



## **Standards Committee**

Date: Thursday, 13 June 2019

Time: 10.30 am

Venue: Council Antechamber, Level 2, Town Hall Extension

Everyone is welcome to attend this committee meeting.

### **Access to the Council Antechamber**

Public access to the Council Antechamber is on Level 2 of the Town Hall Extension, using the lift or stairs in the lobby of the Mount Street entrance to the Extension. That lobby can also be reached from the St. Peter's Square entrance and from Library Walk. **There is no public access from the Lloyd Street entrances of the Extension.**

## **Membership of the Standards Committee**

**Councillors** - Andrews, Evans, Kilpatrick, Lanchbury and A Simcock

Councillor O'Donovan (Ringway Parish Council)

**Independent Co-opted Members** - Nicolé Jackson (Chair), Mr G Linnell

**Independent Person** - Ms S Beswick and Mr A Eastwood

## Agenda

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- 1. Urgent Business**  
To consider any items which the Chair has agreed to have submitted as urgent.
- 2. Appeals**  
To consider any appeals from the public against refusal to allow inspection of background documents and/or the inclusion of items in the confidential part of the agenda.
- 3. Interests**  
To allow Members an opportunity to [a] declare any personal, prejudicial or disclosable pecuniary interests they might have in any items which appear on this agenda; and [b] record any items from which they are precluded from voting as a result of Council Tax/Council rent arrears; [c] the existence and nature of party whipping arrangements in respect of any item to be considered at this meeting. 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.
- 4. Minutes** 7 - 14  
To approve as a correct record the minutes of the meeting held on 21 March 2019.
- 5. Review of the operation and efficacy of the Arrangements for dealing with complaints about Councillors and amendment to the Arrangements** 15 - 28  
The report of the City Solicitor is enclosed.
- 6. Dispensations** 29 - 32  
The report of the City Solicitor is enclosed.
- 7. Review of Member/Officer Relations Protocol** 33 - 44  
The report of the City Solicitor and Monitoring Officer and Interim Director of HROD is enclosed.
- 8. Planning Protocol** 45 - 48  
The report of the City Solicitor is enclosed.
- 9. Standards Committee Work Programme** 49 - 54  
The report of the Governance and Scrutiny Support Unit is enclosed.

## Information about the Committee

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The Standards Committee comprises five city councillors, one parish councillor and two independent members and is chaired by an independent member. The Committee deals with matters relating to the conduct of city and parish councillors and the promotion of ethical standards.

The Independent Persons are appointed by the Council to assist the Council in the consideration of any complaints made against councillors. They are not members of the Standards Committee but they are invited to attend the meeting if they wish to.

The Council aims to ensure that its meetings are as open as possible and confidential business is kept to the strict minimum. When confidential items are involved these are considered at the end of the meeting at which point members of the public are asked to leave.

Agenda, reports and minutes of all Council Committees can be found on the Council's website [www.manchester.gov.uk](http://www.manchester.gov.uk).

Smoking is not allowed in Council buildings.

Joanne Roney OBE  
Chief Executive  
Level 3, Town Hall Extension,  
Albert Square,  
Manchester, M60 2LA

## Further Information

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For help, advice and information about this meeting please contact the Committee Officer:

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This agenda was issued on **Wednesday, 5 June 2019** by the Governance and Scrutiny Support Unit, Manchester City Council, Level 3, Town Hall Extension (Mount Street Elevation), Manchester M60 2LA

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## **Standards Committee**

### **Minutes of the meeting held on Thursday, 21 March 2019**

**Present:** N Jackson – in the Chair

**Councillors:** Andrews, Connolly, Evans, Kilpatrick, and Lanchbury.

**Ringway Parish Council:** Councillor O'Donovan.

**Apologies:** Councillor Cooley, Ms S. Beswick and Mr A Eastwood.

#### **ST/19/01. Minutes**

##### **Decision**

To approve as a correct record, the minutes of the meeting on 1 November 2018

#### **ST/19/02. Draft Code of Corporate Governance Review of Local Government Ethical Standards – Committee on Standards in Public Life**

A report submitted by the City Solicitor (Monitoring Officer) advised Members that the Committee on Standards in Public Life (CSPL), has completed its latest review of local government ethical standards and published its report on 30 January 2019. The CSPL advised the Prime Minister on ethical standards across the whole of public life in England and monitored and reported on issues relating to the standards of conduct of all public office holders.

The CSPL had made 26 recommendations to improve ethical standards in local government. Its recommendations had been made to the government, the Local Government Association, Parish Councils and to political parties. A list of the recommendations were attached to the report at appendix 2. It was noted that a response from government to the recommendations was yet to be received.

In addition, the CSPL had made 15 best practice recommendations for local authorities that should be considered as a benchmark of good ethical practice, which it expected that all local authorities could and should implement. A list of best practice recommendations to local authorities was attached at Appendix 3 of the report.

The Committee welcomed the report, but expressed some concern regarding the finding that there was clear evidence of misconduct by some councillors. Officers assured the Committee that the findings relate to national finding, and were not confined to Manchester councillors.

The Committee also welcomed the point that many of the recommendations of best practice were already being implemented by Manchester, both at a Greater Manchester level and a local level.

The City Solicitor advised that the best practice recommendations would be considered by the Chief Legal Officers across Greater Manchester to identify, where possible, a consistent approach and that a report would be brought to a future Committee meeting of the outcome.

The Committee noted the recommendation that Independent Persons have limited terms of office of no longer than 4 years. The Committee noted that the current terms of office for all Independent Persons and Co-opted members of this Committee expire on 17 November 2019. In order to allow for the offices of the two independent co-opted members of the Standards Committee and the two Independent Persons to be advertised with a view to appointing new membership with effect from 18 November 2021, the Committee agreed to request that Council extend the terms of office of Nicolē Jackson and Geoff Linnell (the two independent co-opted members of the Standards Committee) and Alan Eastwood and Sarah Beswick (the Council's two Independent Persons) for two years commencing on 18 November 2019.

### **Decision**

The Committee:-

1. Notes the report;
2. Requests that the Monitoring Officer, in conjunction with colleagues in the other Greater Manchester authorities, undertake a review of the implications for the Council in following the best practice recommendations for local authorities, of the Committee on Standards in Public Life and that she report back to a future meeting of the Standards Committee; and
3. Requests that the Council extend the terms of office of Nicolē Jackson and Geoff Linnell (the two independent co-opted members of the Standards Committee) and Alan Eastwood and Sarah Beswick (the Council's two Independent Persons) for two years commencing on 18 November 2019.

### **ST/19/03. Social Media Guidance for Members update**

A report submitted by the City Solicitor provided Members with an update on the operation/efficacy of the Social Media Guidance for Members ('the Guidance') as well as the provision of training for members on the Guidance.

The Committee was advised that in terms of the operation of the guidance, there had been no complaints against members regarding social media since November 2018 and no decision notices had been made in relation to social media complaints since November 2018. This compared with one complaint made in 2017 and six during the period October 2015 to October 2016. The view of the Council's Monitoring Officer was that complaints relating to social media use were not at a level that gave rise to specific concerns in this area, however, as a refresher, the Social Media Guidance would be sent to all Members again.

It was also reported that Social Media Training was provided for all Members in December 2018 and although attendance had not been particularly high, the feedback that had been received from those who had attended had been very

positive and the training provider had been very complimentary about the Council's Social Media Guidance which they commended to all members.

The Committee also concluded that the Social Media Guidance should be provided not just to members, but to all candidates in the forthcoming Elections, and officers agreed that this would be done.

### **Decision**

The Committee:-

1. Notes the report.
2. Requests that the Social Media Guidance be provided to all candidates in forthcoming elections.

### **ST/19/04. Consultation outcome on Updating Disqualification Criteria for Local Authority Members**

The Committee considered a report of the City Solicitor, which provided an overview of the responses to the consultation on updating disqualification criteria for local authority members including the Government's response.

The consultation posed six questions regarding Sexual offences, Anti- social behaviour and the Public Sector Equality Duties under the Equality Act 2010. Around 178 responses were generated from councils, membership organisations and individuals. A report on the consultation was brought to the Committee on 2 November 2017. The Committee commented in relation to the consultation questions and agreed that the Monitoring Officer, in consultation with the Chair, would produce a response to the consultation. A copy of the Council's response was included as an appendix to the report

It was reported that any changes to disqualification criteria for a member of a local authority, mayor of a combined authority, member of a London Assembly or London Mayor would require changes to primary legislation and it was anticipated that the Government would look to identify a suitable legislative opportunity when parliamentary time allowed.

Officers confirmed that they were waiting for primary legislation to be introduced to implement the recorded outcomes of the consultation.

### **Decision**

The Committee notes the report and requests that a report be brought to a future meeting once the legislation has been introduced.

### **ST/19/05. Register of Members' Interests**

The City Solicitor submitted a report on the operation and efficacy of the process for updating the Register of Members' Interests.

It was reported that all new Members received training as part of their induction on registration of interests and all new Members had registered their interests. Reminders to Members regarding updating their Register of Interests were contained in the Ethical Governance Update sent to all Members twice a year and were given by specific email reminders to all Members. Email reminders regarding revision of existing register entries was sent to all Councillors in July 2018 and November 2018. The Committee was reminded that whilst officers provided advice to Members, if asked, on Members' interests it was the responsibility of individual members to comply with the requirements of the Code of Conduct.

It was the view of the Monitoring Officer that the Register of Interests requirements were understood by Members but as a matter of good practice specific guidance would continue to be provided to Members regarding declaration of interests at meetings where necessary.

The Committee noted that 43 members had updated their declarations of interests since July 2018, and welcomed this evidence that Members understood their obligations with regard to the Register of Interests. The Monitoring Officer also confirmed that Members who did not want details of their home address in the public domain could apply to have this information redacted. The Monitoring Officer would assess the reasons for any request on a case by case basis.

## **Decision**

The Committee note the report

### **ST/19/06. Member Development Strategy**

The Committee considered a report of the City Solicitor, which sought the views of the Committee on the proposed Member Development Strategy, provided an update on proposals for the induction programme for new Councillors for May 2019 and reported on training delivered in the current municipal year.

The Strategy set out a clear direction for delivering Member development as well as the roles of the Monitoring Officer, Standards Committee and Member Development Working Group (MDWG) in relation to Member development and training as well as setting out the role of individual Members and group officers for each Group. At the heart of the Strategy was the expectation that Members took responsibility for their own development and worked with Group Officers and the MDWG to ensure their needs were identified and discovered the most effective means of delivering development opportunities.

The MDWG had also held a special meeting to discuss the Member induction programme for 2019. Taking into account positive feedback provided from 2018, it had been agreed that the format from 2018 had been successful and should therefore be repeated in 2019 and that newly elected and returning Councillors should be asked to attend.

A record of Member training delivered between May 2018 and February 2019, including attendance levels, was detailed at appendix B of the report.



The Committee requested that invitations to training and development opportunities should make it very clear as to whether the opportunity was for Members only, or a mix of Members and other people. Officers confirmed that this would be done.

The Committee also requested that induction training be open to all Members, not just new Members and officers confirmed that the induction training is available as a refresher and would be made available to new and returning members and more widely where possible.

The Committee commented that not all people learn in the same way, and that training should be available that was face to face as well as online. Officers confirmed that they were aware of different learning needs, and that the majority of the training that had been offered over the last 12 months had been face to face.

The Committee noted that the training provided by the LGA was consistently excellent, and would like to have more opportunities for members to attend. Officers confirmed that the training budget would allow for this, and that they had also identified alternative external training providers as part of a tender process. Officers also confirmed that they were investigating the provision of bespoke training that would more closely align with Our Manchester principles.

## **Decision**

The Committee:-

1. Notes the report; and
2. Requested that LGA training opportunities be increased.

## **ST/19/07. Annual review of Use of Resources Guidance for Members, the Gifts and Hospitality Guidance for Members and the Member / Officer Relations Protocol**

A report by the City Solicitor outlined the proposed changes to the sections of the Council's Constitution relating to the Use of Resources Guidance for Members, the Gifts and Hospitality Guidance for Members and the Member / Officer Relations Protocol and advised the Committee of amendments proposed in respect of these parts of the Constitution.

The report also considered the efficacy of both pieces of Guidance and the Protocol.

The Committee welcomed the report and noted that the data usage expectations had been updated. A Member raised that the use of social media on Council provided mobiles may impact on the data usage levels and officers advised that they would keep the data usage under review. Officers also told the Committee that they were conducting a review of the threshold for declaring gifts/hospitality, which in Manchester currently stands at £100. They explained that other local authorities across Greater Manchester had different thresholds, some of which were as low as £25. Officers said that there had been a suggestion that the threshold should be

£50. Officers would consider the threshold as part of the overall response to the CSPL recommendations and which would be reported back to Committee.

The Committee noted the dual nature of the Lord Mayor's role, with regard to Gifts to the City and personal gifts.

Officers also told the Committee that HROD are conducting a review of the Member/Officer Protocol, and that a report would be brought back to the Committee when this was completed.

## **Decisions**

The Committee:-

1. Endorses the Monitoring Officer's proposed amendments to the Use of Resources Guidance for Members, the Gifts and Hospitality Guidance for Members and the Member / Officer Relations Protocol in the Council's Constitution; and
2. Notes the Monitoring Officer's views on the efficacy of the Use of Resources Guidance for Members, the Gifts and Hospitality Guidance for Members and the Member / Officer Relations Protocol.

## **ST/19/08. Draft Annual Governance Statement 2018/19**

The Committee considered a report of the Deputy Chief Executive and City Treasurer, which contained the draft 2018/19 Annual Governance Statement (AGS) which has been produced following completion of the annual review of the Council's governance arrangements and systems of internal control.

Local authorities had a legal responsibility to conduct, at least annually, a review of the effectiveness of their governance framework including their system of internal control. Following the review, an Annual Governance Statement (AGS) must be produced, approved and published. The Committee was asked to note the findings of the 2018/19 AGS and the actions proposed to further develop or strengthen elements of the Council's governance arrangements during 2019/20.

The Committee welcomed the report and noted the sections that applied to the work of the Committee. In addition, the Committee noted the governance challenges faced by the Council as a whole, and how these challenges are being met and addressed.

## **Decision**

The Committee endorses the draft version of the Council's 2018/19 Annual Governance Statement

## **ST/19/09 Work Programme**

The Committee considered its work programme for its next three meetings, noting the items of business that were scheduled for each of the meetings.

The Committee agreed that the Member/Officer Protocol review should be added to the agenda for the June meeting. In addition, the review of the Planning Protocol should also be moved to the June meeting, so that the 2 items could be considered at the same time.

The Committee agreed to remove the item regarding Member Development from the October meeting agenda, as they were satisfied with the progress that has been made.

**Decision**

1. To add the Member/Officer Protocol update to the agenda for the June meeting.
2. To move the Planning Protocol review update from the October meeting agenda to the June meeting agenda.
3. To remove the Member Development update from the October meeting agenda.

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**Manchester City Council  
Report for Resolution**

**Report to:** Standards Committee – 13 June 2019

**Subject:** Review of the operation and efficacy of the Arrangements for dealing with complaints about Councillors and amendment to the Arrangements

**Report of:** City Solicitor

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**Summary**

This report outlines the operation and efficacy of the Arrangements for dealing with complaints about Councillors ('the Arrangements') as well as seeking the Committee's approval of an amendment to the Arrangements.

**Recommendations**

That the Standards Committee:

1. Note the position with the operation and efficacy of the Arrangements.
  2. Approve the proposed amendment to paragraph 8.1 of the Arrangements.
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**Wards Affected:** All

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**Contact Officers:**

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**Background documents (available for public inspection):** None

## **1.0 Operation and efficacy of the Arrangements**

- 1.1 As the Committee will be aware, the Council is required to have in place Arrangements for dealing with complaints about Councillors made under the Council's Code of Conduct for Members.
- 1.2 The Council's Arrangements were last reviewed in 2017 and a copy of the current Arrangements are attached as an Appendix to this report.
- 1.3 Members are advised there are three specific stages in the Arrangements namely:
  - Stage 1 – Procedure for Initial Assessment of Complaint
  - Stage 2 - Informal Resolution
  - Stage 3 - Formal Investigation
- 1.4 This report outlines how the Arrangements have operated in relation to new complaints received during the period 1 April 2018 – 31 March 2019 which fully completed stage one as well as complaints which were on-going as of 1 April 2018 and completed either the stage two or three phase during the same period.
- 1.5 Paragraph 2.15 of the Arrangements set out the following timeframes in relation to the stage one initial assessment:
  - The Council's Monitoring Officer ('MO') will acknowledge receipt of a complaint within 10 working days of all required information being provided by the complainant.
  - The Member/s who is the subject of a complaint may, within 10 working days of being provided with a copy of the complaint, make written representations to the MO.
  - 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 member/s who is the subject of the complaint or where no representations are submitted within 20 working days of the expiry of the 10 working days in which that member could have made representations to the MO.
- 1.6 Under paragraph 3.3 of the Arrangements the MO is required to consult with one of the Council's Independent Persons before reaching a decision (initial assessment) as to whether complaint merits investigation, or another course of action.

## **2.0 Background**

- 2.1 During the period 1 April 2018 – 31 March 2019 twelve new complaints were dealt with under the stage one initial assessment phase.
- 2.2 Of those twelve complaints:

- Three of the complainants were asked to provide further/full information about their complaint but did not respond and therefore a decision was taken to close the file in each case.
  - One complaint was withdrawn by the complainant.
  - One complainant advised that their original e-mail had been sent for information only.
  - One complaint was not taken any further because on being contacted the 'complainant' advised the Council that they had not submitted a complaint and someone had used their identity to make it.
- 2.3 Members are therefore advised that the initial screening of complaints which do not meet the relevant criteria for formal initial assessment by the MO is working well.
- 2.4 The MO issued a decision notice in relation to the six other complaints. In all six cases the decision was to reject the complaints. Four of these were on the basis that it would be wholly disproportionate and not in the public interest to expend further resources on carrying out an investigation, one on the basis that it would not be in the public interest to expend further resources on carrying out an investigation and one because the member who was the subject of the complaint was held not to be acting in their official capacity.
- 2.5 Members of the Committee are further advised that of the six complaints where a decision notice was issued two were dealt with within the 20 working day timescale set out in paragraph 2.15 of the Arrangements. However, for a variety of reasons the other four took longer than this timescale and as a result the process for handling complaints under the stage 1 phase is being reviewed by the MO to address this including for example ensuring that additional diarising and monitoring is undertaken.
- 2.6 The Committee is informed that during the period 1 April 2018 – 31 March 2019 there were no on-going complaints which completed the stage two phase of the Arrangements.
- 2.7 There was one on-going complaint which completed the stage three phase of the Arrangements during the period 1 April 2018 – 31 March 2019. The investigating officer's finding was there had been no breach of the Council's Code of Conduct for Members.
- 2.8 Members of the Committee are advised that the MO has issued guidance on the investigation of complaints to all investigating officers in accordance with paragraph 5.2 of the Arrangements. Under paragraph 5.3 of the Arrangements an investigating officer should aim to complete their investigation within 3 months of their appointment.
- 2.9 The Committee is informed that the investigation into the complaint referred to in paragraph 2.6 took longer than 3 months due to its complexity. As part of a lessons learned exercise following the conclusion of the complaint the MO is considering whether any steps can be taken generally to assist in response times to complaints which merit formal investigation.

- 2.10 The MO's guidance to investigating officers also states that "in accordance with the requirements of section 28(7) (a) of the Localism Act 2011, the Investigating Officer will seek and take into account the views of the Independent Person on the Draft Report". The investigating officer appointed in respect of the investigation referred to in paragraph 2.6 was an experienced individual from an external organisation and they commented that they had not come across this requirement in any other council's procedure. In light of the comment the MO is considering whether following this comment the guidance to investigating officers needs to be amended.
- 2.11 In accordance with the Arrangements the MO does at various stages of handling complaints received consult with one of the Council's two independent persons and has found such consultation both effective and beneficial.

### **3.0 Amendment to Arrangements**

- 3.1 Members received a report at the Committee's March 2019 meeting regarding the Review into Local Government Ethical Standards by the Committee for Standards in Public Life ('CSPL'). One of the best practice recommendations made by the CSPL in its Review was:

*Where a local authority makes a decision on an allegation of misconduct following a formal investigation, a decision notice should be published as soon as possible on its website, including a brief statement of facts, the provisions of the code engaged by the allegations, the view of the Independent Person, the reasoning of the decision-maker, and any sanction applied*

- 3.2 In order to comply with the CSPL recommendation it is proposed that paragraph 8.1 of the Arrangements be amended to state that any view of the Council's Independent Person must be recorded on future decision notices issued following a formal investigation. The proposed wording of the amendment is indicated in bold in the attached Appendix.

### **4.0 Recommendations**

That the Standards Committee:-

1. Note the position with the operation and efficacy of the Arrangements.
2. Approve the proposed amendment to paragraph 8.1 of the Arrangements.



## **MANCHESTER CITY COUNCIL**

### **Arrangements for dealing with complaints that Council Members have failed to comply with the Council's Code of Conduct for Members**

#### **1. Introduction**

- 1.1 This procedure applies when a complaint is received that a Member, or Voting Co-opted Member of Manchester City Council or Ringway 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 Manchester City Council or Ringway 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 Manchester City Council or Ringway 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,  
Town Hall,  
Manchester  
M60 2LA or  
l.treacy@manchester.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 or there is a language barrier. Where an oral complaint is received it will be transcribed and sent to the complainant for their approval.

- 2.3 Anonymous complaints will only be accepted in exceptional circumstances. Further information regarding confidentiality and anonymous complaints is set out in paragraphs 2.7 to 2.9 and 2.12 to 2.14 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.
- 2.6 Confidentiality
- 2.7 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 his/her decision the Monitoring Officer may also consult with the Council's Independent Person.
- 2.8 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.
- 2.9 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.
- 2.10 Discontinuance of Complaints by Monitoring Officer

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 Manchester City Council or Ringway Parish Council.

- 2.11 Where a complaint is discontinued the Monitoring Officer will write to the Complainant setting out the reasons for their decision.
- 2.12 Anonymous complaints
- 2.13 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.
- 2.14 The principles of fairness and natural justice referred to in paragraph 2.8 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.

2.15 Timeframes

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 Ringway 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).

- 2.16 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.
- 2.17 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 2.16 above.
- 2.18 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 Manchester City Council or Ringway Parish Council; or

- The complaint is against a current Member of Manchester City Council or Ringway 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.

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, 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 Ringway Parish Member, the Monitoring Officer may also seek the views of the Clerk of Ringway 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 his/her decision on how the complaint will be dealt with. The Monitoring Officer may 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 he or she 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 he/she 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 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 Ringway Parish Council, where the complaint relates to a Ringway 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.**

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 7.1 below.

### **7.1. 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 Ringway 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**

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 8.1 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.

### **8.1 Constitution of the Hearing Panel**

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 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 Ringway Parish Council Member, the Hearing Panel will also include the Ringway 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.**

## **9. Action available to the Hearing Panel**

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 Ringway 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 Ringway Parish Council) to arrange training for the Member;
- Recommend to Council (or recommend to Ringway 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 Ringway Parish Council);
- Withdraw (or recommend to Ringway 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 he or she considers 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 2017 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 Manchester City Council,
  - are, or have been within the past five years, a Member or co-opted Member or officer of Ringway 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.

**Manchester City Council  
Report for Information**

**Report to:** Standards Committee – 13 June 2019

**Subject:** Dispensations

**Report of:** City Solicitor

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**Summary**

To review the operation and efficacy of the process for granting dispensations in relation to Members' Interests

**Recommendation**

That the Committee note the report

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**Wards Affected:** All

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**Background documents (available for public inspection):**

The following documents disclose important facts on which the report is based and have been relied upon in preparing the report. Copies of the background documents are available up to 4 years after the date of the meeting. If you would like a copy please contact one of the contact officers above.

Report to Standards Committee 15 June 2017 – Localism Act 2011 – Dispensations  
Minutes of the Executive 13 March 2019.

## 1. Introduction

The Committee last received a report regarding dispensations in June 2017. It has requested a report to its June 2019 meeting on the operation and efficacy of the process for granting dispensations since that date.

## 2. The Requirement to Register Interests and Dispensations.

2.1 The Localism Act 2011 ('the Act') requires Members to notify the Council's Monitoring Officer within 28 days of becoming a Member of any 'Disclosable Pecuniary Interests' (DPIs).

2.2 Section 31 of the Act provides that:

Where a member or co-opted (voting) member of a Council:

- is present at a meeting of the Council, Joint Committee or subcommittee or joint subcommittee of the Council
- has a DPI in any matter to be considered or being considered at the meeting: and
- is aware that they have such a DPI

the member must not (unless they have a dispensation):

- participate or participate further in any discussion of the matter at the meeting or
- vote on the matter.

2.3 There is provision in the Act for the grant of dispensations (which can last for a period of up to 4 years) in limited circumstances. The grounds for the grant of a dispensation under the Act are where the Council (after consideration of all relevant circumstances):

- (a) considers that without the dispensation the number of persons prohibited from participating in any particular business would be so great a proportion of the body transacting the business as to impede the transaction of the business,
- (b) considers that without the dispensation the representation of different political groups on the body transacting any particular business would be so upset as to alter the likely outcome of any vote relating to the business,
- (c) considers that granting the dispensation is in the interests of persons living in the authority's area,
- (d) considers that without the dispensation each member of the authority's executive would be prohibited from participating in any particular business to be transacted by the authority's executive, or
- (e) considers that it is otherwise appropriate to grant a dispensation.

- 2.4 The Council has delegated the authority to grant dispensations in the circumstances set out in paragraphs (a), (b) and (d) above to the Council's City Solicitor (its Monitoring Officer) and it has delegated the power to grant dispensations for the reasons set out in paragraphs (c) and (e) to the Standards Committee (after consultation with one of the Council's Independent Persons). The Standards Committee also has a delegation to determine appeals against the Monitoring Officer's decision on the grant of dispensations.
- 2.5 To obtain a dispensation a written request for a dispensation must be made by a member or co-opted member of the Authority, to the Council's Proper Officer (for this purpose the City Solicitor)

### **3. Grant of Dispensations – Operation and Efficacy**

- 3.1 All new Members receive training as part of their induction on registration of interests including dispensations.
- 3.2 The Committee received the report of the City Solicitor in June 2017 which set out the Monitoring Officer's proposals regarding the grant of dispensations to enable members of the Council to participate and vote on certain budget related matters notwithstanding the fact that the Member may have a DPI.
- 3.3 The Committee noted the Monitoring Officer's proposal to advise all Council Members to submit a written request through their Group Leaders or Group Secretaries for the grant of a dispensation pursuant to section 33(2)(a) of the Localism Act 2011 ('the Localism Act') allowing them to participate and vote on:

(i) Setting the Council Tax or a precept under the Local Government Finance Act 1992 (as amended from time to time or any superseding legislation) and matters directly related to such decisions such as budget calculations.

(ii) Allowances, payments or indemnities given to Members of the Council

The Committee agreed the dispensation referred to at paragraph (i), should include determining the local council tax reduction scheme and other discounts and premiums pursuant to changes made by the Local Government Finance Act 2012 and that the dispensation referred to at paragraph (ii), should include all allowances payable to Council Members (including special responsibility allowances).

- 3.4 The Committee also agreed to advise any Members of the Council who are tenants of Manchester City Council to submit a written request for the grant of a dispensation to allow them to participate and vote on matters in relation to housing (provided that those functions do not relate particularly to the lease or tenancy of the Council Member concerned) and indicated it was minded to grant dispensations to allow any Member who has a DPI to make

representations at a meeting where members of the public have the same entitlement (e.g. to allow a Council Member who is making an application for planning permission to attend and make representations at a meeting of the Council's Planning Committee which is to hear the matter in the same way as a member of the public).

- 3.5 Dispensations for a 4 year period have been issued by the Monitoring Officer to all Councillors who requested such a dispensation in relation to participating and voting on the setting of the Council's Council Tax etc. and participating and voting on Members' Allowances on the basis that without the dispensation the number of Members prohibited from participating in this particular business would be so great a proportion of the body transacting the business as to impede the transaction of the business at the Council's budget setting meeting.
- 3.6 Applications for dispensations in respect of these matters for members who were elected in May 2019 will be addressed shortly.
- 3.7 Since the last report to Standards Committee relating to dispensations there has been one other occasion when the Monitoring Officer has received a request for a dispensation. This related to consideration by the Council's Executive of adoption of a construction charter promoted by the Unite Trade Union to establish nationally agreed minimum workforce standards within the Council's Ethical Procurement Policy. Dispensations were granted upon application to 5 Members of the Executive who had received sponsorship from Unite and therefore had DPs in relation to this matter. The grounds for the grant of the dispensation were that without the dispensation the number of Members prohibited from participating in any particular business would be so great a proportion of the body transacting the business as to impede the transaction of the business.
- 3.8 It is the Monitoring Officer's view that the requests for dispensations that have been made have been sought in appropriate circumstances and that the level of requests for dispensations does not give rise to concern. An item on dispensations will be added to a future edition of the Council's twice yearly Ethical Guidance update circulated to all Members as a refresher on this topic.

#### **4. Recommendation**

- 4.1 The Committee is asked to note this report.

## **Manchester City Council Report for Resolution**

**Report to:** Standards Committee – 13 June 2019

**Subject:** Review of Member/Officer Relations Protocol

**Report of:** City Solicitor and Monitoring Officer and Interim Director of HROD

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### **Summary**

The report provides an update to the Standards Committee following a review of the Member/Officer Relations Protocol as requested in their meeting of 21 March 2019.

### **Recommendation**

The Committee is asked to:

1. Note and endorse the report and the suggested minor amendments recommended to the Member/Officer Relations Protocol.
  2. To request Council to agree the amendments for inclusion within the Council's Constitution, when it next considers the full review of the Constitution
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### **Wards Affected: All**

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### **Background documents (available for public inspection):**

The following documents disclose important facts on which the report is based and

have been relied upon in preparing the report. Copies of the background documents are available up to 4 years after the date of the meeting. If you would like a copy please contact one of the contact officers above.

- Manchester City Council's Member/Officer Relations Protocol (Manchester City Council Constitution Part 6, Section F: May 2018)
- Local Government Ethical Standards: (Committee on Standards in Public Life: January 2019).



## **1.0 Background**

- 1.1 Members will be aware, as reported to this Committee in March 2019, of the Committee on Standards in Public Life (“the CSPL”) review of local government ethical standards published in January of this year. In addition to the 26 recommendations made by the CSPL to improve ethical standards in local government, the CSPL made 15 best practice recommendations for local authorities that should be considered as a benchmark of good ethical practice, which it expected that all local authorities could and should implement.
- 1.2 As reported in March, the intention is that these best practice recommendations are considered by Chief Legal Officers across Greater Manchester with the aim of identifying a consistent approach, where possible. This work will likely require changes to the Members Code of Conduct which will be subject to the consideration of this Committee in due course.
- 1.3 As an initial step, this Committee asked that a review be undertaken of the current Member / Officer Relations protocol. This document forms part of the Council’s constitution and provides a high-level position with regards to Member / Officer interactions from which the Members Code of Conduct and Officers Code of Conduct flow.
- 1.4 In-line with this recommendation a review has been undertaken from Officers across HROD and Legal Services. As well as the CSPL best practice recommendations, this review has taken account of other feedback from both Officers and Members and also sought to ensure the language of and references within the Protocol is fully up-to-date.

## **2.0 The review findings**

- 2.1 The review of the Protocol identified no significant areas of required revision, accounting for both the CSPL recommendations and other feedback on the Protocol’s relevance and operation. The language has been refreshed and clarified in some areas and a small number of substantive changes are also suggested as summarised below:
  - Paragraph 1.6 has been added to clarify that the Protocol relates to interactions and relations between Members and Officers both in-person and via other means, including through Social Media. Whilst the City Solicitor, in her report to this Committee of 21 March 2019, did not deem complaints linked to social media use at a level that gave rise to specific concerns in this area, it is considered prudent to take this opportunity to update the Protocol to reference social media given its growing use.
  - Paragraph 2.2 has been updated to note the importance of a mutual appreciation of work/life balance from Members and Officers. Again, this reflects the growing use of technology which allows communications to be sent and accessed 24 hours a day, 7 days a week and the need to ensure respect in terms of requests for responses and turn-around expectations.

- Paragraph 3.2 has been added to strengthen the need for Members to respect that Officers must remain impartial at all times
- Paragraph 3.4 has been amended to strengthen articulation of the importance of Officers remaining politically neutral at all times
- Paragraph 6.2 has been added to note that the Monitoring Officer will meet regularly with political group leaders or group whips to discuss standards. This is a CSPL best practice recommendation and already happens in practice.
- Section 8 has been updated to bring reference to relevant data protection and information sharing legislation up to date.

The changes have been highlighted in bold in the attached Protocol.

- 2.2 The Member Induction Programme includes a session on the Member /Officer Protocol. Paragraphs 2.3 and 2.7 of the Protocol cover the situation where a Member wishes to raise issues about an Officer and the reverse scenario. The Monitoring Officer is of the view that the Protocol is working as intended and if any issues have been raised they have been resolved in accordance with the processes set out in these paragraph of the Protocol.

### **3.0 Conclusion**

- 3.1 As noted above, only a small number of amendments have been identified as necessary to the Member / Officer Relations protocol to bring the document up to date with the CSPL recommendations and other feedback. Further changes may well be required in the future to take account of developments to the Council's Code of Conduct for Members following the work by Greater Manchester Chief Legal Officers as noted above and these will be progressed in due course.
- 3.2 The recommendation appears at the front of the report.

**MEMBER / OFFICER RELATIONS PROTOCOL**

**Section F**

**Member / Officer Relations Protocol**

## MEMBER / OFFICER RELATIONS PROTOCOL

### 1. INTRODUCTION AND PRINCIPLES

1.1 The purpose of this Protocol is to guide Members and Officers of the Council in their relations with one another in such a way as to ensure the smooth running of the Council.

1.2 Given the variety and complexity of such relations, this Protocol does not seek to be either prescriptive or comprehensive. It simply offers guidance on some of the issues which most commonly arise. It is hoped, however, that the approach which it adopts to these issues will serve as a guide to dealing with other circumstances.

1.3 This Protocol is to a large extent a written statement of current practice and convention. It seeks to promote greater clarity and certainty. If the Protocol is followed it should ensure that Members receive objective and impartial advice and that Officers are protected from accusations of bias and any undue influence from Members.

1.4 It also seeks to reflect the principles underlying the Code of Conduct for Members ("the Members' Code") and the Code of Conduct for Employees ("the Employees' Code"). The shared object of these codes is to enhance and maintain the integrity (real and perceived) of local government and the Codes, therefore, demand very high standards of personal conduct.

1.5 This Protocol should be read in conjunction with the Members' Code and the Employees' Code, the Council's Constitution and any guidance issued by the Standards Committee and/or Monitoring Officer.

**1.6 This protocol relates to interactions and relations between Members and Officers both in-person and via other means, including through Social Media. Separate, more detailed guidance is in place for both Officers and members in relation to the use of social media.**

### 2. GENERAL POINTS

2.1 Both Councillors and Officers are servants of the public and are indispensable to one another. But their responsibilities are distinct. Councillors are responsible to the electorate and serve only so long as their term of office lasts. Officers are responsible to the Council. Their job is to give advice to Councillors and the Council, and to carry out the Council's work under the direction and control of the Council, the Executive, committees and subcommittees.

2.2 At the heart of this Protocol, is the importance of mutual respect. Member/Officer relationships should be conducted in a positive and constructive way. Therefore, it is important that any dealings between Members and Officers should observe reasonable standards of courtesy, **should show mutual appreciation of the importance of work / life balance** and that neither party should seek to take unfair advantage of their position or seek to exert undue influence on the other party. This standard of conduct should also be adhered to in Members' dealings with Officers employed by external organisations.

2.3 A Member should not raise matters relating to the conduct or capability of an Officer at meetings held in public or before the press. This is a long-standing

tradition in public service as an Officer has no means of responding to such criticisms in public. If a Member feels they have not been treated with proper respect, courtesy or has any concern about the conduct or capability of an Officer, and fails to resolve it through direct discussion with the Officer, they should raise the matter with the respective Chief Officer. The Chief Officer will then look into the facts and report back to the Member. If the Member continues to feel concern, then they should raise the issue with the Chief Executive. Any action taken against an Officer in respect of a complaint will be in accordance with the provisions of the Council's Disciplinary Policy.

2.4 An Officer should not raise with a Member matters relating to the conduct or capability of another Officer or to the internal management of a Section/Division/Department at or in a manner that is incompatible with the overall objectives of this Protocol. Such matters should be raised with the officer's immediate line manager or Chief Officer as appropriate.

2.5 Nothing in this protocol shall prevent an officer expressing a relevant concern under the Council's Whistleblowing Policy.

2.6 Failure to follow this protocol may be a breach of the Code of Conduct for Members, particularly of those obligations relating to bullying and bringing the Council or the Member's office into disrepute. Further information is set out in the Code of Conduct for Members.

2.7 Where an Officer feels that they have not been properly treated with respect and courtesy by a Member, they should raise the matter with their Chief Officer or the Chief Executive as appropriate. In these circumstances the Chief Officer or Chief Executive will take appropriate action including approaching the individual member concerned or discussing the matter with the Monitoring Officer where they consider there may be a breach of the Code of Conduct for Members.

### **3. OFFICER SUPPORT TO MEMBERS: GENERAL POINTS**

3.1 Officers being employees of the Council must act in the best interests of the Council as a whole and must not give politically partisan advice.

**3.2 Members must respect the impartiality of officers and do nothing to compromise it, e.g. by insisting that an officer change their professional advice.**

3.3 Close personal familiarity between individual Members and Officers can damage professional relationships and can prove embarrassing to other Members and Officers. Situations should be avoided therefore that could give rise to the appearance of improper conduct or behaviour.

3.4 Certain statutory officers - the Chief Executive, the Chief Finance Officer and the Monitoring Officer have specific roles. These are addressed in the Constitution. Their roles need to be understood and respected by all Members. In particular members are reminded of the duty under the Members' Code to have regard to any relevant advice given by the Chief Finance Officer or Monitoring Officer.

3.5 The following key principles reflect the way in which officers generally relate to Members:

## **MEMBER / OFFICER RELATIONS PROTOCOL**

- all officers are employed by, and accountable to the authority as a whole **and must remain politically impartial in the provision of advice and guidance;**
- support from officers is needed for all the authority's functions including full Council, Overview and Scrutiny, the Executive, Regulatory and other ordinary committees, Standards Committee, Joint Committees and individual Members representing their communities etc;
- day-to-day managerial and operational decisions should remain the responsibility of the Chief Executive and other officers.

3.6 On occasion, a decision may be reached which authorises named Officers to take action between meetings following consultation with a Member or Members. It should be recognised that in these circumstances it is the Officer, rather than the Member or Members, who legally takes the action and it is the Officer who is accountable for it.

3.7 Finally, it should be remembered that Officers are accountable to their Chief Officer and that whilst Officers should always seek to assist a Member, they must not, in so doing go beyond the bounds of whatever authority they have been given by their Chief Officer.

### **4. OFFICER SUPPORT TO THE EXECUTIVE**

4.1 It is clearly important that there should be a close working relationship between Executive Members and the Officers who support and/or interact with them. However, such relationships should never be allowed to become so close, or appear to be so close, as to bring into question the Officer's ability to deal impartially with other Members and other party groups. Officers must ensure that even if they are predominantly supporting the Executive their political neutrality is not compromised.

4.2 Whilst Executive Members will routinely be consulted as part of the process of drawing up proposals for consideration on the agenda for a forthcoming meeting, it must be recognised that in some situations an Officer will be under a duty to submit a report. Similarly, the Chief Executive, Chief Officer or other Senior Officer will always be fully responsible for the contents of any report submitted in their name.

4.3 Where functions which are the responsibility of the Executive are delegated, the Executive will nevertheless remain accountable via the Overview and Scrutiny Committees, for both its decision to delegate a function and the discharge of those functions.

4.4 Under Executive Arrangements, individual Members of the Executive are allowed to take formal decisions. In Manchester the circumstances in which individual members of the Executive can take decisions are set out in the constitution. The Executive, Executive members and Officers must satisfy themselves that they are clear what exactly they can and cannot do.

### **5. OFFICER SUPPORT: OVERVIEW AND SCRUTINY COMMITTEES**

5.1 Overview and Scrutiny Committees have the following roles:

## **MEMBER / OFFICER RELATIONS PROTOCOL**

- to review and/or scrutinise decisions made or actions taken in connection with the discharge of any of the Council's functions;
- make reports and/or recommendations to the full Council and/or the Executive and/or any joint or area committee in connection with the discharge of any functions;
- consider any matter affecting the area or its inhabitants; and
- exercise the right to call-in, for reconsideration, decisions made but not yet implemented by the Executive, area committees exercising executive functions and key decisions made by Officers.

5.2 It is clearly important that there should be a close working relationship between Chairs of the Overview and Scrutiny Committees and the Officers who support and/or interact with them. However, such relationships should never be allowed to become so close, or appear to be so close, as to bring into question the Officer's ability to deal impartially with other Members and other party groups. Officers must ensure their political neutrality is not compromised.

5.3 It is not the role of Overview and Scrutiny committees to act as a disciplinary tribunal in relation to the actions of Members or Officers. Overview and Scrutiny Committees should not act as a 'court of appeal' against decisions or to pursue complaints by individuals (Councillors, Officers or members of the public) which are the subject of other procedures, e.g. the Corporate Complaints Procedure, the Local Government Ombudsman, complaints to the Standards Committee or legal action in the Courts.

## **6. OFFICER ADVICE TO PARTY GROUPS**

6.1 It must be recognised by all Officers and Members that in discharging their duties and responsibilities, Officers serve the Council as a whole and not any political group, combination of groups or any individual Member of the Council. The assistance provided by Senior Officers can take many forms ranging from a briefing meeting with an Executive Member, Lead Member, Chair or other Members prior to a meeting, to a presentation, to a full political group meeting. It is an important principle that such assistance is available to all political groups and individual members.

**6.2 The Monitoring Officer will meet regularly with political group leaders or group whips to discuss standards issues.**

### **6.3 Attendance at Party Political Group Meetings**

There is now statutory recognition for 'party groups' and these are recognised in the constitution. It is common practice for such groups to give preliminary consideration to matters of Council business in advance of such matters being considered by the relevant Council decision making body. Senior Officers may properly be called upon to assist and contribute to such deliberations by party groups but must at all times maintain political neutrality. All Officers must, in their dealings with political groups and individual Members, treat them in a fair and even-handed manner

## **MEMBER / OFFICER RELATIONS PROTOCOL**

6.4 Attendance at meetings of party groups is voluntary for officers and must be authorised by the Chief Executive (or in their absence the relevant Chief Officer ) or the City Solicitor.

6.5 Certain points must, however, be clearly understood by all those participating in this type of process, Members and Officers alike. In particular:

6.5.1 Officer assistance must not extend beyond providing information and advice in relation to matters of Council business. Officers must not be involved in advising on matters of party business. Internal party debates and decision making should take place in the absence of officers.

6.5.2 Party group meetings, whilst they form part of the preliminaries to Council decision making, are not formal decision making bodies of the City Council and are not empowered to make decisions on behalf of the Council. Conclusions reached at such meetings do not therefore rank as Council decisions and it is essential that they are not interpreted or acted upon as such; and

6.5.3 Similarly, where Officers provide information and advice to a party group meeting in relation to a matter of Council business, this cannot act as a substitute for providing all necessary information and advice to the relevant Council decision making body when the matter in question is considered.

6.6 Special care needs to be exercised whenever Officers are involved in providing information and advice to a party group meeting which includes persons who are not Members of the Council. Such persons are not bound by the Members' Code (in particular, the provisions concerning the declaration of interests and confidentiality). Officers would not be able to provide the same level of information and advice as they would to a Member only meeting.

6.7 Officers must respect the confidentiality of any party group discussions at which they are present. When information is disclosed to an officer during discussions with a party group that information should not be passed on to other groups. However, Members should be aware that this would not prevent officers from disclosing such information to other officers of the Council so far as that is necessary to performing their duties.

6.8 Any particular cases of difficulty or uncertainty in this area of Officer advice to party groups should be raised with the Chief Executive who will discuss them with the relevant group leader(s).

## **7. USE OF COUNCIL RESOURCES**

7.1 The use of the Council's resources including the use of ICT equipment provided to Members of the Council is governed by a guidance note 'Use of Council Resources'



## MEMBER / OFFICER RELATIONS PROTOCOL

Guidance for Members' which has been adopted by the Council and is contained in the Constitution.

### 8. MEMBERS' ACCESS TO INFORMATION AND TO COUNCIL DOCUMENTS

8.1 The rights of members to inspect council documents are set out in the constitution in the Access to Information Procedure rules. **Members and Officers should both be mindful of their obligations under data protection legislation**

8.2. A Member must not disclose information given to **them** in confidence by anyone or information acquired which they believe is of a confidential nature, without the consent of a person authorised to give it, or unless they are required by law to do so and must not prevent another person from gaining access to information to which that person is entitled by law. A breach of these requirements is a breach of the Member's Code and actionable by way of referral by the Monitoring Officer of the matter to the Standards Committee. If the breach is serious a civil action may be brought against the Member and / or the Council for damages.

**8.3 The Freedom of Information Act 2000 ("the 2000 Act") and Environmental Information Regulations 2004 provide rights of access to recorded information held by public authorities. The Council is required to proactively publish information via its Publication Scheme and to provide information in response to specific requests, subject to certain conditions and exemptions. The provision relating to access to Council meetings and documentation are reflected in the Council's constitution.**

### 9. CORRESPONDENCE

9.1 Correspondence between an individual Member and an Officer should not normally be copied (by the Officer) to any other Member. Where it is necessary to copy the correspondence to another Member, (for instance where the Monitoring Officer considers this course of action is necessary to comply with the rules of natural justice), this should be made clear to the original Member. In other words, a system of 'silent copies' should not be employed.

9.2 Official letters on behalf of the Council should normally be sent in the name of the appropriate Officer, rather than in the name of a Member. It will, however, be appropriate in certain circumstances (e.g. representations to a Government Minister) for a letter to appear in the name of an Executive Member or the Leader. Letters which, for example, create legal obligations or give instructions on behalf of the Council should never be sent out in the name of a Member, Executive or otherwise.

### 9. PUBLICITY AND PRESS RELEASES

10.1 In recent years, all local authorities have increasingly used publicity to keep the public informed and to encourage public participation. The Government has issued a Code of Recommended Practice on Local Authority Publicity and all local authorities must have regard to the provisions of any such Code in coming to any decision on publicity. Further guidance on publicity and extracts from the Code are

## **MEMBER / OFFICER RELATIONS PROTOCOL**

contained in the guidance note to members 'Use of Council Resources Guidance for Members'. In particular members and officers should note that during the election period special rules apply with regard to local authority publicity

10.2 Officers and Members of the Council will, therefore, in making decisions on publicity, take account of the provisions of the Code of Recommended Practice on Local Authority Publicity and any further guidance issued by the Monitoring Officer. If in doubt Officers and /or Members should seek advice from the Chief Executive or the Monitoring Officer.

10.3 All press releases are issued through the Press Office on behalf of the Council. Press releases are not issued by the Council on behalf of political groups. They can contain the comments of Executive members and committee Chairs where they are speaking in connection with the roles given to them by Council. Officer's comments can be included on professional and technical issues.

### **11. INVOLVEMENT OF WARD COUNCILLORS**

11.1 Whenever a public meeting is organised by the Council to consider a local issue, all the members representing the Ward or Wards affected should as a matter of course, be invited to attend the meeting. Similarly, whenever the Council undertakes any form of consultative exercise on a local issue, the Ward Members should be notified at the outset of the exercise. More generally, Officers should consider whether other policy or briefing papers, or other topics being discussed with an Executive Member, should be discussed with relevant Ward Members.

### **12. OFFICER/MEMBER PROTOCOL**

12.1 This protocol forms part of the local framework for standards of behaviour approved by the Standards Committee and adopted by the Council as part of the Constitution.

12.2 Monitoring compliance with this protocol is the responsibility of the Standards Committee and the Monitoring Officer

12.3 Questions of interpretation of this Protocol will be determined by the Monitoring Officer.

### **13. REVIEW OF PROTOCOL**

13.1 This protocol was 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 warranting an earlier review.

**Manchester City Council  
Report for Resolution**

**Report to:** Standards Committee – 13 June 2019

**Subject:** Planning Protocol

**Report of:** City Solicitor

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**Summary**

To advise the Committee of the operation/efficacy of the Planning Protocol.

**Recommendation**

1. To note the position regarding the operation/efficacy of the Planning Protocol.
  2. To approve the proposed amendment to the Planning Protocol.
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**Wards Affected:** All

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**Financial Consequences for the Revenue Budget:** None directly

**Financial Consequences for the Capital Budget:** None directly

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**Backgrounds documents (available for public inspection):** None

## **1.0 Introduction**

- 1.1 At the meeting of Committee on 1 November 2018, the City Solicitor presented a report which provided an overview on the operation and efficacy of the Council's Planning Protocol. The report described the operation of and efficacy of the Planning Protocol as revised by the Council in May 2018 (Minute CC/18/50), and how the Committee's recommendations from the previous consideration of the planning protocol in November 2017 had been implemented.
- 1.2 The report explained that the mandatory training called for by Committee had taken place in May 2018, following the changes in the Planning and Highways Committee's membership after the local elections in May. A mid-year follow-up to that training was being planned. A note on the importance of the Protocol and its application to site visits was now part of every Planning and Highways Committee agenda.
- 1.3 The report also advised that training was being arranged for all members of the Council on planning obligations and the operation of and purpose of Section 106 Agreements. That training took place in late November 2018.
- 1.4 The Committee resolved to note the position regarding the operation and efficacy of the Council's Planning Protocol.

## **2.0 Effectiveness of the Protocol**

- 2.1 It continues to be the view of officers that the Protocol is considered to be effective. There continue to be very few occasions when the Protocol has to be referred to, and there have been no complaints that it has been breached. As has been the case in previous years, the occasions when the Protocol has been referred to are almost exclusively related to advising Members on the provisions around personal/prejudicial interests, bias/predetermination and members' rights with regard to participating where these issues arise. There has also been some reference material considerations and to the provisions on site visits.
- 2.2 The fact that members have known to seek advice in such situations, and that there have been no complaints arising from alleged breaches of the protocol would suggest that the Protocol is effective in achieving its purpose.

## **3.0 Proposed amendment to the Planning Protocol**

- 3.1 Notwithstanding that officers consider that the Planning Protocol is effective, it is continually kept under review. Amendments to the Protocol are considered where particular issues arise which are either not covered by the Protocol or where the provisions in the Protocol could be improved or clarified.
- 3.2 As a result of the most recent consideration of the Protocol, officers are of the opinion that the provisions relating to discussions between Members and developers could be improved and clarified. In particular, and following the

advice in the Planning Advisory Service/Local Government Association guidance document “Probity in Planning for Councillors and Officers”, officers propose to amend the Planning Protocol section headed “Pre and post application discussions” by adding the following paragraphs:

“Officers and serving councillors must not act as agents for people pursuing planning matters within their authority even if they are not involved in the decision making on it.

Officers should be present with councillors in pre-application meetings. Councillors should avoid giving separate advice on the development plan or material considerations as they may not be aware of all the issues at an early stage. Neither should they become drawn at any stage of the planning process into any negotiations, which should be done by officers.”

#### **4.0 Training**

- 4.1 Following the Committee’s last consideration of the Planning Protocol, a training session on Section 106 Planning Obligations and Viability took place at the end of November.
- 4.2 A further training session, aimed principally at new Members of Planning Committee, but open to all Committee Members, will take place on the morning of the next Committee Meeting (30 May 2019).

#### **5.0 Conclusion**

- 5.1 The Planning Protocol sets out a duty to promote and maintain high standards of conduct in the discharge of the Council’s duty as local planning authority. It is considered to be effective in doing so, but notwithstanding this the Protocol is reviewed annually and periodically changes are made having regard to legislative changes or to ensure best practice continues to be followed. It is in this context that officers propose to amend the Protocol as set out in this report.

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**Manchester City Council  
Report for Resolution**

**Report to:** Standards Committee – 13 June 2019

**Subject:** Work Programme for the Standards Committee

**Report of:** Governance and Scrutiny Support Unit

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**Summary**

To allow the Committee to consider and revise its work programme for future meetings.

**Recommendation**

The Committee is invited to discuss the work programme and agree any changes.

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**Wards Affected:** All

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**Financial Consequences for Revenue Budget**

None directly.

**Financial Consequences for the Capital Budget**

None directly.

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**Background documents (available for public inspection):**

None

## Standards Committee Work Programme – 13 June 2019

### Meeting – 13 June 2019

Item	Purpose of the report	Report Author	Comments
Arrangements for dealing with complaints against Members	To review the operation and efficacy of the current arrangements.	Poornima Karkera	
Dispensations	To review the operation and efficacy of the process for granting dispensations.	Poornima Karkera	
To consider the Member/Officer Protocol	To provide an update to the Standards Committee following a review of the Member/Officer Relations Protocol.	Sam McVaigh	As requested by the Committee at their meeting of 21 March 2019.
Planning Protocol	To review the operation and efficacy of the Protocol.	Robert Irvine / Julie Roscoe	
Standing item - Work Programme	To review and (amend if necessary) items to be considered at future meetings of the Committee.	Andrew Woods	

### Meeting – 31 October 2019

Item	Purpose of the report	Report Author	Comments
Standing item if needed – Members Update on Ethical Governance	To update Members on any national issues regarding ethical governance which may impact on the Council's arrangements for ethical governance.	Poornima Karkera	
Code of Corporate Governance	To review the operation and efficacy of the Code.	Sean Pratt	
Whistleblowing Policy	To review the operation and efficacy of the Policy.	Tom Powell	
Annual standards committee report	To note and review the work done in the last year to promote and maintain high standards of conduct by members.	Poornima Karkera	
Standing item - Work	To review and (amend if necessary) items to be	Andrew Woods	



## Standards Committee Work Programme – 13 June 2019

Programme	considered at future meetings of the Committee.		
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### 19 March 2020

Item	Purpose of the report	Report Author	Comments
Standing item, if needed - Members Update on Ethical Governance	To update Members on any national issues regarding ethical governance which may impact on the Council's arrangements for ethical governance.	Poornima Karkera	
Social Media Guidance for Members	To consider any revisions proposed to the guidance and the efficacy of the guidance.	Poornima Karkera	Last reported March 2019
Consultation outcome on Updating Disqualification Criteria for Local Authority Members	Committee notes the report and requests that a report be brought to a future meeting once the legislation has been introduced.	Poornima Karkera	
Standing item - Work Programme	To review and amend (if necessary) items to be considered at future meetings of the Committee.	Andrew Woods	

Unscheduled Items	
Disqualification criteria for members	To be scheduled once primary legislation is introduced
Report on separate bodies the Council has set up or which they own as part of their annual governance statement, including a full picture of their relationship with those bodies as set out in the Committee on Standards in Public Life best practice recommendation no 14.	

## Standards Committee Work Programme – 13 June 2019

### Documents/Procedures/Protocols – within the remit of the Committee

Document/Procedure/Protocol	Last Reviewed	Date Due for Review	Comments
The Code of Corporate Governance	March 2019	November 2019	
The Annual Governance Statement	March 2019	March 2020	
Members' Code of Conduct	Updated annually as needed as part of annual review of constitution.		AGMA wide review
Arrangements for Investigating Complaints made under the Members' Code of Conduct	March 2017	March 2020 or earlier where there is a change in the law or circumstances warrant an earlier review	
Gifts and Hospitality Guidance for Members	March 2018	March 2020 or earlier where there is a change in the law or circumstances warrant an earlier review	
The Member/ Officer Relations Protocol	March 2018	March 2020 or earlier where there is a change in the law or circumstances warrant an earlier review	
The Use of Council Resources Guidance for Members	March 2018	March 2020 or earlier where there is a change in the law or circumstances warrant an earlier review	
Social Media Guidance for Members	March 2018	March 2020 or earlier where there is a change in the law or	

## Standards Committee Work Programme – 13 June 2019

		circumstances warrant an earlier review.	
The Planning Protocol for Members	November 2017	June 2019	Reviewed 2 November 2017
Council's Whistleblowing Policy	November 2017	October 2019	Reviewed 2 November 2017
Procedure for the Local Hearing of Allegations of Misconduct by Members of the Council	Reviewed November 2017	March 2020 or earlier where there is a change in the law or circumstances warrant an earlier review.	Reviewed 2 November 2017
Register of Members Interests	Considered as part of annual report. Last considered March 2018.		

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