments have been made under successive administrations.

Conduct

32. In respect of Ministers, the Ministerial Code sets out how the Prime Minister requires the Ministers that he or she advises Her Majesty the Queen to appoint to the Government to behave. The Ministerial Code may be updated by the Prime Minister, on the advice of the Cabinet Secretary, but has existed in some form or another for over forty years. It was made public from 1992 onwards and on taking office a new Prime Minister will consider whether they wish to make any changes or revisions to the Code. It provides guidance to Ministers on how they should act and arrange their affairs in order to uphold these standards and lists the principles which may apply in particular situations.
33. The Code applies to all government Ministers, and sections of it also apply to Parliamentary Private Secretaries. The Code itself is clear that it is not the role of the Cabinet Secretary or other officials to enforce the Code. Rather, Ministers themselves are personally responsible for deciding how to act and conduct themselves in the light of the Code and for justifying their actions and conduct to Parliament and the public.
34. The Code begins "Ministers of the Crown are expected to maintain high standards of behaviour and to behave in a way that upholds the highest standards of propriety." The Code sets out the principles of Ministerial conduct that the Prime Minister expects of his or her colleagues. Many of these expand on the Principles of Public Life and set out more detail of the requirements in the specific context of being a Minister. An important element of this is the requirement to "uphold the political impartiality of the Civil Service and not ask civil servants to act in any way which would conflict with the Civil Service Code".
35. The core values of the Civil Service and standards of behaviour expected of every civil servant are set out in the Civil Service Code. This forms part of the terms and conditions of every civil servant and was first introduced in 1996. The code was put on a statutory basis in the CRAGA. The core values, contained in the Code, of objectivity, honesty, impartiality and integrity, enable UK civil servants both to service governments of different political parties over time – and different governments in

London, Edinburgh and Cardiff. The CRAGA includes provision for the publication of a separate code of conduct covering civil servants who serve the Scottish or Welsh Governments. Civil servants who are part of the Scottish and Welsh Governments are accountable to Scottish and Welsh Ministers, who are in turn accountable to the Scottish Parliament and Welsh Senedd. In Northern Ireland, the Northern Ireland Civil Service also follows a very similar set of principles. Those same values also govern civil servants' dealings with the public and underpin the trust placed in civil servants to advise on or decide issues without any personal favour or prejudice.

36. The value of impartiality is especially important, as it relates both to carrying out responsibilities in a way that is fair, just and equitable and reflects the Civil Service commitment to equality and diversity, and it relates to the requirement to serve the Government, whatever its political persuasion, to the best of their ability in a way which maintains political impartiality irrespective what one's own political beliefs may be. This document is only two pages long, but it distils the essence of how a civil servant should behave. It is accompanied by more detailed contractual terms in the Civil Service Management Code, for example about how to declare a conflict of interest, or the rules on acceptance of official hospitality, this provides the guiding framework by which all civil service behaviour is judged.
37. Annual People Survey data helps to ensure civil servants understand the Codes of Conduct and how to raise a complaint under them.¹³ The 2019 People Survey data showed that 92% of civil servants are aware of the Civil Service Code. 66% of civil servants are aware of how to raise a complaint under the Code, and 72% are confident that if they raised a concern it would be investigated properly. The Government intends to raise awareness of the Codes and how to raise a complaint under them, through including this information in the new cross-Civil Service induction, details of which have been published.¹⁴
38. Departments make their own arrangements for publicising the Code and hearing complaints against it, which are normally dealt with by departmental HR teams. The Civil Service Code sets out that where someone has a concern about how they are being required to act, or the actions of someone else, they should start by talking to their line manager or someone else in their line management chain. If this would be difficult, they can speak to one of their department's nominated officers. Any criminal or unlawful activity should be reported to the police and the appropriate regulatory authorities. If someone has raised a complaint in accordance with the relevant procedures, and does not receive what they feel is a reasonable response, they can report the matter to the independent Civil Service Commission, which can hear complaints against the Code and can investigate alleged breaches. Within the Civil Service there is also a 'speak up' programme, to enable civil servants to escalate any concerns they may have about wrongdoing or misconduct, including in the use of public money. This means that civil servants can raise concerns, even when they might feel uncomfortable about speaking directly to their line manager.

¹³ <https://www.gov.uk/government/collections/civil-service-people-surveys>

¹⁴ <https://www.gov.uk/government/publications/the-new-curriculum-and-campus-for-government-skills>

39. The Civil Service Commission publishes the numbers of Code appeals and investigations it receives in its annual report and accounts. For instance, in 2019-20, the Civil Service Commission received 97 Code complaints (compared to 85 in 2018/19). The majority of these were either out of scope or required a departmental investigation before the Civil Service Commission could consider whether there were grounds to investigate. All complaints received are published on the Civil Service Commission website, with decision notices being produced for cases investigated by a Commissioner panel.¹⁵ In 2019/2020 a Commissioner panel investigation was only necessary for one case.
40. All special advisers are bound by the standards of integrity and honesty required of all civil servants as set out in the Civil Service Code. They are also required to follow the Code of Conduct for Special Advisers. Special advisers are selected for appointment by a Minister personally and all special adviser appointments must be approved by the Prime Minister. As set out in the Code of Conduct for Special Advisers and the Model Contract for Special Advisers, the responsibility for the management and conduct of special advisers, including discipline, rests with the Minister who made the appointment and the Prime Minister's Chief of Staff. The Prime Minister may also terminate employment by withdrawing consent to an individual appointment at any time.

Addressing potential conflicts

41. The requirement under the Seven Principles of Public Life to act with integrity means that public office holders must avoid placing themselves under any obligation to people or organisations that might try to inappropriately influence them in their work. Conflicts of interests processes are particularly important here - and it is for all holders of public office to declare and resolve any interests. Under the terms of the Ministerial Code, government Ministers must ensure that no conflict arises or could reasonably be perceived to arise between their public duties and private interests, financial or otherwise. On appointment, they are required to provide a list of interests to their Departmental Permanent Secretaries. They are also assessed by the Independent Adviser on Ministers' Interests. This process provides a centralised mechanism for the assessment of potential wider conflicts and ensures consistency of approach, as well as an independent, external check. The Ministerial Code provides that interests which are relevant to the role and an individual has retained are published. The Ministerial Code also sets out a mechanism for investigating allegations that the Ministerial Code, including the provisions relating to conflicts of interest, has not been adhered to. This includes a role for the Independent Adviser.
42. Special advisers are bound by the standards of integrity and honesty required of all civil servants as set out in the Civil Service Code. In summer 2020 a change was made to the Model Contract for Special Advisers to update and improve the process for declarations of interest, including making a declaration mandatory. Under the policy, departments publish special advisers' interests judged by the Permanent Secretary to be relevant in the departmental report.

¹⁵ <https://civilservicecommission.independent.gov.uk/publications/code-complaints/>

43. The Civil Service Code is clear that Civil Servants must not misuse their official position, for example by using information acquired in the course of their official duties to further their private interests or those of others. The process for declaring and managing conflicts sits within management units, as conflicts are more effectively assessed at a local level. In all cases, civil servants are required to declare their (for example, business or financial) interests in real time to senior management, up to Permanent Secretary level if necessary, so that senior management can determine how best to proceed. Civil servants must comply with any instructions from their department or agency regarding the retention, disposal or management of such interests. Senior civil servants and civil servants working in particularly sensitive roles declare any potential conflicts of interest during their recruitment process. Permanent Secretaries' interests are also published in departmental annual reports and accounts (for example, as part of Executive Board declarations - as is required by the *Corporate Governance Code for Central Government Departments*).¹⁶
44. A conflicts of interest process also exists for board members of public bodies, which is set out in the Code of Conduct for Board Members of Public Bodies. It explains that board members must consider, with advice from the department, how conflicts are managed, agreeing this with the organisation. The code also sets out that "*As a minimum, these will require you to declare publicly, usually in the body's register of interests, any private financial or non-financial interests of your own, or of close family members, which may, or may be perceived to, conflict with your public duties*".

Departing from a role

45. The rules on conduct after leaving the Government or the Civil Service are set out within the Ministerial Code and within the Civil Service Management Code.¹⁷ These are known as the Business Appointment Rules (BARs) and are designed to ensure that individuals do not make personal gain or gain for a new employer by virtue of their access to information or ongoing relationships.
46. The Advisory Committee on Business Appointments (ACOBA) advises Permanent Secretaries and the Prime Minister on the application of the BARs.¹⁸ The Committee considers applications about new jobs for former ministers, senior civil servants at Director General level and above (and special adviser equivalents) and other Crown servants, and publishes its advice transparently where a role is taken up. The Committee is made up of independent members recruited openly under the Governance Code for Public Appointments, as well as a small number of political members drawn from across the House.
47. Applications from all other levels of Crown Service, including any special advisers who are not assessed by ACOBA, are handled by their employing departments in line with the Business Appointment Rules and their own internal processes. Final

¹⁶ https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/609903/PU2077_code_of_practice_2017.pdf

¹⁷ <https://www.gov.uk/government/publications/civil-servants-terms-and-conditions>

¹⁸ <https://www.gov.uk/guidance/new-business-appointments-for-senior-public-servants>

decisions on special advisers are made by the relevant Permanent Secretary. Departments will publish summary information in respect of individuals at SCS2 and SCS1 level (and equivalents, including special advisers of equivalent standing), setting out the advice given and the restrictions (if any) imposed.

48. In February this year, ACOBA published its Annual Report.¹⁹ The Annual Report sets out the Committee's analysis of how the current system is operating. Some recent high profile cases (published on ACOBA's website) where the Committee has highlighted non-adherence to the requirements, as well as the small number of retrospective applications compared to the overall number of cases considered, demonstrate that the system is working well. Of the total 347 applications which ACOBA considered in the reporting period only 8 were retrospective (2%).
49. Affording ACOBA statutory powers to enforce the BARs would be out of line with the general principle of UK law that Ministers and officials are subject to the same legal system and statutory framework as all others.
50. ACOBA is able to enforce a range of sanctions for non-compliance. ACOBA records where an individual has failed to seek advice or may be acting in a manner contrary to advice received. This transparency generates better public awareness and more effective scrutiny of the process, thus creating a greater moral and reputational pressure on people leaving public office.
51. In addition to this moral pressure, publication of non-engagement with the system has a bearing on individuals' ability to gain employment outside of government, by bringing an additional reputational pressure to bear on prospective employers. If a former Minister or senior civil servant is nominated for an honour, ACOBA's input will be sought on an individual's adherence to the BARs as part of the Honours and Appointments Secretariat's existing vetting process. Furthermore, during public procurement processes contracting authorities can take into account individuals' engagement with ACOBA in order to mitigate against the exercise of improper influence over the tendering process.
52. ACOBA is seeking to improve the efficacy of the system even further by introducing a framework for the risk based consideration of cases, introducing greater transparency about the risk profile of cases, and better reporting of breaches of the Rules.
53. The Cabinet Office is also leading a programme of work, agreed with the Chair of ACOBA, to improve: the scope and clarity of the Rules; the consistency and proportionality of their implementation across government; and enforcement of the Rules.
54. Ongoing duties of confidentiality, and the application of the Official Secrets Act (OSA) for the most sensitive of information provide legally enforceable sanctions for

¹⁹ <https://www.gov.uk/government/publications/advisory-committee-on-business-appointments-annual-report-2018-2019-2019-2020>

unauthorised disclosure of information both during the role and after a civil servant has left. The majority of people who come into contact with this type of information treat it appropriately, but where occasionally individuals abuse their position by disclosing protected information without authority this can trigger an internal inquiry and may ultimately lead to a police investigation and prosecution under the OSA. In exceptional circumstances, individuals may be prosecuted for committing the common law offence of misconduct in public office.

The Boardman Review

55. The Prime Minister has asked Nigel Boardman to conduct a review that will look into the decisions taken around the development and use of supply chain finance (and associated schemes) in government. Mr Boardman will have access to all necessary government information required to conduct the review and will engage with those involved at the time when decisions were made and will report his findings to the Prime Minister no later than the end of June 2021.
56. The Terms of Reference, which are available on GOV.UK, set out detail on the scope of the Review as well as the approach, outputs and timings. The Review will be wide ranging and cover areas including Mr Greensill's engagement and activities with the Government, contracting arrangements for Supply Chain Finance and associated schemes, the relationship between current and former Ministers and officials and Greensill Capital and engagement with Government by those acting on behalf of Greensill Capital. Some of these areas relate to the operation of what is set out above. The findings of the review will demonstrate whether the system is operating as it should.

Transparency requirements

57. The Seven Principles of Public Life set out a general principle of openness in public policy making. An effective and proportionate transparency regime, conceived of in its broadest sense, enables the public to see who is seeking to influence those holding senior roles in government and where their engagement is directed. It enables the public to understand government decision making and to hold those making decisions to account.
58. In upholding these principles, Her Majesty's Government makes a range of data routinely available to the public. Details of meetings with senior media executives are published for Ministers, special advisers and Permanent Secretaries. Information is published on Ministerial and senior official (Permanent Secretary level) meetings with third parties, along with any gifts and hospitality received (which also extends to special advisers). This focus on Ministers and the Permanent Secretary reflects the decision making powers they have (compared to more junior officials and special advisers who will usually provide the advice upon which decisions are based). This is proportionate as it focuses on where influence could be brought to bear in decision making, but allows more junior advisers a safe space for deliberations where other checks or tools guard against undue influence.

59. The Freedom of Information Act 2000 (FOIA), which provides a statutory right of access to recorded information held by public authorities, is another fundamental means of achieving transparency and openness. Aside from certain information which is exempt, the Government is required under the FOIA to release information about its decision making. Connected to the openness about meetings, this allows interested parties to follow up for more information of specific interest. Ministers are also held to account through Parliament, including Parliamentary Questions and Select Committee scrutiny.
60. The statutory Register of Consultant Lobbyists is a UK-wide legislative measure to regulate consultant lobbying of Ministers and Permanent Secretaries, which ensures that third party lobbyists cannot use consultants to hide their engagement in policy making. The register does not cover in-house lobbyists as the Government publishes data on meetings between Ministers and Permanent Secretaries and external interests including details of attendees and the organisations they represent; this information captures the activities of in-house lobbyists.
61. The purpose of the register is to ensure transparency of consultant lobbying of the Government. The Registrar has recently updated the guidance for registrants to enhance understanding of the statutory requirement to register and the quarterly information required. Her Majesty's Government is undertaking post-legislative scrutiny of the legislation underpinning the register and has engaged with key stakeholders to invite their views.
62. The Code of Practice for Statistics details the practices which departments must commit to when producing and releasing official statistics, and which Ministers must be mindful of, under the Ministerial Code.²⁰ The Code plays an essential role in ensuring that statistics published by the Government command public confidence through demonstrating trustworthiness and in providing high-quality statistics that enhance public value.
63. The Code of Practice is set by the UK Statistics Authority, an independent statutory body accountable to Parliament through its regulatory arm, the Office for Statistics Regulation (OSR). The Authority speaks out publicly on the use of statistics in public debate, challenging misuse by public bodies and / or elected officials, and recommending action where necessary to uphold the integrity of official statistics. OSR reviews compliance with the detailed principles and practices of the Code through formal assessments and more wide-ranging reviews, and will investigate where there are specific issues in the use of statistics. The Code and the work of the Authority help to safeguard ethical and transparent use of data in government.
64. The Government's fourth National Action Plan (NAP) makes commitments to increase public participation in government and help deliver solutions that are transformative. The 8 commitments it sets out are in line with the Open Government Partnership values of access to information, civic participation, public accountability,

²⁰ <https://code.statisticsauthority.gov.uk/wp-content/uploads/2018/02/Code-of-Practice-for-Statistics.pdf>

and technology and innovation. Our fourth NAP was developed in dialogue with the UK Open Government Network (OGN), a coalition of active citizens and civil society organisations committed to making government and other powerful institutions work better for people through enhanced transparency, participation and accountability. Presently the OGN has more than 400 members.

65. The Register of Members' Financial Interests also provides information about any financial interest which a Member of Parliament has, or any benefit which he or she receives, which others might reasonably consider to influence his or her actions or words as an MP.²¹ It is updated fortnightly online when the House is sitting, and less frequently at other times. Interests remain on the Register for twelve months after they have expired. The Register is one of the chief means by which members of the public can see the organisations and individuals seeking to engage with MPs and influence the legislative process.
66. Another means open to the public for seeing which interests are being brought to bear on the legislative process through political parties is the Electoral Commission's reports on party donors.²² Political parties are required to submit quarterly donation and loan returns to the Electoral Commission. Within these returns, parties report: donations accepted above the £7,500 threshold (£1,500 for accounting units); smaller donations from a single donor which add together to exceed the reporting threshold; donations which ought to have been reported in previous quarters; and impermissible donations they have received and the action taken in relation to these. Publishing this data allows voters to see clearly how parties in the United Kingdom are being funded, enhancing public confidence and trust in our democratic processes.

Policy making processes

67. The wider processes and standards of policy making play an important role in ensuring national interests are upheld. Only having the input of a small number of stakeholders can leave policy-makers more susceptible to undue influence from lobbyists and other outside interests. The UK has published government consultation principles, which are an important part of the Policy Profession Standards and demonstrate Her Majesty's Government's desire to engage more effectively with the public and affected parties.²³ These principles make it easier for the public and businesses to contribute their views in policy making, thereby ensuring that policy makers can safeguard against undue influence by taking into account a broad range of relevant views and interests.
68. Her Majesty's Government policy is also subject to collective agreement, which ensures the Government speaks with one voice and that impacts on other departments have been considered before a major announcement or action is taken.

²¹ <https://www.parliament.uk/mps-lords-and-offices/standards-and-financial-interests/parliamentary-commissioner-for-standards/register-of-interests/register-of-members-financial-interests/>

²² <https://www.electoralcommission.org.uk/latest-uk-political-party-donations-and-loans>

²³ <https://www.gov.uk/government/publications/consultation-principles-guidance>

Collective agreement is secured by the agreement of Cabinet or a Cabinet Committee, either at a meeting or by ministerial correspondence seeking clearance for a proposal. This process ensures that no significant changes can be made to Her Majesty's Government policy without the views of all teams across government who are affected by those changes having been taken into account. It also ensures that a proper assessment is made of the impact which new policies have on, for instance, the environment, equalities, or the economy.

69. Ahead of the collective agreement process, all policies are subject to, for instance, cost and legal assessment by subject experts, again reducing the risk that undue influence goes unchecked throughout policy development. Policy development is undertaken based on, for instance, the MPM requirements (which ensure that public servants use public money responsibly and effectively), the Orange Book (which ensures the sound development and implementation of risk management processes in government organisations), or the Green Book (which provides guidance on the appraisal and evaluation of government policies, projects and programmes).²⁴ These standards, and a range of others across government, provide a framework for testing policy at all stages of the policy cycle to ensure it is delivering public, rather than private, needs.

70. Furthermore, if a change in policy requires a change in the law, policies and the rationale underpinning them are subject to parliamentary scrutiny. This scrutiny provides a rigorous external check on government activity, and ensures that no single interest is unduly represented in public life or the policy making process.

Conclusion

71. In conclusion, Her Majesty's Government has a full framework in place to ensure that public money is spent efficiently and that those who serve Government as stewards of these public resources act in accordance with the highest ethical standards and in the public interest. There are checks and balances in place throughout a person's service in government (when they enter government, during their role, and when they depart that role) which ensure the high standards of propriety expected are understood and upheld. Transparency data and the policymaking process in government help to provide sufficient assurances that the process is free from external interests.

72. Overall, the provisions in place ensure that the public can trust the Government in implementing policy and delivering public services, but we should not be complacent. Understanding of and adherence to the principles are vital and we should remain vigilant. We will consider recommendations from the Committee and the Boardman Review when they have been published.

²⁴ <https://www.gov.uk/government/publications/the-green-book-appraisal-and-evaluation-in-central-government>

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REPORT TO:	STANDARDS COMMITTEE
DATE:	1 November 2022
REPORT OF:	Sandra Stewart – Chief Executive
SUBJECT MATTER:	PROCEDURE UNDER STANDARDS FRAMEWORK
REPORT SUMMARY:	<p>The committee are asked to review the updated procedure for complaints which particularly addresses anonymous complaints and also asks to consider a position when a standards complaint has not been concluded when a member ceases to be in office. A finding may not be made against a former member however there are some authorities that have decided that a complaint or investigation can be reinstated if the former member is re-elected within a certain period of time. It is recommended therefore that the committee consider that when a member ceases to hold office the outstanding complaint, investigation or hearing does not continue unless the person is re-elected within a certain period of time after ceasing to hold office. Members can determine the relevant period. If within that period, the person is either re-elected or co-opted to the Council, the complaint is reinstated and will be referred back to the Standards Committee for consideration. If the person is not re-elected or co-opted within that period, no further action is taken in the matter. It should be noted that both the Council's complaints system and the Local Government Ombudsman do not consider complaints over 12 months except in exceptional circumstances.</p>
RECOMMENDATION(S)	<p>Members consider the refreshed and revised procedure procedure for a local hearing and confirm (i) the composition of the Hearing Panel; and (ii) Members consider the position of the time period in which a complaint should be revived if a member ceases to hold offices but becomes relected.</p>
FINANCIAL IMPLICATIONS: (Authorised by Borough Treasurer)	<p>There are no significant financial issues arising from this Report.</p>
LEGAL IMPLICATIONS: (Authorised by Borough Solicitor)	<p>The promotion and maintenance of high standards of conduct by councillors is an important part of maintaining public confidence in both the council and its members. Failure to do so could have significant reputational implications.</p>
RISK MANAGEMENT:	<p>Standards Committees should be aware of the National position in order that consistency of approach is taken in respect of setting and advising on local ethical and standard issues.</p>
LINKS TO COMMUNITY PLAN:	<p>Support the current arrangements for ethical and corporate governance of the Authority to ensure that the public can have confidence in local government.</p>
ACCESS TO INFORMATION	<p>NON-CONFIDENTIAL</p> <p>This report does not contain information which warrants its consideration in the absence of the Press or members of the public</p>

REFERENCE DOCUMENTS:

The background papers relating to this report can be inspected by contacting the report author, Sandra Stewart, Chief Executive & Head of Paid Service:



Telephone: 0161 342 3502



e-mail: Sandra.Stewart@tameside.gov.uk

1. INTRODUCTION

- 1.1 This procedure applies when a complaint is received that a Member, or Voting Co-opted Member of Tameside Council or Mossley Town Parish Council has or may have failed to comply with the Code of Conduct for Members ('the Code').
- 1.2 The Code only applies to a Member of Tameside Council or Mossley Town Parish Council when they are acting in the capacity of a Member of that Council.
- 1.3 The person making the complaint will be referred to as "the Complainant" and the person against whom the complaint is made will be referred to as the "Subject Member".
- 1.4 The Monitoring Officer is the officer of the Council who is responsible for administering the system of complaints about member misconduct and as part of that role may nominate another officer of suitable experience and seniority to carry out any of the functions listed in this procedure.
- 1.5 The Council appoints Independent Persons from outside the Council to assist the Monitoring Officer and Standards Committee in considering complaints. Further details about the role of the Independent Persons are set out in Appendix 1 to these Arrangements.
- 1.6 No Member or Officer of Tameside Council or Mossley Town Parish Council will participate in any stage of the arrangements if he or she has, or may have, any conflict of interest in the matter.

2. MAKING A COMPLAINT

- 2.1 A complaint should be made in writing either by post or e-mail to: The Monitoring Officer, Chief Executive's Department, or [complaints @tameside.gov.uk](mailto:complaints@tameside.gov.uk)
- 2.2 However, an oral complaint will be accepted where the complainant is unable to write due to a physical or mental disability. Where an oral complaint is received it will be transcribed and sent to the complainant for their approval.
- 2.3 A complainant is required to provide their full name and full postal address. Anonymous complaints will only be accepted in exceptional circumstances. Further information regarding confidentiality and anonymous complaints is set out in paragraphs 2.6 to 2.8 and 2.11 to 2.12 below.
- 2.4 A complaint must provide substantiated information and should outline what form of resolution the Complainant is seeking. Further information regarding the range of sanctions available is set out in paragraph 9 below. Complainants will be encouraged to submit their complaint using the Council's Member Complaints Form. However, other written complaints will be accepted so long as they contain all relevant information.
- 2.5 If the complaint identifies criminal conduct or breach of other regulations by any person, the Monitoring Officer is authorised to report this to the Police or other prosecuting or regulatory authority, in addition to any action taken pursuant to the Code. In the case of alleged criminal conduct the complaint may be held in abeyance pending the outcome of any criminal investigation.

Confidentiality

- 2.6 If a Complainant wishes their identity to be withheld, they should state this and provide full reasons why they believe their request is justified when submitting the complaint. Any request for confidentiality will be considered by the Monitoring Officer at the initial

assessment stage of these Arrangements. In reaching their decision, the Monitoring Officer may also consult with the Council's Independent Person.

- 2.7 As a matter of fairness and natural justice the Subject Member will usually be told who has complained about them and receive details of the complaint. However, in exceptional circumstances, the Monitoring Officer may withhold the Complainant's identity if they are satisfied that the Complainant has reasonable grounds for believing that they or any witness relevant to the complaint may be at risk of physical harm, or his or her employment may be jeopardised if their identity is disclosed, or where there are medical risks (supported by medical evidence) associated with the Complainant's identity being disclosed.
- 2.8 If the Monitoring Officer decides to refuse a request by a Complainant for confidentiality, they will offer the Complainant the option to withdraw the complaint, rather than proceed with his or her identity being disclosed. The Monitoring Officer will balance whether the public interest in taking action on a complaint will outweigh the Complainant's wish to have his or her identity withheld from the Subject Member. If the Complainant does not respond within five working days the Monitoring Officer may dismiss the complaint.

Discontinuance of Complaints by Monitoring Officer

- 2.9 The Monitoring Officer may discontinue a complaint if they consider it appropriate to do so where the Subject Member ceases to be a Member of Tameside Council or Mossley Town Parish Council.
- 2.10 Where a complaint is discontinued the Monitoring Officer will write to the Complainant and the former Subject Member setting out the reasons for their decision.

Anonymous complaints

- 2.11 If an anonymous complaint is received it will be considered by the Monitoring Officer at the initial assessment stage of these Arrangements. In reaching his/her decision the Monitoring Officer may also consult with the Council's Independent Person.
- 2.12 The principles of fairness and natural justice referred to in paragraph 2.7 will also be applied to anonymous complaints and such complaints will only be accepted if they include documentary or photographic evidence indicating an exceptionally serious or significant matter.

Timeframes

- 2.13 The Monitoring Officer will acknowledge receipt of the complaint within 10 working days of all required information being provided. The complainant will be given details about how the complaint will be dealt with and provided with a copy of these Arrangements. At the same time, the Monitoring Officer will write to the Subject Member (and in the case of a complaint about Mossley Town Parish Council Member to the Clerk of the Parish Council) with a copy of the complaint and the name of the complainant, (if anonymity has not been requested and accepted as valid by the Monitoring Officer).
- 2.14 The Subject Member may, within 10 working days of being provided with a copy of the complaint, make written representations to the Monitoring Officer, which must be taken into account when deciding how the complaint should be dealt with. Representations received after this time may be taken into account at the discretion of the Monitoring Officer, but will in any event not be considered after the Monitoring Officer has issued the initial assessment of the complaint.
- 2.15 A decision regarding whether the complaint merits formal investigation or another course of action will normally be taken within 20 working days of either receipt of representations from the Subject Member or where no representations are submitted 20 working days of the expiry of the period mentioned in paragraph 2.13 above.

- 2.16 The Complainant and the Subject Member will be informed should there be a delay in completing any stage of the process.

3. STAGE 1 – PROCEDURE FOR INITIAL ASSESSMENT OF COMPLAINT

- 3.1 The complaint will be automatically rejected if:
- The complaint is not against one or more named Member of Tameside Council or Mossley Town Parish Council; or
 - The complaint is against a current Member of Tameside Council or Mossley Town Parish Council but the Subject Member was not acting in their capacity as a Member of that Council at the time of the alleged failure to comply with the Code;
 - The complainant fails to provide a full name and postal address, unless the Monitoring Officer has agreed that exceptional circumstances apply such that the complaint may proceed anonymously; or
 - the conduct alleged does not disclose a potential breach of the Code. Examples include a Member's failure to respond to correspondence or where the complaint merely expresses dissatisfaction with a decision taken by a Member.

Where a complaint is rejected on any of the above grounds the Monitoring Officer will write to the Complainant explaining why their complaint cannot be dealt with under this procedure.

- 3.2 The Monitoring Officer may request further information from either the Complainant, the Subject Member or any other persons the Monitoring Officer considers appropriate before reaching a decision.
- 3.3 The Monitoring Officer will consider the complaint and, may consult with the Council's Independent Person before reaching a decision (initial assessment) as to whether the complaint merits investigation, or another course of action. Where the complaint relates to a Mossley Town Parish Member, the Monitoring Officer may also seek the views of the Clerk of Mossley Town Parish Council before deciding whether the complaint merits formal investigation or other action.
- 3.4 If the complaint has not been rejected on either of the grounds in 3.1 the Monitoring Officer will then go on to apply the following criteria in deciding whether a complaint should be accepted for investigation, dealt with informally, or rejected:
- Whether a substantially similar allegation has previously been made by the Complainant to the Monitoring Officer (unless sufficient new evidence is provided), or the complaint has been the subject of an investigation by another regulatory authority;
 - Whether the complaint is about something that happened so long ago that those involved are unlikely to remember it clearly enough to provide credible evidence, or where the lapse of time means there would be little benefit or point in taking action now;
 - Whether the allegation is anonymous (subject to paragraph 2.12 to 2.14 above);
 - Whether the allegation discloses a potential breach of the Code of Conduct, but the complaint is not serious enough to merit any action and (i.) The resources needed to investigate and determine the complaint are wholly disproportionate to the allegations or (ii.) Whether in all the circumstances there is no overriding public benefit in carrying out an investigation.
 - Whether the complaint appears to be malicious, vexatious, politically motivated or tit for tat;
 - Whether the complaint suggests that there is a wider problem throughout the Authority;
- 3.5 After consulting with the Independent Person the Monitoring Officer will then give their decision on how the complaint will be dealt with. The Monitoring Officer may at their absolute discretion in exceptional circumstances refer the question of how to proceed to a

Sub-Committee of the Standards Committee.

- 3.6 If the Monitoring Officer decides that no further action is appropriate a decision notice will be sent to the Complainant and the Subject Member. The decision notice will summarise the allegation, give the decision of the Monitoring Officer and the reasons for their decision.

4. STAGE 2 - INFORMAL RESOLUTION

- 4.1. In appropriate cases, the Monitoring Officer may seek to resolve the complaint informally, without the need for a formal investigation. Informal resolution may be appropriate for example:-
- Where it is apparent that the Subject Member is relatively inexperienced as a Member or has admitted making an error and the matter would not warrant a more serious sanction.
 - Where training or conciliation would be a more appropriate response.
- 4.2 Types of informal resolution might include:
- An explanation by the Subject Member of the circumstances surrounding the complaint;
 - An apology from the Subject Member;
 - An agreement from the Subject Member to attend relevant training or to take part in a mentoring process;
 - Offering to engage in a process of mediation or conciliation between the subject Member and the Complainant; or
 - Any other action capable of resolving the complaint.
- 4.3 Where the Monitoring Officer seeks to resolve the complaint informally they will provide the Subject Member with a reasonable timescale within which to attempt to resolve the complaint (usually this will be 20 working days) and provide the Subject Member with the contact details for the Independent Person who will be available to the Subject Member to give them advice on the severity of the complaint and what form of resolution they would consider appropriate. Providing such guidance will not prevent the Independent Person from giving a view to the Standards Hearing Panel.
- 4.4 Before deciding upon a course of action the Subject Member may seek guidance from a Group Whip, Leader of the Group, the Independent Person, and/or the Monitoring Officer. The Monitoring Officer may also seek the Complainant's views to ascertain what form of informal resolution they would find acceptable, particularly if the form of resolution they have specified in their complaint is not possible.
- 4.5 At the end of the 20 working day period referred to at paragraph 4.3 above the Monitoring Officer will, in consultation with the Council's Independent Person, seek to establish whether the Subject Member has resolved the complaint to the Complainant's satisfaction.
- 4.6 Where it has been possible to agree a form of resolution between the Subject Member and the Complainant there will be no further action taken in respect of the complaint and the Monitoring Officer will notify both the Complainant and the Subject Member of this decision.
- 4.7 Where it has not been possible to agree a form of resolution between the Subject Member and the Complainant, the Monitoring Officer will decide if the complaint merits formal investigation.
- 4.8 Where the Subject Member makes a reasonable offer of local resolution, but it is rejected by the Complainant, the Monitoring Officer will take account of this in his or her decision.

5. STAGE 3 – FORMAL INVESTIGATION

- 5.1 Where the Monitoring Officer decides a complaint merits investigation they will appoint an Investigating Officer who may be a Council officer, an officer from another Council, or an external investigator.
- 5.2 The Investigating Officer will follow guidance issued by the Monitoring Officer on the investigation of complaints. The guidance will follow the principles of proportionality and the cost effective use of Council resources and shall be interpreted in line with these principles. The Investigating Officer should aim to complete their investigation within 3 months of their appointment.
- 5.3 Following consultation with the Council's Independent Person, the Monitoring Officer may instruct that an investigation be terminated, and the complaint dismissed, if the Investigating Officer informs the Monitoring Officer that the complainant is persistently failing to engage with the investigation and that such failure is hindering the investigation.
- 5.4 At the end of their investigation, the Investigating Officer may produce a draft report and send copies to the Complainant and Subject Member for comments on matters of fact. The Investigating Officer will take any such comments received during a period to be specified by the Investigating Officer into account before issuing their final report to the Monitoring Officer.

6. INVESTIGATING OFFICER FINDING OF NO FAILURE TO COMPLY WITH THE CODE OF CONDUCT

- 6.1 Where the Investigating Officer's report finds that the Subject Member has not failed to comply with the Code of Conduct, the Monitoring Officer, in consultation with the Independent Person, will review the Investigating Officer's report and if satisfied, will confirm the finding of no failure to comply with the Code of Conduct.
- 6.2 The Monitoring Officer will write to the Complainant and the Subject Member (and to the Clerk of Mossley Town Parish Council, where the complaint relates to a Mossley Town Parish Member), with a copy of the decision and the Investigating Officer's report.
- 6.3 If the Monitoring Officer is not satisfied that the investigation has been conducted thoroughly, the Investigating Officer may be asked to reconsider the report and the conclusions.

7 INVESTIGATING OFFICER FINDING OF SUFFICIENT EVIDENCE OF FAILURE TO COMPLY WITH THE CODE OF CONDUCT.

- 7.1 Where the Investigating Officer's report finds that the Subject Member has failed to comply with the Code of Conduct, the Monitoring Officer will review the Investigating Officer's report and will then having consulted the Independent Person either send the matter for hearing before the Hearing Panel or seek informal resolution in accordance with paragraph 7.2 below .
- 7.2. Informal Resolution If the Monitoring Officer believes that the matter can reasonably be resolved without the need for a hearing, for example because informal resolution has not yet been considered, they will consult with the Independent Person and the Complainant and seek to agree a fair resolution. The types of resolution available are as set out in paragraph 4.2 of these Arrangements. If the Subject Member and the Complainant accept the suggested resolution, the Monitoring Officer will report the outcome to the Standards Committee and the Clerk to Mossley Town Parish Council (if appropriate) for information,

but will take no further action. If the Complainant or the Subject Member refuses informal resolution in principle or to engage with the agreed outcome, the Monitoring Officer will refer the matter for a hearing without further reference to the Complainant or the Subject Member.

8. STAGE 4 - HEARING

- 8.1 Where, in the opinion of the Monitoring Officer, informal resolution is not appropriate or the Complainant and/or Subject Member refuses to accept informal resolution, then the Monitoring Officer will report the Investigating Officer's findings to a Hearing Panel (constituted as detailed in paragraph 8.2 below), which will conduct a hearing before deciding whether the Member has failed to comply with a Code of Conduct and, if so, what action (if any) to take in respect of the Member.

Constitution of the Hearing Panel

- 8.2 The Hearing Panel is a sub-committee of the Council's Standards Committee. It will comprise of at least one of the independent Members co-opted to the Standards Committee who will act as Chair and three elected Members of the Standards Committee of whom one should be a Member of the largest minority political group (if any). Where the complaint is about a Mossley Town Parish Council Member, the Hearing Panel will also include the Mossley Town Parish Council Member co-opted to the Standards Committee. The Independent Person will be invited to attend all meetings of the Hearing Panel and their views must be sought and if such views are provided taken into consideration before the Hearing Panel takes any decision on whether the Subject Member's conduct constitutes a failure to comply with the Code of Conduct and as to any action to be taken following a finding of failure to comply with the Code of Conduct. Any views provided by the Independent Person must also be recorded in the decision notice issued by the Hearing Panel.

Process

- 8.3 Members of the Hearing Panel will consider in private the complaint and consider whether there has been a breach of the code.
- 8.4 The Chair shall explain the procedure and ask all present to introduce themselves. The member against whom the complaint has been made shall be known as the Subject Member for the purpose of this procedure.
- 8.5 The Investigating Officer outlines their report and presents the report, including any documentary evidence and calls such individuals as they consider appropriate to give evidence.
- 8.6 The Subject Member or their representative may question the Investigating Officer upon the content of their report and may question any witnesses called by the Investigating Officer.
- 8.7 Members of the Hearing Panel may ask questions of the Investigating Officer and any witnesses called.
- 8.8 The Subject Member or representative may present their case and call witnesses as required.
- 8.9 The Investigating Officer may question the Subject Member and/or any witnesses.
- 8.10 Members of the Hearing Panel may also question the Subject Member and/or any witnesses.
- 8.11 The Investigating Officer may sum up the complaint.

- 8.12 The Subject Member or representative may sum up their case.
- 8.13 In the presence of all the parties, the Chair of the Hearing Panel will announce the decision that either the Subject Member has failed to follow the Code of Conduct or has not failed to follow the Code and will give reasons for their decision.
- 8.14 If the Hearing Panel decides that the Subject Member has failed to follow the code, the hearing Panel will give the Subject Member the opportunity to make representations on whether action or sanctions should be taken.
- 8.15 The Hearing Panel will consider in private what action should be taken and then in the presence of all the parties, the chair shall announce the decision.
- 8.16 The chair will confirm that the decision will be provided in writing to the Subject Member within 10 working days following the meeting.
- 8.17 The Chair shall have absolute discretion on managing the running of the hearing with the advice of the Monitoring Officer and/or their deputy with the aim of achieving fairness and proportionality.

9. ACTION AVAILABLE TO THE HEARING PANEL

- 9.1 Where a Hearing Panel finds that a Subject Member has failed to comply with the Code, it will –
- Publish its findings in respect of the Subject Member's conduct;
- And it may –
- Report its findings to Council (or to Mossley Town Parish Council) for information;
 - Recommend to Council that the Member be censured;
 - Recommend to the Subject Member's group leader (or in the case of ungrouped members recommend to Council) that he/she be removed from any or all committees or sub committees of the Council;
 - Recommend to the Leader of the Council that the Subject Member be removed from the Executive, or removed from their portfolio responsibilities;
 - Instruct the Monitoring Officer (or recommend to Mossley Town Parish Council) to arrange training for the Member;
 - Recommend to Council (or recommend to Mossley Town Parish Council) that the Subject Member be removed from all outside appointments to which they have been appointed or nominated by the Council (or by Mossley Town Parish Council);
 - Withdraw (or recommend to Mossley Town Parish Council that it withdraws) facilities provided to the Subject Member by the Council such as a computer, website and/or e-mail and internet access; or
 - Place such restrictions on the Subject Member's access to staff, buildings or parts of buildings, which may be reasonable in the circumstances.

10. APPEALS

There is no right of appeal against the substantive decision of the Monitoring Officer or of the Hearing Panel.

11. WITHDRAWAL OF A COMPLAINT

In the event that a Complainant withdraws a complaint at any time prior to a decision having been made by a Hearing Panel, the Monitoring Officer may, following consultation with the Independent Person, decide that no further steps be taken in respect of that complaint. In taking such a

decision the Monitoring Officer will take into account whether there has been any intimidation or attempt to intimidate any person who is or is likely to be:

- a complainant,
- a witness, or
- involved in the administration of any investigation or proceedings, in relation to the allegation that the Subject Member has failed to comply with the Council's Code.

12. REVISION OF THESE ARRANGEMENTS

The Monitoring Officer may, in consultation with the Chair of the Standards Committee, revise these Arrangements, as they consider appropriate, in individual cases to enable the process to be dealt with efficiently. Any such revisions to be reported to the next meeting of the Council's Standards Committee.

13. REVIEW OF THESE ARRANGEMENTS

These Arrangements were last reviewed in 2019 and shall be reviewed every 3 years thereafter, or earlier where there is a change in the applicable law or circumstances warrant an earlier review.

APPENDIX 1

THE INDEPENDENT PERSON

1. The role of the Independent Person is set out in Section 28 of the Localism Act 2011.
2. As part of its arrangements under which decisions on allegations can be made, each principal authority must appoint at least one Independent Person. The Independent Person's views must be sought, and taken into account, by the authority before it makes its decision on an allegation that it has decided to investigate.
3. The authority may also seek the Independent Person's views on an allegation that it has not decided to investigate. However, there is no requirement for the authority to do so, or to take those views into account.
4. A member or co-opted member of the authority (or of a parish council in the area) may seek the independent person's views on an allegation made against them.
5. The Independent Person must be a person who has applied for the post following advertisement of a vacancy for the post, and appointed by a positive vote from a majority of all the Members of the Council at a meeting of the full Council.
6. A person is not eligible for appointment if they:
 - are, a Member, co-opted Member or officer of the Council;
 - have within the past five years been a Member, co-opted Member or officer of Tameside Council,
 - are, or have been within the past five years, a Member or co-opted Member or officer of Mossley Town Parish Council; or
 - are a relative or close friend of a person within the bullet points above.
7. For the purpose of paragraph 6 above, "relative" means:
 - Spouse or civil partner;
 - Living with the other person as husband and wife or as if they were civil Partners;
 - Grandparents of the other person;
 - A lineal descendant of a grandparent of the other person;
 - A parent, sibling or child of the person within the above bullet points;
 - A spouse or civil partner of a person within the above bullet points; or
 - Living with a person within the above bullet points as husband and wife or as if they were civil partners

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REPORT TO:	STANDARDS COMMITTEE
DATE:	1 November 2022
REPORT OF:	Sandra Stewart – Chief Executive
SUBJECT MATTER:	APPOINTMENT OF INDEPENDENT PERSON(S) TO THE AUDIT COMMITTEE
REPORT SUMMARY:	<p>To seek approval to appoint an independent person to the Audit Committee. Public Interest Audit Committees are a key component of corporate governance.</p> <p>The Chartered Institute of Public Finance and Accountancy (CIPFA) has recently updated its position statement on audit committees in local authorities and police bodies in England and Wales, replacing the 2018 version. The 2022 statement, which has been endorsed by the Department for Levelling Up, Housing and Communities and the Home Office, sets out the 'purpose, model, core functions and membership of the audit committee'.</p> <p>One notable change compared to the 2018 edition is the removal of suggestions that audit committees undertake a wider role in supporting authorities, such as by reviewing treasury management arrangements or supporting the work of other committees. This addresses concerns raised in Sir Tony Redmond's 2020 Independent Review into the Oversight of Local Audit and the Transparency of Local Authority Financial Reporting about the broad role of some local authority audit committees distracting them from their core financial oversight role and potentially creating conflicts of interest.</p> <p>The Redmond Review also recommended that local authorities appoint at least one independent member to audit committees to ensure they have the necessary expertise to carry out their role effectively. As a result, the Department instead asked CIPFA to develop strengthened guidance.</p> <p>The revised position statement builds on the previous statement, which suggested committees should have at least one independent member, to include an explicit statement that "CIPFA recommends that each authority audit committee should include at least two co-opted independent members".</p> <p>Tameside needs its Audit committee to be a fundamental cornerstone of the Authority's corporate governance framework. CIPFA's updated audit committee position statement focuses the remit of the audit committee to ensure that their core role of oversight of governance and accountability is protected. It will also ensure that audit committees are able to access the expertise they need to carry out their role effectively through the introduction of the requirement to include at least two co-opted independent members who complement the knowledge and experience of existing members.</p> <p>Research by Grant Thornton that found weaknesses in governance were a key contributory factor in several high-profile local government financial management failures. Other new recommendations to strengthen audit committees in the updated</p>

position statement include:

- Audit committee members should be trained to fulfil their role.
- Large committees should be avoided.
- The committees should support the maintenance of effective arrangements for financial reporting.

Audit committees play a critical role in providing challenge to council leadership, management teams and auditors on behalf of the public, and they will benefit significantly from the external expertise that independent members can bring.

They are a key source of assurance about the organisation's arrangements for managing risk, maintaining an effective control environment, and reporting on financial and non-financial performance. Independent members with appropriate skills and experience supplement those of the elected members and improve the effectiveness of the Audit Committee. The Independent Person would be a non-councillor with some experience in the area of audit, similar to those on the Council's Standards Committee. The Independent Person would have not a vote in the same way as councillors do at committee and will be there in an advisory consultative manner. Suitably qualified and experienced independent member(s) serving on Audit Committees can also bring specialist knowledge and insight to the workings and deliberations of the committee which, when partnered with elected members' knowledge of working practices and procedures, ensure:

- An effective independent assurance of the adequacy of the risk management framework.
- Independent review of the Authority's financial and non-financial performance.
- Independent challenge to and assurance over the Authority's internal control framework and wider governance processes.
- Oversight of the financial reporting process.

RECOMMENDATION(S)

Approve the appointment of two independent persons to sit on Audit Committee for a period of two years.

FINANCIAL IMPLICATIONS:
(Authorised by Borough Treasurer)

Any costs associated with the recruitment, selection, appointment and subsequent disbursements to any independent panel member would need to be contained from within existing revenue service budgets.

LEGAL IMPLICATIONS:
(Authorised by Borough Solicitor)

The Council's Audit Committee is defined by the Local Government Act 2000 and its purpose is to give assurance to elected members and the public about the governance, financial reporting and performance of the Council. The appointment of independent members on the committee will assist and promote good governance and scrutiny of the committee.

RISK MANAGEMENT:

Subject to adequate vetting procedures and adherence to the Person Specification, this initiative should augment the Audit Committee's independence, provide additional expertise, and provide an opportunity for the community to play an enhanced

role in the governance of the Council. Council Plan Implications
The inclusion of independent members on the Audit Committee
could be seen to strengthen the role the community plays in the
internal control and governance of the authority

**LINKS TO COMMUNITY
PLAN:**

Support the current arrangements for ethical and corporate
governance of the Authority to ensure that the public can have
confidence in local government.

ACCESS TO INFORMATION

NON-CONFIDENTIAL

**This report does not contain information which warrants its
consideration in the absence of the Press or members of the
public**

REFERENCE DOCUMENTS:

The background papers relating to this report can be inspected
by contacting the report author, Sandra Stewart, Chief Executive
& Head of Paid Service:



Telephone: 0161 342 3502



e-mail: Sandra.Stewart@tameside.gov.uk

APPENDIX A

ROLE DESCRIPTION FOR INDEPENDENT PERSON INDEPENDENT PERSON OF AUDIT COMMITTEE

Role Description

1. To engage fully in collective consideration of the issues before the Audit Committee, taking into account a full range of relevant factors, including legislation and supporting regulation (e.g. the Accounts & Audit Regulations 2011), professional guidance (e.g. that issued by the Chartered Institute of Public Finance and Accountancy (CIPFA)), and the advice of the Council's Section 151 Officer.
2. To participate fully in the discharge of all Audit Committee functions, as set out in the Audit Committee's terms of reference and the constitution
3. To promote the concept of proportionate, effective risk management and internal control throughout the organisation; and to champion the work of Internal Audit, External Audit and Risk Management.
4. To participate in periodic review of the overall effectiveness of the Audit Committee, and of its terms of reference.
5. To ensure that the minutes of Audit Committee meetings accurately record decisions taken.

Independent Person of Audit Committee – Skills and Competencies Indicators:

1. Demonstrates up to date knowledge, skill and a depth of experience in the fields of audit, accounting, risk management and performance management.
2. Operates consistently and without bias.
3. Is an effective role model; supports appropriate behaviours and challenges opinions and advice where appropriate, separating major issues from minor ones.
4. Contributes proactive, proportionate and independent thought, and also collaboration with officers to temper the opinions of Committee members.
5. Works sensitively with people inside and outside committee.
6. Listens to and balances advice.

Audit Committee Person Specification for Independent Person Experience

Knowledge / experience in matters of an audit nature.

Knowledge / experience of risk management, performance management and financial governance.

Working to high behavioural standards, demonstrating honesty, probity and the highest level of integrity in conduct.

Experience gained working in a large, or public sector, organisation. Serving on a committee.

Skills Ability to weigh / sort complex evidence and reach rational conclusions, incorporating appropriate advice.

Ability to be objective, independent and impartial.

Ability to work in a group.

Ability to make reasoned decisions.

Strong strategic awareness and ability to identify emerging external factors that may impact on strategy, implementation of plans, or reputation with key stakeholders.

A good communicator with excellent interpersonal skills, able to both empower and challenge supportively.

Knowledge of the locality, and its communities.

Knowledge of the Council's strategic priorities and objectives, as set out in the Corporate Plan.

Understanding of the complexity of issues surrounding audit and risk management in local government.

Understanding of committee procedures.

Must not be a serving local government councillor.

Must have no personal, legal or contractual relationship with Tameside Council (including employees or members or former staff), or any other relationship / activity which might represent a conflict of interest.

Able and willing to devote the necessary time to the role.

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