

Ethical Update – October 2024

Helping to promote high standards of conduct

Welcome to the October 2024 issue of Manchester City Council's Ethical Governance Update

This newsletter contains details of the following:

- DLUHC letter about withholding sensitive interests and home addresses
- DLUHC updates statutory guidance on Overview and Scrutiny
- Former Leader of Borough Council found to have breached the Code of Conduct for Members
- Reminder: Six month rule regarding non-attendance at meetings
- Reminder: Gifts and Hospitality
- Reminder: Register of Interests
- Reminder: Dispensations

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 (demserv@manchester.gov.uk).

Withholding sensitive interests and home addresses – letter to local authorities

On 18th March 2024, the Department of Levelling Up, Housing and Communities, (which has since reverted its name back to the Ministry of Housing, Communities and Local Government), sent a letter to local authority Chief Executives about withholding details of councillors' sensitive interests (such as home addresses) from publicly accessible versions of local authorities' registers of members' interests.

The letter states that councillors and elected mayors should be aware of the provisions in Section 32 of the Localism Act 2011 for withholding the details of sensitive interests, that are registered interests, from published versions of the register of interests.

The provision is engaged where the member and Monitoring Officer agree that the disclosure of the details of the interest could lead to the member, or "a person connected with the member" (e.g. a family member), being subject to violence or intimidation. Monitoring Officers are encouraged to "look sympathetically at accommodating requests for the withholding of home addresses" from published versions of the register of interests where there are legitimate concerns of violence or intimidation. The letter can be viewed via the following link:

[Withholding details of councillors' sensitive interests and home addresses: letter to local authorities - GOV.UK \(www.gov.uk\)](#)

DLUHC updates statutory guidance on Overview and Scrutiny

In April 2024, the Department of Levelling Up, Housing and Communities, issued updated statutory guidance on overview and scrutiny for councils, combined authorities, and combined county authorities. The updated guidance is intended to “take account of deeper devolution and the creation of combined county authorities through the Levelling Up and Regeneration Act 2023”.

The foreword to the guidance states *“It is vital that councils, combined authorities and combined county authorities know the purpose of scrutiny, what effective scrutiny looks like, how to conduct it and the benefits it can bring.*

Authorities with effective overview and scrutiny arrangements in place share certain key traits, the most important being a strong organisational culture.... Authorities who welcome challenge and recognise the value scrutiny can bring reap the benefits. But this depends on strong commitment from the top - from senior members as well as senior officials.”

The updated guidance can be found here:

[Overview and scrutiny: statutory guidance for councils, combined authorities and combined county authorities - GOV.UK \(www.gov.uk\)](#)

Former Leader of Borough Council found to have breached the Code of Conduct for Members

The Standards Committee at South Tyneside Metropolitan Borough Council (‘the Council’) has found that its former Leader (‘the Subject Member’ of the complaint) had breached the Council’s Code of Conduct for Members in that the Subject Member:

- had failed to treat the Council’s Monitoring Officer and Section 151 officer (‘the Complainants’) with respect;
- had bullied and undermined the Complainants;
- had attempted to secure an advantage for the Subject Member or a disadvantage for another person; and
- that the conduct complained of resulted in disrepute to the Council or to the office of councillor.

Examples of the alleged conduct complained of included:

Failing to treat others with respect:

Allegations of hostile, threatening and aggressive behaviour of the Subject Member during telephone calls and meetings which were humiliating and offensive to the Complainants.

Bullying and intimidation

The Subject Member was alleged to have threatened the Section 151 officer with dismissal should a complaint about the Subject Member claiming telephone expenses proceed, and to have behaved in an aggressive, hostile and threatening manner during meetings.

Attempting to secure an advantage for the Subject Member or a disadvantage to another

The Subject Member was alleged to have attempted to improperly influence the Complainants by threatening their job security should they not behave in accordance with the Subject Member's instructions in relation to the way a complaint about the payment of telephone allowances was addressed, the provision of Council papers and IT access to Opposition Councillors, the Monitoring Officer's response to the behaviours of some Opposition Councillors and the handling of a Motion to Council.

Disrepute

The Complainants alleged that the Subject Member's conduct was such that it could reasonably be regarded as bringing the Council, and/or the Subject Member's office as a member of the Council, into disrepute.

The Subject Member did not accept having acted in a bullying or harassing way towards the Complainants and denied intending to cause either Complainant any distress. The Subject Member maintained that the complaint was motivated by malice.

In its decision notice, the Council's Standards Committee concluded that the Subject Member did know the impact which the behaviour concerned was having on the Complainants, and could not have been unaware of it, given its longstanding nature. The Committee noted the reasons offered by the Subject Member for the conduct in question, but went on to state that "whilst it is to be expected that Councillors will place significant demands on the Council's most senior officers, and that frustrations can and did arise in this case for a variety of reasons, it is the Committee's view that that in no way justified the conduct which the Subject Member is found to have engaged in".

The Standards Committee had no power or authority to impose any sanctions upon the former Leader, who was no longer a serving councillor at the time of the hearing. The Committee however did note that it considered that the breaches were serious and would have warranted an equally serious response in terms of recommended sanctions.

As one of the Complainants was the Council's Monitoring Officer, the complaint was assigned to one of the Deputy Monitoring Officer's and an external investigator was appointed. Further details of the complaint, and the findings of the external Investigating Officer and the Standards Committee can be found via the following link:

<https://www.southtyneside.gov.uk/article/13613/committee-meeting?a=9402&p=>

Reminder: Six month rule – non-attendance at Council meetings

Section 85(1) of the Local Government Act 1972 ('the 1972 Act') requires a Member of a local authority to attend at least one meeting of that Authority within a six month period from the date of their last attendance at a meeting. A Member that does not comply with this requirement ceases to be a Member of that authority unless the Member's reason(s) for non-attendance have been approved by the authority before the expiry of the six month period.

Permission cannot be granted retrospectively. Any Member that considers that they may be unable to attend a meeting within six months from the date of their last attendance at a meeting, is strongly advised to write to the Monitoring Officer as soon as practicable before the expiry of the six month period to allow for sufficient time for a decision approving reasons for absence to be made by Full Council.

For the purposes of satisfying the requirement to attend at least one meeting during the aforementioned six month period, a "meeting" is defined as a meeting of any of the Council, its committees or sub-committees, any joint committee, joint board or other body that discharges the functions of the Council, or a meeting of any body of persons where the Member attends as an official representative of the Council.

It is to be noted that there is an additional requirement, under Section 85(2A) of the 1972 Act, imposed on Members of local authority Executives. If an Executive Member fails, throughout a period of six consecutive months from the date of that Executive Member's last attendance, to attend at least one meeting of the Executive, they shall, unless the failure was due to some reason approved by the local authority before the expiry of that six month period, cease to be a member of the local authority. For these purposes attending a meeting of the Executive includes attending a committee of the Executive or the discharge by the Executive Member, acting alone, of any function which is the responsibility of the Executive.

Gifts and Hospitality

Members are reminded that the Council's Code of Conduct for Members requires members to register any gifts and hospitality they or their partner has received in connection with their appointment as an elected member with an estimated value of at least £100.

Notifications of gifts and hospitality should be sent to the Monitoring Officer. A form for this purpose is available from the Governance and Scrutiny Support Unit who administer the register on behalf of the Monitoring Officer.

Guidance about gifts and hospitality can be found in Part 6 Section D of the Council's Constitution. If a member is unsure about whether a gift or hospitality that they or their partner has received should be registered, please contact the Democratic Service Legal Team via demserv@manchester.gov.uk.

Register of Interests – keeping it up to date

Members must complete their register of interests within 28 days 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, please contact the Democratic Services Legal Team for advice via demserv@manchester.gov.uk.

To update your register please contact the Governance and Scrutiny Support team.

Dispensations

The Council may grant you a dispensation, but only in limited circumstances, to enable you to vote on a matter in which you have a Disclosable Pecuniary Interest or a prejudicial interest.

The main reason why a dispensation may be granted is where so many members have an interest in a matter that it would not be possible for the business in question to go ahead. This is particularly relevant at the Council budget setting meeting as many members are council tax payers or are council tenants, etc.

If you want a dispensation you will need to make an application to the Monitoring Officer in good time before the meeting.

If any member is unsure if they should need to apply for a dispensation, please contact the Democratic Services Legal Team via demserv@manchester.gov.uk.