

Ethical Update – November 2019

‘Helping to promote high standards of conduct’

Welcome to the November 2019 issue of Manchester City Council’s Ethical Governance Update

This newsletter contains details of the following:-

- Code of conduct decisions and news items
- Amendment to Use of Council Resources Guidance for Members
- Officer/Member Protocol
- Training
- Register of Interests.

To save paper this newsletter is distributed via e-mail, if you would like a hard copy or want further information about any of the issues raised please contact the Democratic Legal Services team.

Recent Code of Conduct Decisions and News Stories

Councillors criticised over attitude towards investigation into email leak

Three councillors have been found to have brought Lancaster City Council into disrepute. The three councillors were judged by a standards hearing after a dispute last year in which information was leaked from the council’s email system to a tabloid newspaper. No suggestion was made that any of the three councillors leaked the information but the standards committee was dissatisfied with their attitude towards an investigation carried out into the matter. One of the councillors was additionally found to have misled officers and was removed from the standards committee.

One councillor was found to have intimidated and misled officers and was censured by the council, and another was found to have bullied an officer. Both councillors were censured.

Councillor who called for PM to be hanged for treason did not breach code of conduct

A councillor convicted of making offensive Facebook posts about the Prime Minister did not breach the code of conduct, an investigation has found. The Investigating Officer decided that the councillor was not acting in an official capacity when he made the statements and so had not breached the code. The Leader of Rutland Council said he believed the councillor, who subsequently resigned, had breached the code and referred the matter to the monitoring officer and police.

The councillor was convicted in September 2018 of four offences under the Communications Act and sentenced to a six-month curfew between 7pm and 7am. This had the effect of preventing him attending council meetings, so leaving him liable to disqualification for non-attendance. He was refused dispensation to avoid this.

In regards to the Council's investigation into the matter of the social media posts, the Investigating Officer's report explained: "What must be considered here is to gauge an objective view. That is, whether the actions of [the] Councillor were such that a member of the public, knowing all the relevant facts, would reasonably think that his actions were so significant that it would impact on the council's ability to properly carry out its functions."

It said it was "evident from the complaints received by the council that [the] Councillor comments caused concern to a number of people.", but "we consider that a reasonable person would realise that [the] Councillor comments were his individual opinions and did not represent the views of the council".

Amendment to the Use of Council Resources Guidance for Members

An amendment has been made to the Use of Council Resources Guidance for Members to assist with the establishment of a clear corporate position on retention of Members' email accounts and non-email casework records held by the Council on Members' behalf, upon Members ceasing to be Councillor. The amendment was approved by Full Council at its meeting on 2 October 2019.

The necessity for a clear position had become an increasingly urgent issue in light of the greater focus, following implementation of the General Data Protection Regulation (GDPR), on how personal data is handled.

Another driver for clarity in this area is the introduction of the new Member (ward and Executive portfolio) casework management system ("Caseworker")

During their time as a Councillor a Member will receive and send a large volume of emails. These emails may relate to various matters including, most significantly:

- a) Council business, such as the Member's work on committees or the Executive, or as a Council representative on other bodies; and
- b) Constituency casework, representing the concerns of individual residents in the Councillor's ward.

Where the information relates to personal data, the Council will be the data controller only in respect of emails of type a).

In respect of emails of type b) (and other constituency casework records held by the Council on an individual Member's behalf) the individual Member will be the data controller, with the Council acting as a data processor on the Member's behalf.

With regard to any e-mails in Member email accounts concerning Council business it was considered these will almost certainly be replicated elsewhere in officer email accounts. On that basis there should, in most cases, be no issues associated with deleting such emails after the member concerned ceases to hold office.

In relation to constituency casework related emails (and other constituency casework records held by the Council on an individual Member's behalf), in respect of which as noted above the individual Member is the data controller, it was considered that once the Member ceases to hold office there is no proper basis for the Council to continue to process the personal data concerned.

Summary of Amendments to the Guidance:

- The guidance has been clarified to confirm that it applies to any Council systems holding relevant data and not just to devices that had been provided to the Member by the Council.
- The guidance confirms that all data (i.e. both Council business and constituency casework) received and sent by a Member will be deleted upon a Member ceasing to hold office as a Councillor.

The use of Council Resources Guidance for Members is contained in Part 6 Section C of the Council's Constitution which can be accessed via the link below:

https://secure.manchester.gov.uk/info/100004/the_council_and_democracy/2446/our_constitution

Member/ Officer Protocol

The Member/Officer Relations Protocol has at its heart the importance of mutual respect, and sets out protocols about what support members can expect from officers, given the need for officers to remain fair and impartial.

A review of the Member/Officer Protocol earlier this year identified minor revisions to take into account the recommendations of the Committee on Standards in Public Life (CSPL), and other feedback on the Protocol's relevance and operation. The language of the Protocol was refreshed and clarified in some areas. The amendments to the Protocol include:

- Clarification that the Protocol relates to interactions and relations between Members and Officers both in-person and via other means, including through Social Media.
- The importance of a mutual appreciation of work/life balance from Members and Officers, especially as 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.
- An emphasis on the importance of Officers remaining politically neutral at all times, and Members to respect that Officers must remain impartial at all times
- That the Monitoring Officer will meet regularly with political group leaders or group whips to discuss standards. This is a recommendation from the CSPL, and already happens in practice.
- Updated references to relevant data protection and information sharing legislation.

Further information about the revisions to the Officer/Member Protocol can be found here

<https://democracy.manchester.gov.uk/ieListDocuments.aspx?CId=150&MId=2753&Ver=4>

The Protocol can be found at Part 6 Section F within the Constitution.

https://secure.manchester.gov.uk/info/100004/the_council_and_democracy/2446/our_constitution

Member Training and Development

It has been a busy year for Member training and development which has seen an increase in the number of training opportunities on offer and member take-up.

A new Member Development Strategy was adopted in March 2019 which sets out a clear direction for how member training will be supported and delivered moving forward. As part of this strategy a training programme was issued in September highlighting the wide variety of training opportunities on offer accompanied by testimonials from those who have previously attended.

A dedicated 'Our Members' team drive has been set up which members can access from any device. The drive hosts a variety of information - current content includes Code of Conduct, Gifts and Hospitality, Member/Officer relations, Members Handbook, GDPR guidance, Social Media guidance, scrutiny guides, Member Development (including the Member Development Strategy and training programme) and Members updates on Ethical Governance from 2016 onwards. Members will be notified as new content is added.

All members are reminded of the importance of completing the GDPR e-learning module or notifying the City Solicitor if you have completed similar training as part of another role. It is very important that the Council has assurance that the whole organisation has undertaken appropriate training in respect of data protection rules. As noted above, further GDPR guidance is available on the 'Our Members' team drive including Constituency Guidance and GDPR fact sheets.

For more information on how to access the 'Our Members' team drive, the GDPR e-learning module or general member development and training enquiries, please contact the Members Development Working Group at members.development.group@manchester.gov.uk

Register of Interests- keeping it up to date

Members ordinarily complete this within the 28 day period of being elected.

However, members are reminded that this is a live document and therefore needs to be reviewed regularly to ensure it is up to date. Failure to keep your register of interests up to date could lead to a complaint being received that it is not accurate and also misleading.

If any member is unsure if something should be registered then please contact the Democratic Services Legal Team via DemServ@manchester.gov.uk, or 0161 234 3336.

To update your register please contact the Governance and Scrutiny Support team on 0161 234 33034.