
**Manchester City Council
Report for Resolution**

Report to: Standards Committee - 13 January 2014

Subject: Members' Update on Ethical Governance

Report of: The City Solicitor

Purpose of the Report:

To seek the Standards Committee's comments on and approval of the draft Members' Update January 2014.

Recommendations:

To approve the content of the draft Members' Update set out in Appendix 1 for circulation to all members.

Wards Affected:

All.

Financial Consequences for Revenue Budget:

None.

Financial Consequences for the Capital Budget:

None.

Implications for:

Antipoverty	Equal Opportunities	Environment	Employment
No	No	No	No

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Background Documents:

Department for Communities and Local Government guide for councillors on "Openness and transparency on personal interests"

1. Background

- 1.1 At its meeting on 18 November 2013, the Committee agreed a work programme.
- 1.2 It was agreed that a Members' Update on Ethical Governance should be produced for circulation in January 2014.

2. Members' Update

- 2.1 A draft of the Members' Update January 2014 is set out in Appendix 1 to this report. Members are asked to provide comments on the draft and to approve its content for circulation to all members by e-mail. A paper copy will be available on request.

Members' Update January 2014

Helping to Promote High Standards of Conduct

Welcome to the January 2014 issue of Manchester City Council's Ethical Governance Update

This newsletter contains details regarding the DCLG's guide for members on openness and transparency on personal interests; information protection guidance; and advice regarding members' use of social media and Council owned electronic communications.

To save paper this newsletter is distributed via e-mail, if you would like a hard copy or want further information about any of the issues raised please contact Democratic Services on 234 3539 (internal 800 3539).

Department for Communities and Local Government – Openness and transparency on personal interests

The DCLG have issued guidance for councillors on "Openness and transparency on personal interests". The full guide can be located on their website

https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/240134/Openness_and_transparency_on_personal_interests.pdf

The guidance covers the following:

- How will there be openness and transparency about my personal interests? The register of members' interests is maintained by the Council's Monitoring Officer and is published on the Council's website;
- What interests should be entered in my council's authority's register of members' interests? In the case of the Council, these are the disclosable pecuniary interests prescribed by legislation together with personal interests as voluntarily adopted by the Council in July 2012. The definitions of both interests are set out in Manchester's Code of Conduct for Members. This would include membership of any Trade Union (the 2013 amendment to the Government's illustrative text for the Code of Conduct issued in 2012 confirmed that interests arising out of trade union membership should be recorded and declared);
- What must I do about registering my personal interests? Members need to register both disclosable pecuniary interests and personal interests. If a member has a disclosable pecuniary interest or a personal interest which is

not recorded in the register but which relates to business to be considered at a meeting at which the member will be present, the member should disclose it to the meeting and tell the Monitoring Officer about it afterwards so it can be included in the register;

- Does my signature need to be published online? Won't this put me at risk of identity theft? The Council does not publish members' signatures provided on the register;
- Who can see the register of members' interests? In line with the Government's policies of transparency and accountability the registers are published on the Council's internet for public viewing;
- Is there any scope for withholding information on the published register? Sensitive interests which the member and Monitoring Officer consider may lead to a member being subject to violence or intimidation will be withheld from publication;
- When is information about my interest removed from my council's register of members' interests? If a member ceases to have an interest they should inform the Monitoring Officer and it will be removed. When a member ceases to be a member of the Council, all entries will be removed;
- What does having a disclosable pecuniary interest stop me doing? This stops a member from participating in the business of the meeting or voting on it unless the member has a dispensation;
- Where these prohibitions apply do I also have to leave the room? The Council's standing orders require a member to leave the room;
- When and how can I apply for a dispensation? To request a dispensation a member must write to the Monitoring Officer setting out the details of their interest and why they believe a dispensation should apply;
- What happens if I don't follow the rules on disclosable pecuniary interests? It is a criminal offence if without a reasonable excuse a member fails to tell the Monitoring Officer about their disclosable pecuniary interests.

Information Protection Guidance for Members

Elected members of a local authority are likely to have three distinct roles:

- as a member of the Council engaged in council business e.g. member of a committee;
- as the representative of the constituents in their ward e.g. conducting case work; and
- as a member of political party e.g. carrying out campaign work.

In respect of each of the above roles members have a duty to ensure that they are complying with the Data Protection Act 1998 (DPA) requirements which include ensuring that data is processed fairly and lawfully and that information is kept securely.

Members must have legitimate grounds for collecting and using a constituent's personal data. They should advise the constituent that they, the member, are the data controller and explain to the constituent what they will do with their data e.g. who will be able to see it; how long it will be kept for; and how secure their information is. Some members provide this information in a written format e.g. on the sign off to their emails, so it is clear to the constituent how their information will be treated. If a member ceases to be an elected member any personal data regarding a constituent should not be passed to the new elected member unless the constituent has provided consent for this.

Members need to adopt a risk based approach to deciding what level of security is required for protection of the personal data that they hold. The more private the information is, the more carefully it should be protected as the detriment due to a breach is likely to be more severe. Security can be broken down into three areas:

- physical security – in addition to issues such as security of doors; windows and cupboards, it includes whether a member might be overlooked on a train when working on their iPad;
- technical security – for example secure email systems and firewalls; and
- organisational security – for example the policies and procedures; advice and guidance available to members.

Cases in which the Information Commissioner has issued fines involve loss or theft of unencrypted laptops and memory sticks; personal data disposed of in skips/binbags; lost or inadequately transported information; information sent to the wrong person; and information presented for sale to third parties.

The loss of a password protected iPad containing personal information is likely to be a security breach reportable to the ICO. This type of breach may be partially contained as the iPad should be password protected and if reported to Council immediately parts of its contents can be remotely wiped by the Council's ICT department. Loss of a member's paper diary containing personal information is not as easily containable and a number of public authorities have been required to sign ICO undertakings in relation to the loss or theft of paper diaries. As the member is the data controller it is they who are responsible to the ICO for the breach and therefore subject to any enforcement action the ICO may choose to take.

Member's use of social media

The three distinct roles of members sometimes become blurred. A member may have a social media account where they comment both as a member and as a private individual and members must consider what capacity they are acting in when they participate in blogging and social networking sites. They must make it clear to the public, or section of the public, able to view their comments whether they are commenting as a member or as an individual/politician.

Any form of communication is subject to misunderstanding. As social media tends to be conversational in tone there is a high risk of misunderstanding. Members must remember that social media postings are publishing to the web. The posting may be accessed by multiple individuals, printed, forwarded or stored. When members use social media and build online profiles, they should be conscious of the following:

- legal considerations – members have the same legal duties as others when using social media, however failure to comply with the law may have more serious consequences. There are also additional requirements on members when using their websites for electoral campaigning;
- libel – if a member publishes an untrue statement about a person which is damaging to their reputation they may become the recipient of a libel claim. This may also happen if a member allows another person to publish something libellous on their website and they don't take prompt action to remove it. This may result in an award for damages;
- copyright – publishing images or text which have copyright status without permission is likely to breach copyright. Breach of copyright may result in an award of damages;
- data protection – members must ensure that they don't publish personal data of other individuals unless they have their express written consent;
- bias and predetermination – if involved in determining planning or licensing applications or other quasi-judicial decisions, avoid publishing anything that might suggest that you don't have an open mind about a matter you may be involved in determining. Otherwise this would risk invalidating the decision;
- obscene material – publication of obscene material is a criminal offence;
- electoral periods – the Electoral Commission requires that candidates provide a return of expenditure on any form of advertising or campaign literature and this includes web advertising. Full guidance for candidates can be found at www.electoralcommission.org.uk;
- the Council's legal position – material published by a local authority must not contain party political material, or promote the views of a political party or

individual's involved in the election. Members must be mindful of this if seeking to post anything using Council resource. Local authorities will also have protocols and guidance which set out acceptable and unacceptable use of Council resource. Members must ensure that they are aware of the rules regarding this if they are ever using Council resource to post communications; and

- the members' code of conduct – when using an account to conduct communications in both your capacity as a member and also as a private individual it must be made expressly clear in which capacity you are commenting. Although the distinction may be obvious to you as a member, it could be less clear for others. How you use your online identity will also determine how online content will be treated in respect of the Code of Conduct for Members (the Code). The Code applies to members when acting as a member of the Council; an appointed member of a joint committee; or representative of the Council on a body which is not required to adopt its own Code. The Code only applies to a members conduct in their official capacity. The judgment as to whether this is the case will be determined by another, therefore it is vitally important that it is clear when you are acting in a private capacity. The Code provides that members must:
 - when using or authorising the use by others of the resources of the Council, act in accordance with the Council's reasonable requirements and ensure that such resources are not used improperly for political purposes (including party political purposes); and
 - have regard to any applicable Local Authority Code of Publicity made under the Local Government Act 1986.