

# Values and Ethics Sub-Committee

## Agenda



**Date:** Monday, 9 October 2023

**Time:** 12.00 pm

**Venue:** A Committee Room - City Hall, College Green, Bristol, BS1 5TR

### **Distribution:**

**Councillors:** Tony Dyer, Zoe Goodman, Jonathan Hucker and Andrew Brown

Independent Member and Chair – Adebola Adebayo

**Copies to:** Nancy Rollason (Head of Legal Service), Husinara Jones (Solicitor), Allison Taylor (Democratic Services Officer), Lucy Fleming (Head of Democratic Engagement), Louise deCordova (Democratic Services Manager) and Simba Muzarurwi (Chief Internal Auditor)

**Issued by:** Allison Taylor, Democratic Services

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**Date:** Friday, 29 September 2023

# Agenda

**1. Welcome and Introductions**

**(Pages 4 - 6)**

**2. Apologies for absence**

**3. Declarations of Interest**

**4. Minutes of the last meeting.**

**(Pages 7 - 8)**

**5. Public Forum**

Up to 30 minutes is allowed for this item.

**(Pages 9 - 20)**

Any member of the public or Councillor may participate in Public Forum. The detailed arrangements for so doing are set out in the Public Information Sheet at the back of this agenda. Public Forum items should be emailed to [democratic.services@bristol.gov.uk](mailto:democratic.services@bristol.gov.uk) and please note that the following deadlines will apply in relation to this meeting:-

Questions - Written questions must be received 3 clear working days prior to the meeting. For this meeting, this means that your question(s) must be received in this office at the latest by 5 pm on **3 October 2023**.

Petitions and Statements - Petitions and statements must be received on the working day prior to the meeting. For this meeting this means that your submission must be received in this office at the latest by 12.00 noon on **6 October 2023**.



Up to 30 minutes is allowed for this item.

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|--|------------------------|
| <b>6. Summary of Complaints against Councillors and revised Complaints procedure</b> | <b>(Pages 21 - 30)</b> |
| <b>7. Member Code of Conduct</b>   | <b>(Pages 31 - 60)</b> |
| <b>8. Member-Officer Protocol</b>  | <b>(Pages 61 - 75)</b> |



# Public Information Sheet

## Inspection of Papers - Local Government (Access to Information) Act 1985

You can find papers for all our meetings on our website at [www.bristol.gov.uk](http://www.bristol.gov.uk).

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Public meetings including Cabinet, Full Council, regulatory meetings (where planning and licensing decisions are made) and scrutiny will now be held at City Hall.

Members of the press and public who plan to attend City Hall are advised that you may be asked to watch the meeting on a screen in another room should the numbers attending exceed the maximum occupancy of the meeting venue.

## COVID-19 Prevention Measures at City Hall (June 2022)

When attending a meeting at City Hall, the following COVID-19 prevention guidance is advised:

- promotion of good hand hygiene: washing and disinfecting hands frequently
- while face coverings are no longer mandatory, we will continue to recommend their use in venues and workplaces with limited ventilation or large groups of people.
- although legal restrictions have been removed, we should continue to be mindful of others as we navigate this next phase of the pandemic.

## COVID-19 Safety Measures for Attendance at Council Meetings (June 2022)

We request that no one attends a Council Meeting if they:

- are required to self-isolate from another country
- are suffering from symptoms of COVID-19 or
- have tested positive for COVID-19

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The following requirements apply:

- The statement is received no later than **12.00 noon on the working day before the meeting** and is about a matter which is the responsibility of the committee concerned.
- The question is received no later than **5pm three clear working days before the meeting**.

Any statement submitted should be no longer than one side of A4 paper. If the statement is longer than this, then for reasons of cost, it may be that only the first sheet will be copied and made available at the meeting. For copyright reasons, we are unable to reproduce or publish newspaper or magazine articles that may be attached to statements.

By participating in public forum business, we will assume that you have consented to your name and the details of your submission being recorded and circulated to the Committee and published within the minutes. Your statement or question will also be made available to the public via publication on the Council's website and may be provided upon request in response to Freedom of Information Act requests in the future.

We will try to remove personal and identifiable information. However, because of time constraints we cannot guarantee this, and you may therefore wish to consider if your statement contains information that you would prefer not to be in the public domain. Other committee papers may be placed on the council's website and information within them may be searchable on the internet.

### During the meeting:

- Public Forum is normally one of the first items on the agenda, although statements and petitions that relate to specific items on the agenda may be taken just before the item concerned.
- There will be no debate on statements or petitions.
- The Chair will call each submission in turn. When you are invited to speak, please make sure that your presentation focuses on the key issues that you would like Members to consider. This will have the greatest impact.
- Your time allocation may have to be strictly limited if there are a lot of submissions. **This may be as short as one minute.**
- If there are a large number of submissions on one matter a representative may be requested to speak on the groups behalf.
- If you do not attend or speak at the meeting at which your public forum submission is being taken your statement will be noted by Members.
- Under our security arrangements, please note that members of the public (and bags) may be searched. This may apply in the interests of helping to ensure a safe meeting environment for all attending.



- As part of the drive to reduce single-use plastics in council-owned buildings, please bring your own water bottle in order to fill up from the water dispenser.

For further information about procedure rules please refer to our Constitution <https://www.bristol.gov.uk/how-council-decisions-are-made/constitution>

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### Bristol City Council Minutes of the Values and Ethics Sub-Committee

25 September 2023 at 12pm



#### **Members Present:-**

Tony Dyer, Zoe Goodman, Jonathan Hucker & Tim Kent (substitute for Andrew Brown)

**Independent Member** Adebola Adebayo – Chair.

#### **Officers in Attendance:-**

Tim O’Gara – Director – Legal & Democratic Services & Monitoring Officer (MO), Nancy Rollason – Head of Legal Services (HOLS), Simba Muzarurwi – Chief Internal Auditor, Allison Taylor – Democratic Services

#### **1. Welcome, Introduction and Apologies for absence**

The Chair welcomed all parties to the meeting. The Committee noted the emergency evacuation procedure arrangements.

#### **2. Apologies for absence.**

Apologies received from Andrew Brown with Tim Kent as substitute.

#### **3. Declarations of Interest**

There were none.

#### **4. Minutes of the Previous Meeting.**

The MO reported that the matter of Dispensations would now be considered after the elections in May 2024.

**Resolved – That the minutes of the 30 January 2023 be agreed as a correct record and signed by the Chair.**

[democractic.services@bristol.gov.uk](mailto:democractic.services@bristol.gov.uk)

#### **5. Public Forum.**



The Chair stated that as a result of the number and nature of the questions submitted under Public Forum he had decided that he would ask the Monitoring Officer and Head of Legal Services to respond in writing and responses would be sent by the end of the week. People who had submitted questions would be able to submit written supplementary questions as a result of the responses received.

The Sub-Committee was concerned that they would not be able to properly consider the reports on the agenda when there was so much public interest and they had not seen responses to questions.

It was therefore proposed and agreed that all the agenda items listed be deferred to the meeting arranged on 9 October, and that the Public Forum questions along with the responses be brought back to that meeting, along with any supplementary questions and responses and any new Public Forum.

The Chair agreed that as questioners had taken the time to attend the meeting they would be able to make a statement to the sub-Committee even if they had not submitted one before the meeting. All statements were read and noted by the Committee.

The Chair thanked the public for their attendance and declared the meeting over.

The meeting ended at 12.45pm.

**CHAIR** \_\_\_\_\_





# Public Forum

Value & Ethics Sub- Committee

9 October 2023 at 12pm



**1. Members of the V&E Sub Committee**

<b>Questions &amp; Responses from 25 September Sub-Committee</b>		
<b>Number</b>	<b>Agenda Item</b>	<b>Name</b>
1	6 – Summary of Complaints against Councillors	Joanna Booth
2	6 – Summary of Complaints against Councillors	Suzanne Audrey
3	6 – Summary of Complaints against Councillors	Lesley Powell
4	6 – Summary of Complaints against Councillors	Jen Smith
5	6 – Summary of Complaints against Councillors	Dan Ackroyd
6	6 – Summary of Complaints against Councillors & 7 – Member Code of Conduct	Mike Oldreive
7	6 – Summary of Complaints against Councillors	Sian Ellis-Thomas



## 1 Joanna Booth

I note that in the Cabinet response to the Bundred review, members were reminded of the following:

*The Council has a duty under the Local Government Act 1999 to put in place proper arrangements for:*

- *the continuous improvement of the authority's functions*
- *the governance of the authority's affairs, which includes arrangements for the management of risk.* <https://democracy.bristol.gov.uk/documents/s13847/12%20Response%20to%20the%20Bundred%20Review%20-%20Cabinet%20Report%20Exec%20Summary%20160517%20v2.pdf>

All my questions are intended to better understand the risks the council is putting the public's money and services in by not adhering to rules and laws about member conduct. We have seen in Birmingham the effect of not adhering to what is legally required.

1. What procedures does the council have in place to manage conflicts of interest when the monitoring officer is involved in the decision being complained about?

**Paragraph 1.4 of the new procedure for dealing with complaints states that where there is a potential conflict of interest, following consultation with an Independent Person, the Monitoring officer may arrange for a complaint to be dealt with by an alternative Monitoring Officer**

2. How can the public ensure the complaints procedure is complied with when all the factors of cases, including the members involved, are kept confidential?

**Confidentiality in the complaints process is essential to ensure fairness to the complainant and the councillor that is the subject of the complaint.**

3. How does the legal team and the monitoring officer ensure that the complaints procedure is adhered to by the members and officers who have been found to have breached their code of conduct?

**All members receiving training on the Code of Conduct which is delivered by the Monitoring Officer. All members are able to seek confidential advice from the Monitoring Officer about any matter relating to the Code of Conduct. A decision notice will set out any action that a member needs to take following a complaint and this will be followed up as appropriate by the Monitoring Officer.**

4. How many complainants have been told to keep the outcome of their complaint confidential over the last 12 months?

**All complaints are treated confidentially by the Monitoring Officer to ensure fairness to the complainant and the councillor that is the subject of the complaint and there is an expectation that complainants will respect the confidentiality of the process.**

5. At July's audit meeting, there was reporting of a revised Conflicts of Interest Policy and Gifts and Hospitality Policy; How does that affect the current members who have not updated their register of interests for years and have in that time become directors of companies or even accepted money from the council for their companies?

**All members are aware of the requirement to register gifts and hospitality received and details are published on the Council's website.**

**Members who are appointed to the Council's companies do not receive any remuneration for those duties.**

6. In December 2022, I was told by the head of legal services that there was a private register for members' interests. This would go against the legislation that requires the website be maintained by the monitoring officer and for it to be public. Can you let me know whether there is still a private register for members interests and how many members have separate items disclosed publicly and privately?

**Under the Localism Act 2011, members can declare a 'sensitive interest' to the Monitoring Officer. This will be shown on the publicly available register of interest as a 'sensitive interest' and usually refers to the member's own private residence. The register of declarations of sensitive interests is maintained by the Monitoring Officer.**

7. Does the new policy address the legal requirement for the monitoring officer to maintain a public register of interest on a public website?

**The Council already meets the legal requirement to publish registers of interests and will continue to do so.**

## **2 Suzanne Audrey**

In relation to the draft procedure for complaints about breaches of the code of conduct, this seems almost entirely dependent on the opinion of the Monitoring Officer who almost always concludes that no further action should be taken.

1. Who is the 'independent person' invited to give their views prior to the initial assessment being finalised? In the interests of transparency, this person or at least their post should be identified.

**The Council has appointed 3 Independent Persons from outside the Council to assist the Monitoring Officer in considering complaints. This is statutory requirement under S28 of the Localism Act 2011.**

**The function of the role is to provide an independent view on a complaint against a Councillor before the Council takes a decision on allegations made and whether it ought to be investigated and also to provide a view if the matter goes to investigation. The Independent Person may also be consulted by a Councillor who is subject to an allegation. The Independent Person must not, in the past 5 years prior to the appointment, have been an elected member, co-opted member or officer of the Council. They must not be related to or have a close friendship or relationship with a councillor or employee of the Council or be a member of a political party.**

2. The table shows the response to the majority of complaints is 'no further action taken' but we have no idea why. Should there not be a column indicating why no further action was taken?

**The purpose of the report is to provide a summary of complaints only. It would not be appropriate to disclose any further details, to ensure fairness to the complainant and the councillor that is the subject of the complaint.**

3. I am aware that where one informal resolution recommended the member apologise to a member of the public, no apology has ever been given. As well as a column explaining the decision, should there be a column indicating if the proposed resolution was completed e.g. training undertaken, apology given.

**The purpose of the report is to provide a summary of complaints only. It would not be appropriate to disclose any further details, to ensure fairness to the complainant and the councillor that is the subject of the complaint.**

### **3 Lesley Powell**

Question:

With only a table summary of complaints and brief description of 'resolutions' available to us members of the public, it is difficult to understand how this committee determines whether complaints are being robustly investigated by the Monitoring Office, such that they are given the appropriate scrutiny to determine whether the complaint is valid, whether there are repetitive behaviours and that the penalty for those found to be in breach is a suitable deterrent?

**The Monitoring Officer will make an initial assessment of a complaint in consultation with an Independent Person, to ensure that a complaint is considered robustly.**

### **4 Jen Smith**

Q1. How do those making a complaint know an independent person has been consulted? We receive no evidence of this whatsoever.

**The decision notice will confirm to the complainant and the councillor that is the subject of the complaint that an Independent Person has been consulted.**

Q2. How can members of the public know this person is genuinely independent? We are given no information on who has been consulted not what makes them independent

**It is a legal requirement that the Independent Person must not, in the past 5 years prior to the appointment, have been an elected member, co-opted member or officer of the Council. They must not be related to or have a close friendship or relationship with a councillor or employee of the Council or be a member of a political party.**

### **5 Dan Ackroyd**

### Question 1

I think it would aid the work of this committee if the amount of time taken to process complaints was listed in the 'Summary of Complaints' presented to this committee.

The current complaints process says: "The Monitoring Officer will consider the allegation within an average of 20 working days" My understanding is that the complaint that has a date of decision of 16/12/22 was made on 18th July 2022, which I believe is 108 working days.

I know that a complaint that was received on the 28th July 2023 had decision made on the 18th September 2023, which I believe is 37 working days.

I do not have faith that complaints are being dealt with in a timely fashion, and I do not think this committee has adequate information to be able to judge whether they are.

Obviously, some complaints would take longer than one might hope. It could be useful to this committee to know why some complaints were not considered in a timely manner, for example due to complicated nature of allegations or people being on holiday or otherwise slow to respond, so as to be able to determine if slow decisions are justified or not.

Does this committee agree that the process could be improved by adding those pieces of information to the 'Summary of Complaints' report?

**Ideally, the time taken to make an initial assessment of a complaint will be 20 working days. However, it is often the case that complaints can take longer to process for a number of reasons, for example, response times from complainants and councillors that are the subject of the complaint, the amount of information that needs to be reviewed and the officer time required to deal with a complaint fairly and robustly.**

### # Question 2

In the document "Appendix 2 Draft Procedure for Member Complaints" it is written: "The Council has a clear and straightforward public interest test"

Where is that documented please?

**The Public Interest Test is a general principle that is considered by public bodies when making decisions and includes the seriousness of the matters complained about, the amount of resources required to deal with a complaint and the type of remedy available. It is not possible to prescribe in the procedure the public interest test as it will vary on a case by case basis.**

### # Question 3

Is it acceptable for the monitoring officer to attempt to bind complainants into confidentiality in the decisions taken?

**The principle of confidentiality is to ensure fairness to complainants and councillors who are the subject of complaints.**

# Question 5

How should the people of Bristol have confidence that the 'independent person(s)' will act in the interests of the people of Bristol, and not favour avoiding scandals?

I realise that it would not be reasonable to publish their names, but at the same time, what is to prevent the monitoring officer from choosing someone who wouldn't be able to provide an independent point of view? More fundamentally, how do we even know they exist or are consulted during complaints?

**The Council has appointed 3 Independent Persons from outside the Council to assist the Monitoring Officer in considering complaints. It is statutory requirement under S28 of the Localism Act 2011 to appoint at least 1 Independent person.**

**The function of the role is to provide a view on a complaint against a Councillor before the Council takes a decision on allegations made and whether it ought to be investigated and also to provide a view if the matter goes to investigation. The Independent Person may also be consulted by a Councillor who is subject to an allegation.**

**The Independent Person must not, in the past 5 years prior to the appointment, have been an elected member, co-opted member or officer of the Council. They must not be related to or have a close friendship or relationship with a councillor or employee of the Council or be a member of a political party.**

**The decision notice will confirm to the complainant and the councillor that is the subject of the complaint that an Independent Person has been consulted and their view.**

# Question 6

In some cases, the monitoring officer might recommend that a councillor provides a personal apology. But there appears to be no guarantee that the councillor would actually make that apology, or that the apology wouldn't be a 'non-apology'.

For those that don't know the term, consider the difference between "I apologise for the offence I caused you" vs "I apologise for any offence taken" or see

[https://urldefense.com/v3/\\_https://en.wikipedia.org/wiki/Non-apology\\_apology\\_;!KUxdu5-bBfnh!](https://urldefense.com/v3/_https://en.wikipedia.org/wiki/Non-apology_apology_;!KUxdu5-bBfnh!)

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Is it an acceptable situation that the resolution of a complaint can be optional, and could be done in a way that avoids giving a meaningful apology?

**All members have an obligation to adhere to the Member Code of Conduct and to cooperate with any investigation, including any sanctions imposed.**

## 6 Mike Oldreive

Agenda item 6- Summary of Complaints Against Councillors

1. Is the MO confident that his team is working efficiently and effectively on the complaints process and that proper arrangements are in place for managing & recording member complaints?

**The Monitoring Officer is satisfied that there is sufficient resources available to manage member complaints effectively.**

2. Does the MO believe that the report by HOLS is of an acceptable standard and level of detail to provide members with all the information they need for effective scrutiny of the member complaints process?

[The report misses out key information needed for robust performance management of the Member complaint process and for scrutiny (eg time taken to resolve complaints). I would expect this information to be reviewed by the MO on a regular basis to improve the complaints procedure.]

**The report of the Head of Legal Services is a summary of complaints only and is in a similar format to previous reports to the V&E Sub-committee.**

3. Why does the HOLS report not disclose whether performance targets set by the Council have been met? Council policy is that a response should be given in 20 working days.

**Ideally, the time taken to make an initial assessment of a complaint will be 20 working days. However, it is often the case that complaints can take longer to process for a number of reasons, for example, response times from complainants and councillors that are the subject of the complaint, the amount of information that needs to be reviewed and the officer time required to deal with a complaint fairly and robustly.**

4. What was the response time for each of the cases in the HOLS report & what were the reasons for any delays above the agreed deadline (20 working days)?

**It would not be appropriate to disclose details of the specific reasons for a delay in dealing with any particular complaint as the complaints process is confidential between the complainant and the councillor that is the subject of the complaint.**

5. Can the HOLS confirm that every complaint about a councillor received has been included in her report? [I am concerned about the quality of record keeping by the MO and his team, as I can't identify my complaint from the dates/refs given]

**The report contains a summary of all complaints made about councillors for the period covered by the report.**

6. Complaints Rejected- does this mean they were not a valid complaint? (i.e., failed the first stage of initial assessment)? What were the reasons?

**A complaint may be rejected for a number of reasons, as set out in the procedure for assessment of complaints, for example where a complaint is vexatious and politically motivated.**

7. Can you provide more detail on the cases identified as "No further action"? What were the specific reasons identified, as per the Complaints policy?

**The purpose of the report is to provide a summary of complaints only. It would not be appropriate to disclose any further details, to ensure fairness to the complainant and the councillor that is the subject of the complaint.**

8. What procedures are in place to ensure that actions agreed as part of "informal resolution" take place? How are they followed up by the MO and what happens if the member involved does not comply? [the policy does not explain this]

**A decision notice will set out any action that a member needs to take following a complaint and this will be followed up as appropriate by the Monitoring Officer.**

9. Can the MO confirm that Members have complied with and fulfilled all the actions agreed for the informal resolutions noted in his report? If not, what action has been taken by the MO?

**A decision notice will set out any action that a member needs to take following a complaint and this will be followed up as appropriate by the Monitoring Officer.**

10. Can the MO provide a clear statement that he is confident that no conflict of interest existed for any of the cases presented in the HOLS report and that this has been documented on each case before any complaints work has taken place?

**There was no conflict of interest in respect of any of the complaints referred to in this report.**

11. Para 7 "no complaints have been upheld during this time". How does this wording fit with the Council's policy and LGA guidance? Does the HOLS mean that "no complaints have been investigated..."?

**To clarify, no complaints have been referred for investigation.**

Revised Complaints Procedure

12. Why have the Monitoring Officer (MO)/Head of Legal Service (HOLS) not mentioned that the review of the Member complaints Procedure is required as part of the Agreed Actions from an LGO investigation (dated 23.06.23)?

**The procedure has been more widely reviewed and updated and the LGO recommendation has been included as part of this process.**

13. Were members of V&E aware of this? Why is the MO withholding key information, including poor performance, from Members?

**The LGO decision is publicly available.**



14. Why has the LGO complaint & findings (and any others) not been reported to V&E along with the other information on member complaints in the HOLS report?

**A summary of LGO decisions is made available to the Council on an annual basis and this is reported to the Audit Committee and Full Council. It is not within the Terms of Reference of the V&E Sub-committee.**

Independent Person(s)

15. Is the identity of the IP kept confidential? How does this square with transparency?

**To ensure the integrity of the complaints procedures, the identify of the Independent Persons is kept confidential.**

16. Other Council's publish the criteria for appointment of the IPs, their names and CVS. Will BCC commit to this?

**The Council has appointed 3 Independent Persons from outside the Council to assist the Monitoring Officer in considering complaints. This is statutory requirement under S28 of the Localism Act 2011 to appoint at least 1 independent person.**

**The primary function of the role is to provide a view on a complaint against a Councillor before the Council takes a decision on allegations made and whether it ought to be investigated and also to provide a view if the matter goes to investigation. The Independent Person may also be consulted by a Councillor who is subject to an allegation. The Independent Person must not, in the past 5 years prior to the appointment, have been an elected member, co-opted member or officer of the Council. They must not be related to or have a close friendship or relationship with a councillor or employee of the Council or be a member of a political party.**

17. How is V&E committee involved in appointment of IPs? Is this purely the decision of the MO?

**The appointment of the Independent Persons is carried out by the Monitoring Officer and the Head of Legal Services.**

18. Can the MO confirm that he has fully met the statutory responsibility to appoint an IP during the period of the HOLS' report? During the period July- November 2022 how many Independent Persons were in place, and who were they? (Please provide the length of tenure of each, if they were not available for the whole period.)

**An Independent Person has been available to advise on all complaints. To ensure the integrity of the complaints procedures, the identify of the Independent Persons is kept confidential.**

19. The policy is not clear about the use of an IP: "The Council has appointed 3 Independent Persons from outside the Council to assist the Monitoring Officer in considering complaints. This is statutory requirement under S28 of the Localism Act 2011."

Is it a statutory requirement to appoint 3 IPs?

**The legal requirement is to appoint at least 1 Independent Person.**

"3.2 The Independent Person must be consulted at various stages in the complaints process: The Independent Person should be consulted on an allegation and should be given the option to review and comment on 1. allegations which the Monitoring Officer is minded to dismiss as being malicious, without merit, vexatious or trivial. 2. whether to undertake a formal investigation."

20. Can the MO confirm that BCC is adopting a policy of the IP being involved at all stages of each complaint? (This is not a requirement under statute/LGA guidance).

**The Independent Person will be involved at all stages of a complaint.**

Conflicts of interest

21. Is there a clear pro-forma process for sign off on conflicts of interest on the part of the Monitoring Officer and other BCC Legal team members involved in Member complaints process- before proceeding with any complaint is there a clear statement from the MO that potential conflicts of interest (and their perception by outside parties) have been considered, and is this signed off by the MO?

Can the MO provide a copy of this document, if it exists?

[it would be standard practice in other professional settings for conflicts of interest to be considered, and the process fully documented, before any significant work is carried out].

**Conflicts of interests will be considered by the Monitoring Officer on a case-by-case basis and an alternative Monitoring Officer will be appointed if necessary.**

Politically motivated complaints

22. Is there a clear definition of "politically motivated" complaints, particularly as relates to members of the public?

[There is no definition in the policy and no information on the Council's website. [LGA guidance on Member Complaints handling states: "The assessment criteria that the authority adopts should be made publicly available on its website."]]

**It is a matter for the judgment of the Monitoring Officer in consultation with an Independent Person, to determine whether a complaint is politically motivated, which will depend on the specific circumstances of an individual complaint.**

Public Interest Test

23. The BCC revised policy refers to a public interest test. Is there a "public interest" test and where is this documented?

[It is not on the Council's website. It is LGA best practice to provide this.]

**The Public Interest Test is a general principle that is considered by public bodies when making decisions and includes the seriousness of the matters complained about, the**

**amount of resources required to deal with a complaint and the type of remedy available. It is not possible to prescribe in the procedure the public interest test as it will vary on a case by case basis.**

24. "The Monitoring Officer may refer a matter for other action where it would not be in the interests of good governance to conduct an investigation. Examples of other action include training, conciliation and mediation or changes to council procedure "

Can the policy be revised to explain good governance and provide examples where it would not be in the interests of good governance to carry out an investigation? [ As it stands the policy appears to presume in favour of informal resolution, which is not in the spirit of the LGA guidance?]

**Good governance is a well-understood term and it is not necessary to prescribe what this is in the procedure. There is no presumption in the procedure of informal resolution as the preferred option.**

25. Para 4.4 refers to "other action". Does this mean informal resolution? Can this be amended?

**It is not necessary to change this definition.**

Confidentiality

26. Para 4 states" All complaints will be treated as confidential to enable a fair process to be followed. The parties to the complaint must not publicise the fact or content or the complaint or the outcome without the agreement of the Monitoring Officer"

If everything that is the subject of the complaint is documented and in the public domain on social media (eg Twitter) then is it reasonable for a Councillor to expect confidentiality, in terms of the complainant solely publicising that a complaint has been made?

**The principle of confidentiality is to ensure fairness to complainants and Councillors who are the subject of complaints.**

27. Not allowing a member of the public to publicise the outcome of a complaint is essentially imposing a Confidentiality Agreement (NDA) on members of the public. Does the Council have legal powers to do this?

How is this appropriate ethically? How does it help good governance? How does it meet the Nolan principles?

**The principle of confidentiality is to ensure fairness to complainants and Councillors who are the subject of complaints.**

Agenda item 7 -Member Code of Conduct LGA Guidance

28. Why has the MO not complied with LGA best practice guidance for almost 3 years?

Is this an acceptable standard for a major local authority in the UK, that claims to be setting global policy?

[LGA guidance and best practice points were issued in Dec 2020) [ This recommends: "Review of code of conduct each year and regularly seek, where possible, the views of the public, community organisations and neighbouring authorities"? (member complaints procedures have not been reviewed since 2012)]

**The LGA Model Code of conduct and the findings from the Committee on Standards in Public Life were not available the last time that the Code of Conduct was reviewed in 2019.**

BCC External social media Policy

29. Why is the Council's social media policy not linked to the Member Code of Conduct, given that several complaints relate to social media?

**The social media policy is not a matter for the V&E Sub-committee.**

30. Will the Council update its Social Media Guidance to Members to fully reflect the comprehensive LGA guidance?

[This is currently a 1-page document that focuses solely on the behaviours expected from the public and not those expected by Councillors or staff.]

**The social media policy is not a matter for the V&E Sub-committee.**

## **7 Sian Ellis-Thomas**

**Question for Public Forum at Values & Ethic Committee Meeting – Mon 25<sup>th</sup> September**

### **Question:**

Does the committee agree that the current complaints process and reporting does not appear to be working sufficiently in terms of its service to the public and that more needs to be done to improve reporting and transparency to give residents and community groups more faith in a robust and fair complaints process and to properly deter offenders?

### **Response**

**The Council's process for considering complaints against councillors strikes the right balance between the principle of confidentiality and fairness to complainants and councillors who are the subject of complaints.**

# Public Forum

Value & Ethics Sub- Committee  
9 October 2023 at 12pm



## 1. Members of the V&E Sub Committee

### Supplementary Questions arising from 25 Sept responses

Number	Agenda Item	Name
1	6 - Summary of Complaints against Councillors and revised Complaints procedure	Sian Ellis-Thomas
2	6 - Summary of Complaints against Councillors and revised Complaints procedure	Lesley Powell
3	6 - Summary of Complaints against Councillors and revised Complaints procedure	Mike Oldreive
4	6 - Summary of Complaints against Councillors and revised Complaints procedure	Joanna Booth
5	6 - Summary of Complaints against Councillors and revised Complaints procedure	Dan Ackroyd

<b>New Questions</b>		
<b>Number</b>	<b>Agenda Item</b>	<b>Name</b>
<b>6</b>	<b>6 - Summary of Complaints against Councillors and revised Complaints procedure</b>	<b>Keith Farley - not attending</b>
<b>7</b>	<b>6 - Summary of Complaints against Councillors and revised Complaints procedure</b>	<b>Lesley Powell</b>
<b>8</b>	<b>6 - Summary of Complaints against Councillors and revised Complaints procedure</b>	<b>Sian Ellis-Thomas</b>

<b>Statements</b>		
<b>Number</b>	<b>Agenda Item</b>	<b>Name</b>
<b>9</b>	<b>7 - Member Code of Conduct</b>	<b>Clive Stevens</b>
<b>10</b>	<b>6 - Summary of Complaints against Councillors and revised Complaints procedure</b>	<b>Suzanne Audrey</b>
<b>11</b>	<b>6 - Summary of Complaints against Councillors and revised Complaints procedure</b>	<b>Joint Statement – Lesley Powell, Sian Ellis-Thomas, Mike Oldreive, Jen Smith, Dan Ackroyd</b>
<b>12</b>	<b>All substantive items on the agenda</b>	<b>Dan Ackroyd</b>



# 1 - Sian Ellis-Thomas

Chair of the Friends of Redcatch Park

Question for Public Forum at Values & Ethic Committee Meeting – Mon 25<sup>th</sup> September

## Question:

Does the committee agree that the current complaints process and reporting does not appear to be working sufficiently in terms of its service to the public, and that more needs to be done to improve reporting and transparency to give residents and community groups more faith in a robust and fair complaints process and to properly deter offenders?

## Response

**The Council's process for considering complaints against councillors strikes the right balance between the principle of confidentiality and fairness to complainants and councillors who are the subject of complaints.**

**It would not be appropriate to disclose any further details about individual complaints, to ensure fairness to the complainant and the councillor that is the subject of the complaint**

## Supplementary Question 1

I believed that public questions were being addressed to the whole V&E committee. But this reply was sent to me by the **Monitoring Officer** on behalf of the Chairman of the Committee. How can this committee make comments, judgements and suggest changes to the process and procedures of the complaints system if the MO is the person answering all the questions and stating in effect that the system is perfect?

## Response.

**It was agreed with the Chair that answers to public forum questions for the meeting held on 25 September would be provided by officers.**

**The Sub-committee is able to debate this report at its meeting on 9 October.**

## Supplementary Question 2:

After an FOI request, it has been disclosed by BCC, that **not one single complaint** against a member has been upheld in the last **six years**. According to BCC there is no record of the total complaints made during that time. But taking the last 11 months total of 13 (as already reported to this committee as an average), let's estimate there may have been as many as 60 complaints made during that time. **But**

**not one of these were upheld** by the Monitoring officer, which surely indicates a problem.

**Question:** Does this committee agree that further scrutiny of the decision making by the MO needs urgent attention if the public are to trust and believe there is a fair and transparent process in place to protect them?

**Response.**

**The Sub-committee may wish to comment on the robustness of the Council's procedures for handling complaints against councillors.**



## 2 - Lesley Powell, Vice Chair, Friends of Redcatch Park.

**Supplementary Question to the Question submitted for the Sept 2023 V & E Committee:**

**Original Q:**

With only a table summary of complaints and brief description of 'resolutions' available to us members of the public, it is difficult to understand how this committee determines whether complaints are being robustly investigated by the Monitoring Office, such that they are given the appropriate scrutiny to determine whether the complaint is valid, whether there are repetitive behaviours and that the penalty for those found to be in breach is a suitable deterrent?

**Answer (28/09/2023)**

The Monitoring Officer will make an initial assessment of a complaint in consultation with an Independent Person, to ensure that a complaint is considered robustly.

**Supplementary Question to the above:**

- Is there an 'audit' (even a sample per annum) of the complaints process (including the Monitoring Officer / 'Independent Person' actions) in respect of dealing with complaints of Member Code of Conduct breaches? And if not, how can the V and E Committee provide assurance that the process is robust, thoroughly investigated and is fair to all parties and aligns with its Terms of Reference?

**Response**

The Council's Monitoring Officer is responsible for investigating and taking action in respect of alleged breaches of the Member Code of Conduct. The Independent Person will advise the Monitoring Officer on any complaint received.

The role of the V&E Sub-committee is to ensure that adequate procedures are in place for dealing with allegations of a breach of the Member Code of Conduct

### 3 – Mike Oldreive

1. Does the Chair consider that the responses provided to my questions are of an acceptable standard and would he be happy to receive such responses from someone reporting to him in his business role?

#### **Appointment of Independent Person(s)**

##### **(Questions 16/17/18)**

"QI 7. How is Y&E committee involved in appointment of IPs? Is this purely the decision of the MO?

*The appointment of the Independent Persons is carried out by the Monitoring Officer and the Head of Legal Services."*

2. Please can the Monitoring Officer provide a clear statement to confirm that all requirements of S28 of Localism Act 2011 have been met by his team, and by the City Council?

Can he confirm for each subsection and provide details and evidence, that for each of the Independent Persons appointed and involved in the complaints reported to V&E on 25 September:

- The vacancy for an IP has been advertised in such manner as the authority considers is likely to bring it to the attention of the public (*where was it advertised and on what dates?*)
- The person has submitted an application to fill the vacancy to the authority (*please provide date of each application form*)
- The person's appointment has been approved by a majority of the members of the authority. (*please provide dates of relevant Council meetings and minutes of agreements of appointments*).

#### **Conflicts of interest**

3. Is there clear sign-off of conflicts of interest by the MO and HOLS evidenced with clear documentation (including formal declarations of no conflict) on every complaint reported to V&E sub in the HOLS report on 25 September?

#### **Follow up of informal resolutions**

5. The response to Q9 is just a repetition of the answer to Q8. Q9 is an entirely different question. Please answer the original question:

"Q9. Can the MO confirm that Members have complied with and fulfilled all the actions agreed for the informal resolutions noted in his report? If not, what action has been taken by the MO?

*A: A decision notice will set out any action that a member needs to take following a complaint and this will be followed up as appropriate by the Monitoring Officer."*

#### **Responses:**

- 1. The Chair is invited to comment on the responses provided to Public Forum.**

2. The appointment of Independent Persons was done through a formal recruitment and selection process carried out by the Monitoring Officer and the Head of Legal Services.

**Post-Publication clarification dated 20 October 2023 - The recent recruitment process for Independent Persons will require the ratification of those appointments by Full council and it is anticipated that this will be at the next ordinary meeting of Full Council on 14 November.**

3. Conflicts of interest will be considered in respect of all complaints received and will be documented by the Monitoring Officer and Head of Legal Services as necessary.
4. Not accepted.
5. The Monitoring Officer will follow up as appropriate on any actions that a member needs to take. It would not be appropriate to comment on individual cases.

## 4 – Joanna Booth

Hi Allison,

Please find my Supplementary questions: (the numbering may have become a bit warped and I apologise. They are numerically ordered.)

1. What did the previous set of procedures specify because that is what was used to decide one of my complaints and dismiss another? How will an alternate monitoring officer be found? What are the criteria for determining they are impartial? How will the public be informed?

### **Response**

**The current procedure for dealing with complaints is available on the Council's website. The Council will ask for the availability of Monitoring Officers in neighbouring Councils where there is a conflict of interest.**

2. As a law graduate, and a social researcher, there is nothing more basic and foundational than the purpose and pursuit of justice. The dictum *Justice must not only be done, but must also be seen to be done* was laid down by **Lord Hewart**, the then Lord Chief Justice of England in the case of *Rex v. Sussex Justices*, [1924] 1 KB 256. It was spoken one month off 100 years ago (November 9, 1923). *"It is not merely of some importance but is of fundamental importance that justice should not only be done, but should manifestly and undoubtedly be seen to be done"*. Lord Hewart

*"Nothing is to be done which creates even a suspicion that there has been an improper interference with the course of justice."*

I am quite disheartened by the notion that two fellow law graduates are so quick to abandon the very principles we base our understanding of the system that upholds our rights and democracy. Please explain the reasons, which go against *Rex v Sussex Justices* [1924] whereby you are not only prioritising the protection of members' reputations over justice, transparency and accountability but wish to hide the decisions of a local authority from its own residents and the rest of the world.

1. How has the MO followed up the published complaints that were found to be in need of follow up activities? I can confirm that I never received an apology as I was meant to. Does this trigger a follow-up complaint procedure against the member?

**Response - It is not appropriate to comment on individual complaints.**

2. Please provide the actual number of complaints.

**Response - The report to the committee sets out the number of complaints received.**

3. How many times has the MO advised a complainant to go to the police for undeclared registers of interest?

**Response - Complainants will be advised that if they believe that a disclosable pecuniary interest has not been registered, then that is a matter they could report to the Police. This advice will be given on a case-by-case basis.**

4. How many times have members been warned that they need to register their interests?

**Response - All members receive reminders that they need to keep their register of interests up to date.**

5. **Not accepted.**

6. Not accepted

7. What are the consequences of a member and/or a monitoring officer knowing of a non-sensitive interest and not publishing in on the public website as mandated by s29(5)? Who is designated as ensuring this information is provided and that the legislation is complied with?

**Response - The responsibility for declaring interests is for an individual member and advice can be provided on a case-by-case basis by the Monitoring Officer.**

## 5 – Dan Ackroyd

These are my questions for the Values and Ethics sub-committee on the 9th of October.

1. Other councils name the independent persons, why does Bristol City Council feel the need to keep the independent persons identity secret?

**Response - The identity of Independent Persons is confidential to ensure that they are able to maintain their independence.**

2. Do the independent persons see the original complaint, or only a summary provided by the monitoring officer?

**Response - The Independent Person will be provided with full details of the original complaint.**

3. In the document "Appendix 2 Draft Procedure for Member Complaints" there are two additions in the section of whether a complaint will be investigated of "The conduct occurred during political debate or could be regarded as a political expression of views or opinion." and "If the complaint fails one or more of these tests it will not be investigated, and the complainant will be informed that no further action will be taken in respect of the complaint." Who proposed this changes, and what problem are these changes addressing?

**Response - These changes are proposed by the Monitoring Officer to reflect good practice.**

4. In the document "Appendix 2 Draft Procedure for Member Complaints" there is an addition of "The parties to the complaint must not publicise the fact or content or the complaint or the outcome without the agreement of the Monitoring Officer". Who proposed this, and what problem are these changes addressing?

**Response - These changes are proposed by the Monitoring Officer to ensure the fairness and confidentiality of the complaints process.**

cheers  
Dan  
Ackroyd

## 6 – Keith Farley

My opinion, based on my experience and knowledge of the Councils Complaints Process for breaches of the Member Code of Conduct, is that it lacks robustness to respectfully and thoroughly investigate a seemingly serious, member of public complaint against a Councillor and that multiple complaints about one Councillor are not considered a trigger of greater concern by the Monitoring Officer (MO) or, seemingly, the Independent Person (IP). I was shocked to receive a response to an FOI request recently that identified NO complaints about Councillors have been upheld in the last 6 years. Without the transparency of knowing the name and qualifications of the IP and without a more detailed 'summary' of the complaints against members being submitted to the V and E committee, my questions to the V and E Committee are:

- 1) How does this Committee assure itself, the Audit Committee, the wider council and of course the public that the Council Complaints Process is sufficiently robust?

**Response - The Sub-committee may wish to comment on the robustness of the Council's procedures for handling complaints against councillors.**

- 2) Is the V & E Committee aware of the name and background of all the Independent Persons to whom the MO refers Member Code of Conduct Complaints?

**Response - Members of the Sub--committee are invited to comment on this question.**

- 3) Do the Committee consider it appropriate that the names and backgrounds of the Independent Persons are not seemingly made available to the Public?

**Response - The identity of Independent Persons is confidential to ensure that they are able to maintain their independence.**

- 4) If the names and backgrounds of the Independent Persons (appointed to support determination of the member code of conduct complaints process) are not publicly available, how can the complainant determine whether the complaints system is fair to all parties, robust, ethical and conducted without conflict of interests?

**Response - The identity of Independent Persons is confidential to ensure that they are able to maintain their independence.**



- 5) If the Member (the Councillor) may refer to the Independent Person during 'investigation' of a complaint, does the Committee not think it would provide assurance of a more balanced determination if the 'investigation' included the 'Independent Person' also 'investigating' the complainants supporting information and / or witnesses?

**Response**

The role of the Independent Person is an independent advisory one and not an investigative one, therefore it would not be appropriate for the Independent Person to investigate a complaint.

## 7 - Lesley Powell,

Vice Chair, Friends of Redcatch Park.

Questions for the 9<sup>th</sup> October (which I assume will be responded to by the Committee and NOT the MO office):

- 1) if the Committee are not provided with the following information:
  - a) The total number of complaints per Member per term/annum (I am not suggesting names, just numbers) and
  - b) More detail about the complaint (other than a vague description provided in the Summary of Complaints) **and**

There has been no reporting to the Audit Committee in respect of complaints, as required by BCC's own Procedures.....**and**...

**NO** complaints about member breaches of the Code of Conduct have been upheld by BCC in the last **SIX** years....**how can the Committee judge whether the number of complaints not upheld is appropriate? (ie what triggers an alarm if they can't judge the number upheld as a percentage of the total number of complaints)?**

**Response - The Council's Monitoring Officer is responsible for investigating and taking action in respect of alleged breaches of the Member Code of Conduct. The Independent Person will advise the Monitoring Officer on any complaint received.**

**The role of the V&E Sub-committee is to ensure that adequate procedures are in place for dealing with allegations of a breach of the Member Code of Conduct.**

- 2) Does the Committee carry out (request/receive/instruct) benchmarking of Bristol City Council's number of upheld complaints about Councillors versus the same statistic of other Councils?

**Response - No benchmarking of statistical data relating to member complaints with other councils has been carried out.**

- 3) Does the V and E Committee feel it is provided with sufficient assurance that the BCC Member Code of Conduct complaints process provides a balanced, thorough and robust outcome for both members and complainants such that it aligns with its function and purpose?

**Response - The Sub-committee may wish to comment on the robustness of the Council's procedures for handling complaints against councillors.**

- 4) How does the committee, given the scant detail that appears to be provided in the 'summary of complaints' feel it is able to assure that it complies with its Terms of Reference and in particular: 'promotes the highest standards of behaviour by members of the Council, including the Mayor, councillors, independent members and co-optees'?

**Response - The Sub-committee may wish to comment on the robustness of the Council's procedures for handling complaints against councillors.**

## 8 - Sian Ellis-Thomas

Chair of the Friends of Redcatch Park

Question for Public Forum at Values & Ethic Committee Meeting – Monday 9<sup>th</sup> October

### QUESTION 1

When there is too much concentration of power in one pair of hands this can allow an individual become judge, jury and executioner. Such is the role of the Monitoring Officer in the current BCC complaints process. Without scrutiny of their decisions and actions there is only one person's values and ethics in play.

**Q:** So my question to the committee today is; **Who monitors, the Monitoring Officer?** And how are the public to be reassured that there is a process by which the Monitoring Officer's procedures and decisions can be questioned and evaluated?

**Response - A member of the public can complain to the Local Government Ombudsman if they are not satisfied that the process for dealing with a member complaint.**

**QUESTION 2 Not accepted**

**Public Statement: Value and Ethics Sub-Committee 09/10/23****Re: Member Code of Conduct – Agenda 7 – Clive Stevens**

I understand there has been some public debate about complaints against Councillors and the Councillors' Code of Conduct; holding councillors to account for what they do and say. I hope the Sub Committee respond effectively to all that but I wouldn't want you to throw the baby out with the bath water.

I was on this Value and Ethics Sub-Committee back in 2019. We worked cross party for months to get the clause 2.1 (councillors behaving with integrity) just right. It is a balance between accountability for behaviour but not bringing in a gagging clause. The Monitoring Officer and his team helped. The clause, still current, reads: "a) Ensuring that all my activity in my role as an elected member promotes the integrity of the role of a Member at all times and does not bring that role into disrepute, whilst recognising my legal rights and privileges, for example my right to freedom of speech."

It does not say, councillors must not bring the local authority into disrepute and that clause should not be put in (unfortunately it is in the LGA Model Code). Sometimes a local authority, in all its activities, comes out with an unpopular or even a disreputable plan, decision or policy; at least in some people's eyes. It is the role of the councillor to point this out, they shouldn't be gagged and I fear that any changes to the current wording might allow that to happen.

Academic research was done 15 years ago when the "councillors do not bring the local authority into disrepute" clause was then mandatory. The researchers found: "it was widely perceived that councillors made misconduct allegations about political opponents, which were often viewed dismissively as little more than a playing out of "tit-for-tat" personal or political animosities....According to some interviewees, ethics regulation was perceived as being used by those in power to curtail the political activities of others, not just between local councillors but also practiced by senior officers". The Government made the disrepute clause optional in 2012.

I think the current wording of clause 2.1 still strikes the right balance.

By way of contrast, the LGA Model Code is not so clear. On page 3 (4<sup>th</sup> bullet point) it reads, "I lead by example and act in a way that secures public confidence in the role of councillor." That's fine.

But then at 5.1 (p6 of 16) the LGA write, for councillors; "I do not bring my role or local authority into disrepute. As a Councillor, you are trusted to make decisions on behalf of your community and your actions and behaviour are subject to greater scrutiny than that of ordinary members of the public. You should be aware that your actions might have an adverse impact on you, other councillors and/or your local authority and may lower the public's confidence in your or your local authority's ability to discharge your/its functions. For example, behaviour that is considered dishonest and/or deceitful can bring your local authority into disrepute."

The above wording is bad, it could be used as a gagging clause if so desired and the research I quoted shows it has been. Additionally the LGA's example at the end about dishonesty or deceit would bring the role of the councillor into disrepute anyway so it doesn't illustrate the difference.

In summary: Councillors must be able to hold the Council/Local Authority to account. If that means pointing out something that brings the Local Authority into disrepute, so be it; that is a councillor's job. Whereas, if they do or say something that brings the role of councillor into disrepute, then that is an entirely different thing and could rightly trigger an investigation.

Thank you for your time.

### **Statement to Values and Ethics Sub-Committee, 9 October 2023**

I am extremely disappointed in the responses I received to questions about breaches in the members' code of conduct. I feel they do nothing to reassure the public that a robust system is in place and operating well.

Firstly, I asked about the Independent Person and suggested, in the interests of transparency, that this person or at least their post should be identified.

I was given the criteria for the post, and told there are three independent persons. But no attempt was made to address the secrecy surrounding who these people are.

In response to a question from another member of the public, it was suggested: "To ensure the integrity of the complaints procedures, the identify [sic] of the Independent Persons is kept confidential."

How does keeping their identity confidential ensure the integrity of the complaints system? It could be argued that it has the opposite effect.

I hope committee members will consider this carefully.

**If it is not a legal requirement to keep the Independent Person's identity confidential, then the public have a right to know who is involved in deciding whether or not complaints should be upheld.**

My second and third questions were about the summary report of complaints.

The table does not give enough information to provide reassurance that the complaints process is fair and followed through to completion.

Both of my suggestions for a little more information received the same response: it would not be appropriate to disclose any further details "to ensure fairness to the complainant and the councillor that is the subject of the complaint".

How does this ensure fairness?

**I urge committee members to require:**

- 1. A reason if/when no further action is taken e.g. complaint withdrawn, insufficient information provided**
- 2. Information confirming if a resolution is adhered to e.g. training completed, apology given**

**Neither of these suggestions is intrusive or onerous, and I believe they would improve the reporting of complaints and resolutions.**

***Suzanne Audrey***

## Joint Statement: Read by Lesley Powell

This statement is made on behalf of myself, Sian Ellis-Thomas, Dan Ackroyd, Joanne Booth, Jen Smith and Mike Oldrieve. I am a born and bred Bristolian, I have lived here all my life. We are all members of the public forum that were present at the meeting on 25<sup>th</sup> September and who have come together in solidarity, to make this joint statement to the Values & Ethic Committee today, to voice our shared concerns.

We are here to have our say, not just as individuals, but as representatives of all the people of Bristol. Although we have individual grievances, there is an overarching message which we all share; **that is, the systemic failure of the Member Code of Conduct Complaints Process**. It is not fit for purpose, and we, the people of Bristol are being consistently failed.

**Of the 13 complaints submitted in the last 11 months. None have been upheld.**

**Of all the complaints submitted in the last 6 years. None have been upheld.**

We all know something is badly wrong here.

We think you know this too.

We believe that this committee needs to address the following issues to ensure that each member or officer on the committee, can themselves be sure that **they** are abiding by the Member Code of Conduct in the execution of their duties.

Yet how can we expect you, as part of the 'audit' process, to make informed suggestions or decisions about the Values & Ethics of the organisation, if you are not given sufficient information to facilitate an open debate? How can **you** have faith and trust in the process if the right information is not provided?

So we are asking you to consider the following:

### 1. Who Monitors the Monitoring Officer?

The role of Monitoring Officer allows too much power to be vested in one individual's judgement, with no informed transparency or opportunity for scrutiny of their decisions. This makes for a closed system, which allows for complaints to be too easily dismissed and in effect facilitates bad behaviour.

### 2. Independent Persons

Who are these independent persons, how are they recruited, when were they recruited and how is their work scrutinised? Who audits that they meet the

criteria? What part are they playing in the process? Do they get full disclosure of information to inform their decision? Other Councils have no problem in disclosing appointment details about their Independent Persons, why can't BCC do the same?

3. **Confidentiality**

There is nothing in the current complaints procedures regarding a complainant being disallowed from speaking to the press, yet this has now been added to the proposed new procedures along with other clauses which impose further seemingly unlawful NDAs. The confidentiality clauses appear to protect and insulate BCC and the subject of the complaint and effectively act as a gagging order to the complainant. It is the complainant's right and risk with whom they share details of their complaint.

4. **Reporting of complaints data** – The current data list of complaints as presented, does not supply the V&E Committee with sufficient information to make judgements, question process and scrutinise decisions. There appears to be no way of identifying 'red flag' behaviour e.g. multiple complaints about individual members.

5. **Culture of covertness** – We are all extremely concerned about the lack of transparency, stock replies and apparent obfuscation when it comes to complaints. It appears that it is easier to dismiss all complaints and to keep the process as opaque as possible.

6. **General attitude towards complainants** - Not one of us here today are happy with the service we have received. We have all been made to feel like a problem and a pain. There has been little or no empathy shown or credibility given to our complaints. This appears to be the default position of the people in charge of the process.

How can the public have trust in those that govern and run our city, if this is how we are made to feel when we exercise our democratic right to call out bad behaviour? We deserve to feel protected. We do not.



Hi,

Below is my statement for the Values and Ethics Committee on the 9th of October aka V&E part 2 electric boogaloo.

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Some thoughts on what should happen in this meeting.

### ## Agenda Item 7 Member Code of Conduct

The LGA code looks much better than our current one and it's probably reasonable to discuss this agenda item.

There's probably a useful discussion about how to keep our code of conduct up to date with the recommended LGA one, in case they ever put out a revision to that guide. e.g. keeping our changes as tracked changes, so that it's easy to upgrade to the next version.

### ## Agenda Item 8 Member-Officer Protocol

I don't think that's related to what people are unhappy about today so don't see why this item can't go ahead. There is a small overlap with the lack of faith people have in the complaints process, but that's probably going to be an ongoing discussion separate to the details of that document.

### ## Agenda Item 6 - "Summary of Complaints against Councillors and revised Complaints procedure"

For the revised complaints procedure part, there are two abhorrent proposed additions:

1. A condition is added to the cases where a complaint isn't going to be investigated of "The conduct occurred during political debate or could be regarded as a political expression of views or opinion."

That would have the effect of making discussing the merits of eugenics be a topic of discussion that would be allowed.

2. "All complaints will be treated as confidential to enable a fair process to be followed. The parties to the complaint must not publicise the fact or content or the complaint or the outcome without the agreement of the Monitoring Officer"

That's not legal or ethical.

I think what should be done is to ask the monitoring office for a new draft includes the bare minimum changes needed for the switch from a mayoral model to committee model, and to present that in a 'tracked changes' style. If the Monitoring Officer desires any other changes,

there should be a clear reason stated for each change.

I also think, that the constitution should be changed to have a part that says that any future changes in rules need to be presented in a 'tracked changes' style, so that it's easier to review changes, and harder to slip really bad details in.

Hopefully my question 3 and 4 about what caused those changes to be added, will have been answered by Monday.

I would also like to see:

- \* a draft of the complaints process that has much clearer wording about how long complaint investigations will take, and if they take longer than say 20 working days (aka a month), the monitoring officer needs to notify this committee why the complaint is taking so long to process.

- \* clearer language about how complaints can be resolved informally, and whether informal resolutions can be imposed on people.

- \* much less discretion in how the Monitoring Officer avoids bringing complaints to this committee. In particular, the Monitoring Officer seems to be relying on rules that aren't currently in the complaints process.

- \* the length of time each complaint takes to process being listed in the "Summary of Complaints against Councillors".

- \* less stringent rules against complaints being made anonymously, particularly in cases where the behaviour being complained about was done in public, and there are no disputes about the facts of what occurred.

- \* the reasons for complaints being rejected being listed in the "Summary of Complaints against Councillors". If a large number of complaints are being rejected for the same reason, that means something is going wrong with the complaints process, even if each complaint is handled appropriately.

- \* a separate complaints process for complaints made by members of the public separate to complaints made by politicians. Some of the proposed changes (e.g. imposing confidentiality) may be appropriate for people who are going to have to work together while the investigation is in process.

- \* any complaints to the LGO about the BCC complaints process that are upheld should be reported to this committee.

- \* a better plan for continuous improvement. Currently the work of this committee is hobbled by an insistence on complete confidentiality and the draft changes seem to be coming from a non-neutral source. Obviously, people who have not had their complaints upheld, or didn't get an outcome that is completely satisfactory to them, aren't exactly going to be happy, but on the other hand it seems like the monitoring

officer also isn't going to neutrally report problems with the complaints process.

A lot of the answers to questions submitted to this committee are quite evasive. For example:

Q: Is it acceptable for the monitoring officer to attempt to bind complainants into confidentiality in the decisions taken?

A: The principle of confidentiality is to ensure fairness to complainants and councillors who are the subject of complaints.

That's really not an answer to the question. It's currently too difficult for members of the public to pry out information to really engage with this committee and suggest improvements.

For the 'Summary of Complaints against Councillors' part of the agenda, you've got a couple of prickly problems:

\* It is very unseemly for the officer whose work is being looked at, to be guiding the chair quite so closely as to how to run these meetings.

\* You don't currently have enough information to evaluate the complaints handling in the report.

\* Whether complaints have been handled lawfully is 'not entirely obvious'.

\* A separate serious legal concern.

Normally, this committee should be asking the legal department for what course of action should be taken, but there is an obvious inherent conflict of interest here, so it's not obvious they can offer you any advice.

So, I'm interested to see how the committee proposes moving forward.

cheers  
Dan  
Ackroyd

# Values and Ethics Sub Committee

9 October 2023



**Report of:** Director: Legal and Democratic Services

**Title:** Summary of Complaints against Councillors and revised Complaints procedure

**Ward:** N/a

**Officer Presenting Report:** Nancy Rollason Head of Legal Service

## Recommendation

That the Committee notes the report and the summary of Complaints made against Councillors since the last report to the Committee in June 2022 and approve the revisions to the complaints procedure.

## The significant issues in the report are:

As set out in the report and Appendix 1 and 2 to the report.

## **Policy**

1. This is an annual report providing details of Complaints made against Members of the Council.

## **Context**

2. The Committee agreed to receive an annual report in relation to Complaints made against Members of the Council at its meeting in March 2021.
3. A complaint against a Councillor relates to an allegation that a Councillor has not observed the Code of Conduct for Members. Complaints must be about councillors' actions relating to their role as a Member of the Council.
4. The Localism Act 2011 places a duty on the Council to promote and maintain high standards of conduct by members and co-opted members of the authority and to adopt a code dealing with the conduct that is expected of members and co-opted members of the authority when they are acting in that capacity. Codes of conduct must be consistent with the following principles: selflessness, integrity, objectivity, accountability, openness, honesty and leadership. Bristol City Council's Code of Conduct for Members incorporates these principles.
5. The Act also requires all local authorities (other than parish and town councils) to have procedures in place to deal with complaints about member conduct. It is for the Authority to decide the details of those procedures, but they must appoint at least one Independent Person, whose views are to be taken into account, before making a decision on a complaint. The Authority has appointed 3 Independent persons and updated the complaints procedure. The revised procedure is attached at Appendix 2 of the report for consideration and approval.
6. The summary of complaints at Appendix 1 of the report covers all complaints received since March 2021.
7. It is not possible to provide further details about complaints received, or the outcomes of complaints, as only complaints that have been upheld are published. No complaints have been upheld during this time.

## **Other Options Considered**

8. Not applicable.

## **Risk Assessment**

9. Not applicable.

## **Legal and Resource Implications**

Legal

As set out in the report  
(Legal advice provided by Nancy Rollason – Head of Legal Services)

**Financial / Land / Human Resources**

Not applicable.

**Appendix 1 – Summary of complaints 21-22**

**Appendix 2 – Revised Complaints procedure**

**LOCAL GOVERNMENT (ACCESS TO INFORMATION) ACT 1985**

**Background Papers: None**

<b>Summary of Complaint</b>	<b>Date of decision</b>	<b>Method of resolution</b>	<b>Case Ref</b>
Failure to treat a member of the public with respect	17/10/22	Informal resolution -Reminder of Members Code of Conduct and Member Officer protocol	RL01.45
Inappropriate comments made on social media	16/12/22	Informal resolution recommended apology to the complainant and training and guidance on the Member Code of Conduct and use of social media.	RL01.46
Failure to disclose a pecuniary interest	23/01/23	No further action	RL01.47
Inappropriate comments made about officers in a public meeting and emails to officers	20/02/23	Informal resolution- apology given. Reminder of provisions of Member Code of Conduct and Member Officer protocol	RL01.48
Publishing information lacking in balance and objectivity, mis-use of council email for non council purposes	20/02/23	No further action	RL01.49
Publishing information lacking in balance and objectivity, mis-use of council email for non council purposes	20/02/23	No further action	RL01.50
Failure to treat a member of the public with respect	03/07/23	Complaint rejected	RL01.51
Failure to treat a member of the public with respect and bullying	19/07/23	No further action	RL01.53

Failure to treat a member of the public with respect	27/07/23	Complaint rejected	RL01.54
Failure to treat member of the public with respect	14/08/23	No further action	RL01.55
Failure to treat member of the public with respect	14/08/23	No further action	RL01.56
Failure to disclose prejudicial interest, misleading a committee.	15/08/23	No further action	RL01.58
Failure to respond to a question and take action in relation to a particular matter	25/08/23	Complaint Rejected	RL01.59



**BRISTOL CITY COUNCIL**  
**DRAFT AMENDED PROCEDURE FOR DEALING WITH**  
**COMPLAINTS ABOUT BREACHES OF THE CODE OF CONDUCT**

**1. Introduction**

1.1 Under the Localism Act 2011, the Council has a duty to promote and maintain high standards of conduct for its elected and co-opted members and have arrangements in place to deal with complaints.

1.2 This Procedure sets out how the Council will deal with a complaint alleging a breach of the Members' Code of Conduct by Bristol City Councillors and voting and non-voting co-opted members of the Council.

1.3 In dealing with complaints we will be fair to both the complainant and Member and progress matters in accordance with the timescales set out in the Procedure. Complaints will be handled in the strictest confidence at all times.

1.4 The Council has a duty to ensure there is no conflict of interest with officers when undertaking standards investigations. If a conflict of interest is identified, it will be determined in consultation with the Independent Person whether the matter should be dealt with by an alternative Monitoring Officer.

1.5 The Council has a clear and straightforward public interest test, which considered by the Monitoring Officer when considering complaints.

**2. Monitoring Officer**

2.1 The Director of Legal and Democratic services is the Council's Monitoring Officer. This is a statutory role, responsible for ensuring that the Council, its Members and officers carry out their functions in a lawful and ethical manner. The role includes supporting the Audit and Values and Ethics Committee.

**3. Independent Persons**

3.1 The Council has appointed 3 Independent Persons from outside the Council to assist the Monitoring Officer in considering complaints. This is statutory requirement under S28 of the Localism Act 2011.

3.2 The Independent Person must be consulted at various stages in the complaints process:

The Independent Person should be consulted on an allegation and should be given the option to review and comment on

1. allegations which the Monitoring Officer is minded to dismiss as being malicious, without merit, vexatious or trivial.
2. whether to undertake a formal investigation.

3.3 An elected Member who is the subject of a Standards Complaint is entitled to process / procedural advice from an Independent Person, and any request shall be made via the Monitoring Officer.

**4. Making a Complaint**

If you would like to make a complaint about a Councillor or co-optee of Bristol City Council you must complete the [Complaint Form](#) (Appendix A) and provide relevant

evidence to substantiate your allegation(s). The form is also available from the Monitoring Officer or Head of legal services at: [Legal.support@bristol.gov.uk](mailto:Legal.support@bristol.gov.uk)  
(The Monitoring officer will accept complaints in other formats but they must be in writing.)

The Monitoring Officer will review all complaints received.

There are some instances where it is not appropriate to complain through this complaints process - for example :-

- About people employed by the Council or a decision made by an Officer of the Council
- The way the Council conducts or records its meetings.
- The way the Council has or has not done something. This might be a matter for the Local Government Ombudsman if the Council has not dealt with the matter properly and it has not been resolved locally.
- Complaints about someone who is no longer a Councillor or conduct that took place when they were not acting as a Councillor
  - Decisions relating to Planning or Licensing matters should be challenged by way of judicial review

Anonymous complaints will only be accepted on an exceptional basis.

**All complaints will be treated as confidential to enable a fair process to be followed. The parties to the complaint must not publicise the fact or content or the complaint or the outcome without the agreement of the Monitoring Officer**

### **Pre-assessment enquiries**

Receipt of a complaint will be acknowledged within five working days, with details about how the complaint will be dealt with and in what timescales.

The Monitoring Officer will consider requests for confidentiality. If confidentiality is refused, the complainant will be given the opportunity to withdraw the complaint before the subject member is informed.

The Councillor about whom a complaint has been made will be notified with a summary of the complaint and the name of the complainant, if confidentiality has not been requested.

The Councillor will be invited to submit a written statement of fact in reply to the complaint within 10 working days. The Councillor will be notified that they may seek the views of an Independent person at any stage of the process.

The Monitoring Officer may carry out preliminary enquiries and contact the complainant for clarification of their complaint, or further information.

### **3. Assessment process**

A two-step process is applied: – the first stage being ‘can we deal with this complaint?’ This a jurisdictional test and would assess whether:

- the complaint is against one or more named Councillors of the authority
- the named Councillor was in office at the time of the alleged conduct;
- the complaint relates to matters where the Councillor was acting in that capacity or representative of the authority, and it is not a private matter;
- the complaint, if proven, would be a breach of the Code under which the Councillor was operating at the time of the alleged misconduct.

The second stage is ‘should we deal with this complaint?’

The Monitoring Officer will take into consideration whether it is in the public interest to proceed with a complaint.

The Monitoring Officer is likely to conclude that the complaint should not be dealt with in the following circumstances

- a. there is no evidence that the Code has been breached;
- b. taking into account the nature of the allegation, using public funds to examine the matter further would be disproportionate.
- c. the complaint appears to be vexatious, politically motivated, tit-for-tat or made by a persistent complainant;
- d. The conduct occurred during political debate or could be regarded as a political expression of views or opinion.
- e. the conduct complained about has already been the subject of investigation or enquiry by another public body;
- f. the same, or substantially the same, issue has been the subject of a previous Code of Conduct allegation, and there is nothing further to be gained;
- g. there is not enough information to take the matter further;
- h. the complaint was made anonymously;
- i. the complainant has requested that their identity as complainant be withheld from the member, and the matter cannot reasonably be taken further in these circumstances;
- j. the member has already apologised for the action that was the subject of the complaint, and that is sufficient to dispose of the complaint;

If the complaint fails one or more of these tests it will not be investigated, and the complainant will be informed that no further action will be taken in respect of the complaint.

### **4. Initial assessment decisions**

The Monitoring Officer will complete an initial assessment following any comments being received from the Councillor. The assessment will be completed within 3 weeks of receipt.

An Independent Person will be invited to give their views prior to the initial assessment being finalised. The decision notice will state whether the Independent Person agreed with the decision.

The Monitoring Officer may reach one of three decisions on an allegation:

- No further action should be taken;
- The matter should be dealt with through a process of informal resolution in the first instance or;
- The matter should be referred for formal investigation

Where it has been concluded that no potential breach of the Code of Conduct is disclosed by the complaint, no further formal action will be taken by the Monitoring Officer. There is no right of appeal against a decision not to take any further action. Reasons will be stated and the complainant informed.

The Monitoring Officer may refer a matter for other action where it would not be in the interests of good governance to conduct an investigation. Examples of other action include training, conciliation and mediation or changes to council procedure.

Where the Monitoring Officer determines that a matter should be referred for formal investigation, the Monitoring Officer will commission an external investigator to carry out the investigation.

## **5. Referral for Investigation to the Values and Ethics Committee**

Following the receipt of a report from an external investigator, the Monitoring Officer may decide that the matter should be referred for a hearing. If this is the case, a report will be prepared and will include information explaining that a hearing will be held and the procedure to be followed.

The Values and Ethics committee will decide upon who should attend and the procedure to follow after considering representations from the complainant and the Councillor.

The Committee has the power to reach one of three decisions:

1. The Councillor had NOT failed to comply with the Code of Conduct
2. The Councillor HAD failed to comply with the Code of Conduct, but no action needed
3. The Councillor HAD failed to comply with the Code of Conduct, and a sanction should be imposed.

Possible sanctions that are be available include

- To Report on findings to Full Council i.e. “naming and shaming”.
- To Recommend to a Group Leader that the member concerned be removed from any committee or sub-committee.
- To recommend, in relation to any Councillors of the executive that the member concerned be removed from the Executive.
- to recommend the Monitoring Officer to arrange appropriate training for the member concerned.
- to recommend removal of any member concerned from any outside body appointments.
- to require the withdrawal of Council facilities e.g., use of computer or internet.
- to exclude a member from the Council’s offices or other premises except for

the purpose of attending formal meetings.

Where a breach is found, the Decision Notice will be published on the Council's website.

The Monitoring Officer will report back to the Values and Ethics Committee on an annual basis regarding all complaints received and their resolution/ decision. Information will be provided on an anonymous basis so that the parties cannot be identified save where a decision notice has been published.

Draft procedure updated 17<sup>th</sup> July 2023

# Value & Ethics Sub-committee

9 October 2023



**Report of:** Director – Legal and Democratic Services

**Title:** Member Code of Conduct

**Ward:** All

**Officer Presenting Report:** Director – Legal and Democratic Services

## **Recommendations:**

That the Value and Ethics Sub-committee considers and makes recommendations in respect of the matters raised in this report.

## **The significant issues in the report are:**

The Value & Ethics Sub-committee is invited to consider the matters raised in this report and make recommendations to Full Council about the Code of conduct for Members.



## 1. Summary

The preparations for the Committee Model of governance provides an opportunity to review the Member Code of Conduct. This report proposes that the Council adopts the LGA Model Code of Conduct. The Committee Model Working Group considered this report at its meeting on 8 September 2023 and comments for the Value and Ethics Sub-committee are appended to this report for consideration.

The Value and Ethics Sub-committee is invited to consider adopting the LGA Model Code of Conduct and make a recommendation to Full council about the arrangements that should be in place relating to the Member Code of Conduct from May 2024.

## 2. Detail of report

The current Member Code of Conduct was adopted by the Council in 2019 and has been in force since the May 2021 elections (originally scheduled for May 2020, but postponed due to the Covid-19 pandemic).

The Value and Ethics Sub-committee is invited to consider the arrangements that should be in place for a Member Code of Conduct from May 2024. In forming a view about this, the Sub-committee should consider the current Member Code of Conduct as well as the Local Government Association Model Code of Conduct. Further detail about both the current Member Code of conduct and the LGA Model Code of conduct are set out below and in Appendices 1 and 2. Appendix 3 contains comments from the Committee Model Working Group for the Sub-committee to consider.

## 3. The Current Member Code of Conduct

The Current code complies with statutory requirements as it: -

- deals with the conduct that is expected of members and co-opted members of the authority when they are acting in that capacity.
- Is consistent with the Seven Principles of Public Life, also known as the Nolan Principles
- includes provision for and requirements relating to registration and disclosure of pecuniary and non-pecuniary interests.

## 4. The Local Government Association Model Code of Conduct

The Local Government Association (LGA) has developed a Model Councillor Code of Conduct, in association with partners and after consultation with Public Sector organisations. A copy of the Model Code is attached at Appendix 2. The Model Code is a template for councils to adopt in whole and/or with local amendments.

The aim of the Model Code is to enhance the consistency and quality of local authority codes, in line with the recommendations of the Committee on Standards in Public Life in their review of Local Government Ethical standards.

[https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/777315/6.4896\\_CO\\_CSPL\\_Command\\_Paper\\_on\\_Local\\_Government\\_Standards\\_v4\\_WEB.PDF](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/777315/6.4896_CO_CSPL_Command_Paper_on_Local_Government_Standards_v4_WEB.PDF)

The Committee on Standards in Public Life also made recommendations in relation to best practice. These can be found in the above link. There are 15 recommendations that include:

1. Include prohibitions on bullying and harassment in codes of conduct. These should include a definition of bullying and harassment,
2. Provisions requiring councillors to comply with any formal standards investigation and prohibiting trivial or malicious allegations by councillors.
3. Review of code of conduct each year and regularly seek, where possible, the views of the public, community organisations and neighbouring authorities.
4. Publish a clear and straightforward public interest test against which allegations are filtered.
5. Have access to at least two Independent Persons.
6. An Independent Person should be consulted as to whether to undertake a formal investigation on an allegation and should be given the option to review and comment on allegations which the responsible officer is minded to dismiss as being without merit, vexatious, or trivial.
7. Have straightforward and accessible guidance on its website on how to make a complaint under the code of conduct, the process for handling complaints, and estimated timescales for investigations and outcomes.
8. Procedures in place to address any conflicts of interest when undertaking a standards investigation. Possible steps should include asking the Monitoring Officer from a different authority to undertake the investigation.

The current Code and updated procedure for dealing with complaints mostly complies with the recommendations from the Committee on Standards in Public Life. However, the current Code does not contain a definition of bullying or harassment, although this is defined in the Model Code. Furthermore, whilst it is customary to review the Code of Conduct in advance of the next local elections, the Code of Conduct is not currently reviewed on an annual basis. Members may wish to consider this when deciding how best to proceed.

## **5. Legal and Constitutional matters**

The Legal and Constitutional matters raised by this report are as follows.

The Council is required to adopt a Member Code of Conduct under s.27 of the Localism Act 2011 and the Code must comply with the requirements of s.28 of the Localism Act 2011.

The current Member code of Conduct is one of the Codes and Protocols in Part 5 of the Constitution.

The Value and Ethics Sub-committee is responsible for advising the Council on the adoption and operation of the Member Code of Conduct and for making recommendations for change.

## **6. Recommendation to Full Council**

The Value and Ethics Sub-committee should consider whether to adopt the LGA Model Code of Conduct and make a recommendation to Full council to adopt a Code of Conduct as part of the preparation for the Committee Model of governance and which will be implemented from May 2024.

### **Appendices:**

Appendix 1 – Current Member Code of Conduct

Appendix 2 – Local Government Association Model Code of Conduct



Appendix 3 – Extract minutes from Committee Model Working Group – 8 September 2023

**LOCAL GOVERNMENT (ACCESS TO INFORMATION) ACT 1985**

**Background Papers:**

None



## **BRISTOL CITY COUNCIL**

## **MEMBER CODE OF CONDUCT**

**In force from May 2020**

## **Introduction**

The Localism Act 2011 requires this Council to promote and maintain high standards of conduct by the Mayor, Members of the Council and Co-opted Members of the Council.

In discharging this duty, the Council is required to adopt a Code of Conduct which sets out the conduct expected of Members.

The purpose of this Code of Conduct is to assist Members in the discharge of their obligations to the Council, their local communities and the public at large by:

- a) Establishing the standards and principles of conduct expected of all Members in undertaking their duties; and
- b) Ensuring public confidence in the standards expected of all Members and in the commitment of the Council to upholding the Code through an open and transparent process.

## **Application**

This Code of Conduct applies to you whenever you are acting in your capacity as an elected member of Bristol City Council, including –

- a) at all formal meetings, Committees and Sub-Committees
- b) when acting as a representative of Bristol City Council, for example as a Council appointee to one of the Council's companies or an outside body
- c) in taking any decision as a member of Bristol City Council
- d) in discharging your duties as a member of Bristol City Council
- e) in any interactions with members of the public in your role as a member of Bristol City Council
- f) in any interactions with Bristol City Council officers
- g) in any interactions with any of the council's wholly owned companies, joint ventures and where the council holds an interest and/or is a shareholder
- h) when corresponding with the authority and its officers other than in a private capacity
- i) when you hold yourself out as a member of Bristol City Council

## **Related protocols**

This document should be read in conjunction with:

- a) The Member-officer protocol
- b) Good Practice Protocol for Planning
- c) Good Practice Protocol for Licensing
- d) The procedure for the investigation of complaints

## **As a member of Bristol City Council I will abide by this code of conduct.**

### **1. General Conduct**

As a member of Bristol City Council, I represent the City of Bristol and I have a responsibility to represent all residents and communities within the city of Bristol and to work constructively with officers, partner organisations and other members to secure better social, economic and environmental outcomes for all residents of Bristol.

Under the Localism Act 2011, when acting as a member of Bristol City Council, I have a duty to conduct myself in a manner that is consistent with the seven principles of Public Life.

The seven principles of Public Life are as follows:

- a) *Selflessness* Holders of public office should act solely in terms of the public interest.
- b) *Integrity* Holders of public office must avoid placing themselves under any obligation to people or organisations that might try inappropriately to influence them in their work. They should not act or take decisions in order to gain financial or other material benefits for themselves, their family, or their friends. They must declare and resolve any interests and relationships.
- c) *Objectivity* Holders of public office must act and take decisions impartially, fairly and on merit, using the best evidence and without discrimination or bias.
- d) *Accountability* Holders of public office are accountable to the public for their decisions and actions and must submit themselves to the scrutiny necessary to ensure this.
- e) *Openness* Holders of public office should act and take decisions in an open and transparent manner. Information should not be withheld from the public unless there are clear and lawful reasons for so doing.
- f) *Honesty* Holders of public office should be truthful.
- g) *Leadership* Holders of public office should exhibit these principles in their own behaviour. They should actively promote and robustly support the principles and be willing to challenge poor behaviour wherever it occurs.

### **2. Principles and behaviours**

As a member of Bristol City Council my conduct in my role as an elected member will be underpinned by the following behaviours:

#### **2.1 Behaving with integrity**

- a) Ensuring that all my activity in my role as an elected member promotes the integrity of the role of a Member at all times and does not bring that role into disrepute, whilst recognising my legal rights and privileges, for example my right to freedom of speech.
- b) Behaving in accordance with all our legal obligations, alongside any requirements contained within the Council's policies, protocols and procedures.

- c) Providing information requested by the Council in a timely manner to enable the Council to meet its statutory obligations.
- d) Not allowing other pressures, including the financial interests of myself or others connected to me, to deter me from pursuing constituents' casework, the interests of the Authority's area or the good governance of the authority in a proper manner.
- e) Not using my position improperly for personal gain or to seek to confer an advantage on my acquaintances or close associates. This includes exercising independent judgement and not compromising my position by placing myself under obligations to outside individuals or organisations who might seek to influence the way I perform my duties as a member of this authority.

## **2.2 Respecting others**

- a) Dealing with representations or enquiries from all residents within our communities and visitors fairly, appropriately and impartially and not discriminating against people on the grounds of age, disability, sex, marital and civil partnership status, pregnancy and maternity, race, religion or belief, sexual orientation or gender reassignment.
- b) Not bullying, harassing, intimidating or attempting to intimidate others.
- c) Valuing my colleagues and officers and engaging with them in an appropriate manner and one that underpins the mutual respect between us that is essential to good local government.
- d) Always treating people with respect, including the organisations and public you engage with and those you work alongside.
- e) Not to compromise the impartiality of people who work for the authority.
- f) Giving due regard to the professional advice of officers.

## **2.3 Using resources legally and appropriately**

- a) Ensuring that the authority uses its resources prudently and in accordance with the law. As part of this I agree not to use the authority's resources, including my council email address and postal address, for any personal, party political or non-Council purposes.
- b) Adhering to the council's media protocol to ensure that publicity and particularly social media is used in an appropriate manner and in accordance with the legal framework within which local government operates.

## **2.4 Being accountable**

- a) Being accountable for my decisions and co-operating when scrutinised internally and externally, including by local residents.
- b) Contributing to making this authority's decision-making processes as open and transparent as possible to enable residents to understand the reasoning behind those decisions and to be informed when holding myself and other members to account but restricting access to exempt or confidential information when the wider public interest or the law requires it.
- c) In all circumstances to comply with my legal obligations in respect of exempt or confidential information, in particular not to disclose exempt or confidential information to any third party.
- d) Not to participate in meetings or be involved in decision-making where I have a disclosable pecuniary interest – except when speaking when the general public are also allowed to do so.

## **2.5 Being open**

- a) Listening to the interests of all parties, including relevant advice from statutory and other professional officers, taking all relevant information into consideration, remaining objective and making decisions on merit.
- b) Championing the needs of all residents and communities across the whole area of Bristol City Council Unitary Authority and in particular to treat all the residents and communities within my ward in an equal and fair way.

## **2.6 Being a leader**

- a) Providing leadership through behaving in accordance with these principles when championing the interests of the community with other organisations as well as within this authority.
- b) Recognising that I have a leadership role within Bristol and my constituency and have a duty to enable and improve community cohesion and work with agencies to ensure communities are protected and safe.

## **3. Disclosable Pecuniary Interests**

3.1 Disclosable Pecuniary Interests are defined in the Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012 as:

- a) Employment, office, trade, profession or vocation
- b) Sponsorship
- c) Contracts
- d) Land
- e) Licences
- f) Corporate tenancies
- g) Securities

3.2 Where I have a disclosable pecuniary interest, or where my spouse, civil partner, or someone that I am living with as if they were my spouse or civil partner has a disclosable pecuniary interest of which I am aware, I agree to:

- a) comply with the statutory requirements to register, disclose and withdraw from participating in respect of any matter in which I have a disclosable pecuniary interest and ensure that my register of interests is kept up to date and notify the Monitoring Officer in writing within 28 days of becoming aware of any change in respect of my interests.
- b) make verbal declaration of the existence and nature of any disclosable pecuniary at any meeting at which I am present at which an item of business which affects or relates to the subject matter of that interest is under consideration, at or before the consideration of the item of business or as soon as the interest becomes apparent and leave the room for the duration of the debate and the vote on the item of business which affects or relates to the interest.

- c) be responsible for keeping all interests updated and notifying the relevant officers and chairs when in meetings.
- d) “Meeting” means any meeting organised by or on behalf of the authority, including:–
  - i. any meeting of Bristol City Council, or a Committee or Sub-Committee of Bristol City Council
  - ii. in taking a decision as a member of Bristol City Council
  - iii. at any briefing by officers; and
  - iv. at any site visit to do with business of the authority

#### **4. Prejudicial interests**

- 4.1 A prejudicial interest is one where the well-being or financial position of the Member, members of their family, or people with whom the Member has a close association is likely to be affected by the business of the Council more than it would affect the majority of inhabitants of the ward or electoral division affected by the decision.
- 4.2 A member of your family includes a partner (someone you are married to, your civil partner, or someone you live with in a similar capacity), a parent, a parent-in-law, a son or daughter, a stepson or stepdaughter, the child of a partner, a brother or sister, a brother or sister of your partner, a grandparent, a grandchild, an uncle or aunt, a nephew or niece, and the partners of any of these people.
- 4.3 A person with whom you have a close association is someone that you are in either regular or irregular contact with over a period of time who is more than an acquaintance. It is someone a reasonable member of the public might think you would be prepared to favour or disadvantage when discussing a matter that affects them. It may be a friend, a colleague, a business associate or someone whom you know through general social contacts.
- 4.4 Where I have a prejudicial interest I agree to:
  - a) keep my register of interests up to date and advise the Monitoring Officer within 28 days of becoming aware of the interest.
  - b) make verbal declaration of the existence and nature of my prejudicial interest at any meeting at which I am present at which an item of business which affects or relates to the subject matter of that interest is under consideration, at or before the consideration of the item of business or as soon as the interest becomes apparent and leave the room for the duration of the debate and the vote on the item of business which affects or relates to the interest.

#### **5. Other Interests**

- 5.1 Other interests are any interest which relates to or is likely to affect:
  - a) any body of which the Member is in a position of general control or management, and to which he / she is appointed or nominated by the Council.
  - b) any body:
    - i. exercising functions of a public nature;
    - ii. directed to charitable purposes;



- iii. one whose principal purposes include the influence of public opinion or policy (including any political party or trade union) of which the Member of the Council is a member or in a position of general control or management;
- c) any gifts or hospitality worth more than an estimated value of £25 which the Member has received by virtue of his / her office.

5.2 Where I have other interests, I agree to:

- i. keep my register of interests up to date and advise the Monitoring Officer within 28 days of becoming aware of the interest.
- ii. make verbal declaration of the existence and nature of my prejudicial interest at any meeting at which I am present at which an item of business which affects or relates to the subject matter of that interest is under consideration, at or before the consideration of the item of business or as soon as the interest becomes apparent. However, I am entitled to remain within the meeting and to take part in the debate and vote.

5.3 I understand that all declarations of disclosable pecuniary interests (except sensitive interests), all prejudicial interests and other interests that I have notified to the Monitoring Officer will be registered on a public register of interests.

## **6. Gifts and Hospitality**

6.1 I must, within 28 days of receipt, notify the Monitoring Officer in writing of any gift, benefit or hospitality with a value or cumulative value in excess of £25 which you have accepted as a member from any person or body other than the authority.

6.2 I understand that all declarations of gifts, benefit or hospitality that I have notified to the Monitoring Officer will be registered on a public register of gifts and hospitality.

## **7. Provision of advice**

7.1 I will not provide advice to officers in relation to any officer related issues (e.g. personal employment matters or operational issues) that are reserved to the Head of Paid Service (and may be delegated to officers).

7.2 I will not provide or offer to provide a formal reference for any candidate for employment or promotion with Bristol City Council as to do so may be perceived as bringing an unacceptable pressure to bear on the appointing officer and any officer appointed as a result of such reference.

## **8. Complaints, investigations and sanctions**

8.1 I agree to co-operate with any investigation into a complaint regarding any alleged breach of this Code of Conduct.

8.2 I acknowledge that the following sanctions may be imposed for a breach of this Code of Conduct:

- i. To report on findings to Full Council;
- ii. To recommend to a Group Leader that the member concerned be removed from any committee or sub-committee;
- iii. To recommend, in relation to any members of the executive that the member concerned be removed from the Executive;
- iv. To recommend the Monitoring Officer arrange appropriate training for the member concerned;
- v. To recommend removal of any member concerned from any outside body appointments;
- vi. To require the withdrawal of Council facilities e.g. use of computer or internet; or
- vii. To exclude a member from the Council's offices or other premises except for the purpose of attending formal meetings.

**DECLARATION**

I hereby declare that I will at all times observe the principles and obligations within this Code, the Protocol on Member / Officer Relations and any other codes and protocols approved by the Full Council during my term of office as a Member of Bristol City Council.

<b>Name</b>	
<b>Signature</b>	
<b>Ward</b>	
<b>Date</b>	

## **Local Government Association**

### **Model Councillor Code of Conduct 2020**

#### **Joint statement**

The role of councillor across all tiers of local government is a vital part of our country's system of democracy. It is important that as councillors we can be held accountable and all adopt the behaviors and responsibilities associated with the role. Our conduct as an individual councillor affects the reputation of all councillors. We want the role of councillor to be one that people aspire to. We also want individuals from a range of backgrounds and circumstances to be putting themselves forward to become councillors.

As councillors, we represent local residents, work to develop better services and deliver local change. The public have high expectations of us and entrust us to represent our local area, taking decisions fairly, openly, and transparently. We have both an individual and collective responsibility to meet these expectations by maintaining high standards and demonstrating good conduct, and by challenging behaviour which falls below expectations.

Importantly, we should be able to undertake our role as a councillor without being intimidated, abused, bullied, or threatened by anyone, including the general public.

This Code has been designed to protect our democratic role, encourage good conduct and safeguard the public's trust in local government.

## **Introduction**

The Local Government Association (LGA) has developed this Model Councillor Code of Conduct, in association with key partners and after extensive consultation with the sector, as part of its work on supporting all tiers of local government to continue to aspire to high standards of leadership and performance. It is a template for councils to adopt in whole and/or with local amendments.

All councils are required to have a local Councillor Code of Conduct.

The LGA will undertake an annual review of this Code to ensure it continues to be fit-for-purpose, incorporating advances in technology, social media and changes in legislation. The LGA can also offer support, training and mediation to councils and councillors on the application of the Code and the National Association of Local Councils (NALC) and the county associations of local councils can offer advice and support to town and parish councils.

## **Definitions**

For the purposes of this Code of Conduct, a “councillor” means a member or co-opted member of a local authority or a directly elected mayor. A “co-opted member” is defined in the Localism Act 2011 Section 27(4) as “a person who is not a member of the authority but who

- a) is a member of any committee or sub-committee of the authority, or;
- b) is a member of, and represents the authority on, any joint committee or joint sub-committee of the authority;

and who is entitled to vote on any question that falls to be decided at any meeting of that committee or sub-committee”.

For the purposes of this Code of Conduct, “local authority” includes county councils, district councils, London borough councils, parish councils, town councils, fire and rescue authorities, police authorities, joint authorities, economic prosperity boards, combined authorities and National Park authorities.

## **Purpose of the Code of Conduct**

The purpose of this Code of Conduct is to assist you, as a councillor, in modelling the behaviour that is expected of you, to provide a personal check and balance, and to set out the type of conduct that could lead to action being taken against you. It is also to protect you, the public, fellow councillors, local authority officers and the reputation of local government. It sets out general principles of conduct expected of all councillors and your specific obligations in relation to standards of conduct. The LGA encourages the use of support, training and mediation prior to action being taken using the Code. The fundamental aim of the Code is to create and maintain public confidence in the role of councillor and local government.

## **General principles of councillor conduct**

Everyone in public office at all levels; all who serve the public or deliver public services, including ministers, civil servants, councillors and local authority officers; should uphold the [Seven Principles of Public Life](#), also known as the Nolan Principles.

Building on these principles, the following general principles have been developed specifically for the role of councillor.

In accordance with the public trust placed in me, on all occasions:

- I act with integrity and honesty
- I act lawfully
- I treat all persons fairly and with respect; and
- I lead by example and act in a way that secures public confidence in the role of councillor.

In undertaking my role:

- I impartially exercise my responsibilities in the interests of the local community
- I do not improperly seek to confer an advantage, or disadvantage, on any person
- I avoid conflicts of interest
- I exercise reasonable care and diligence; and
- I ensure that public resources are used prudently in accordance with my local authority's requirements and in the public interest.

## **Application of the Code of Conduct**

This Code of Conduct applies to you as soon as you sign your declaration of acceptance of the office of councillor or attend your first meeting as a co-opted member and continues to apply to you until you cease to be a councillor.

This Code of Conduct applies to you when you are acting in your capacity as a councillor which may include when:

- you misuse your position as a councillor
- Your actions would give the impression to a reasonable member of the public with knowledge of all the facts that you are acting as a councillor;

The Code applies to all forms of communication and interaction, including:

- at face-to-face meetings
- at online or telephone meetings
- in written communication
- in verbal communication
- in non-verbal communication
- in electronic and social media communication, posts, statements and comments.

You are also expected to uphold high standards of conduct and show leadership at all times when acting as a councillor.

Your Monitoring Officer has statutory responsibility for the implementation of the Code of Conduct, and you are encouraged to seek advice from your Monitoring Officer on any matters that may relate to the Code of Conduct. Town and parish councillors are encouraged to seek advice from their Clerk, who may refer matters to the Monitoring

Officer.

## **Standards of councillor conduct**

This section sets out your obligations, which are the minimum standards of conduct required of you as a councillor. Should your conduct fall short of these standards, a complaint may be made against you, which may result in action being taken.

Guidance is included to help explain the reasons for the obligations and how they should be followed.

### **General Conduct**

#### **1. Respect**

##### **As a councillor:**

**1.1 I treat other councillors and members of the public with respect.**

**1.2 I treat local authority employees, employees and representatives of partner organisations and those volunteering for the local authority with respect and respect the role they play.**

Respect means politeness and courtesy in behaviour, speech, and in the written word. Debate and having different views are all part of a healthy democracy. As a councillor, you can express, challenge, criticise and disagree with views, ideas, opinions and policies in a robust but civil manner. You should not, however, subject individuals, groups of people or organisations to personal attack.

In your contact with the public, you should treat them politely and courteously. Rude and offensive behaviour lowers the public's expectations and confidence in councillors.

In return, you have a right to expect respectful behaviour from the public. If members of the public are being abusive, intimidatory or threatening you are entitled to stop any conversation or interaction in person or online and report them to the local authority, the relevant social media provider or the police. This also applies to fellow councillors, where action could then be taken under the Councillor Code of Conduct, and local authority employees, where concerns should be raised in line with the local authority's councillor-officer protocol.

#### **2. Bullying, harassment and discrimination**

##### **As a councillor:**

**2.1 I do not bully any person.**

**2.2 I do not harass any person.**

**2.3 I promote equalities and do not discriminate unlawfully against any person.**

The Advisory, Conciliation and Arbitration Service (ACAS) characterises bullying as offensive, intimidating, malicious or insulting behaviour, an abuse or misuse of power through means that undermine, humiliate, denigrate or injure the recipient. Bullying might be a regular pattern of behaviour or a one-off incident, happen face-to-face, on social media, in emails or phone calls, happen in the workplace or at work social events and may not always be obvious or noticed by others.

The Protection from Harassment Act 1997 defines harassment as conduct that causes alarm or distress or puts people in fear of violence and must involve such conduct on at least two occasions. It can include repeated attempts to impose unwanted communications and

contact upon a person in a manner that could be expected to cause distress or fear in any reasonable person.

Unlawful discrimination is where someone is treated unfairly because of a protected characteristic. Protected characteristics are specific aspects of a person's identity defined by the Equality Act 2010. They are age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex and sexual orientation.

The Equality Act 2010 places specific duties on local authorities. Councillors have a central role to play in ensuring that equality issues are integral to the local authority's performance and strategic aims, and that there is a strong vision and public commitment to equality across public services.

### **3. Impartiality of officers of the council**

**As a councillor:**

#### **3.1 I do not compromise, or attempt to compromise, the impartiality of anyone who works for, or on behalf of, the local authority.**

Officers work for the local authority as a whole and must be politically neutral (unless they are political assistants). They should not be coerced or persuaded to act in a way that would undermine their neutrality. You can question officers in order to understand, for example, their reasons for proposing to act in a particular way, or the content of a report that they have written. However, you must not try and force them to act differently, change their advice, or alter the content of that report, if doing so would prejudice their professional integrity.

### **4. Confidentiality and access to information**

**As a councillor:**

#### **4.1 I do not disclose information:**

- a. given to me in confidence by anyone**
- b. acquired by me which I believe, or ought reasonably to be aware, is of a confidential nature, unless**
  - i. I have received the consent of a person authorised to give it;**
  - ii. I am required by law to do so;**
  - iii. the disclosure is made to a third party for the purpose of obtaining professional legal advice provided that the third party agrees not to disclose the information to any other person; or**
  - iv. the disclosure is:**
    - 1. reasonable and in the public interest; and**
    - 2. made in good faith and in compliance with the reasonable requirements of the local authority; and**
    - 3. I have consulted the Monitoring Officer prior to its release.**

#### **4.2 I do not improperly use knowledge gained solely as a result of my role as a councillor for the advancement of myself, my friends, my family members, my employer or my business interests.**

#### **4.3 I do not prevent anyone from getting information that they are entitled to by law.**

Local authorities must work openly and transparently, and their proceedings and printed materials are open to the public, except in certain legally defined circumstances. You should work on this basis, but there will be times when it is required by law that discussions, documents and other information relating to or held by the local authority must be treated in a confidential manner. Examples include personal data relating to individuals or information relating to ongoing negotiations.

## **5. Disrepute**

**As a councillor:**

### **5.1 I do not bring my role or local authority into disrepute.**

As a Councillor, you are trusted to make decisions on behalf of your community and your actions and behaviour are subject to greater scrutiny than that of ordinary members of the public. You should be aware that your actions might have an adverse impact on you, other councillors and/or your local authority and may lower the public's confidence in your or your local authority's ability to discharge your/its functions. For example, behaviour that is considered dishonest and/or deceitful can bring your local authority into disrepute.

You are able to hold the local authority and fellow councillors to account and are able to constructively challenge and express concern about decisions and processes undertaken by the council whilst continuing to adhere to other aspects of this Code of Conduct.

## **6. Use of position**

**As a councillor:**

### **6.1 I do not use, or attempt to use, my position improperly to the advantage or disadvantage of myself or anyone else.**

Your position as a member of the local authority provides you with certain opportunities, responsibilities, and privileges, and you make choices all the time that will impact others. However, you should not take advantage of these opportunities to further your own or others' private interests or to disadvantage anyone unfairly.

## **7. Use of local authority resources and facilities**

**As a councillor:**

### **7.1 I do not misuse council resources.**

### **7.2 I will, when using the resources of the local authority or authorising their use by others:**

- a. act in accordance with the local authority's requirements; and**
- b. ensure that such resources are not used for political purposes unless that use could reasonably be regarded as likely to facilitate, or be conducive to, the discharge of the functions of the local authority or of the office to which I have been elected or appointed.**

You may be provided with resources and facilities by the local authority to assist you in carrying out your duties as a councillor.

Examples include:

- office support
- stationery
- equipment such as phones, and computers
- transport



- access and use of local authority buildings and rooms.

These are given to you to help you carry out your role as a councillor more effectively and are not to be used for business or personal gain. They should be used in accordance with the purpose for which they have been provided and the local authority's own policies regarding their use.

## **8. Complying with the Code of Conduct**

### **As a Councillor:**

**8.1 I undertake Code of Conduct training provided by my local authority.**

**8.2 I cooperate with any Code of Conduct investigation and/or determination.**

**8.3 I do not intimidate or attempt to intimidate any person who is likely to be involved with the administration of any investigation or proceedings.**

**8.4 I comply with any sanction imposed on me following a finding that I have breached the Code of Conduct.**

It is extremely important for you as a councillor to demonstrate high standards, for you to have your actions open to scrutiny and for you not to undermine public trust in the local authority or its governance. If you do not understand or are concerned about the local authority's processes in handling a complaint you should raise this with your Monitoring Officer.

### **Protecting your reputation and the reputation of the local authority**

## **9. Interests**

### **As a councillor:**

**9.1 I register and disclose my interests.**

Section 29 of the Localism Act 2011 requires the Monitoring Officer to establish and maintain a register of interests of members of the authority .

You need to register your interests so that the public, local authority employees and fellow councillors know which of your interests might give rise to a conflict of interest. The register is a public document that can be consulted when (or before) an issue arises. The register also protects you by allowing you to demonstrate openness and a willingness to be held accountable. You are personally responsible for deciding whether or not you should disclose an interest in a meeting, but it can be helpful for you to know early on if others think that a potential conflict might arise. It is also important that the public know about any interest that might have to be disclosed by you or other councillors when making or taking part in decisions, so that decision making is seen by the public as open and honest. This helps to ensure that public confidence in the integrity of local governance is maintained.

You should note that failure to register or disclose a disclosable pecuniary interest as set out in **Table 1**, is a criminal offence under the Localism Act 2011.

**Appendix B sets** out the detailed provisions on registering and disclosing interests. If in doubt, you should always seek advice from your Monitoring Officer.

## **10. Gifts and hospitality**

### **As a councillor:**

- 10.1 I do not accept gifts or hospitality, irrespective of estimated value, which could give rise to real or substantive personal gain or a reasonable suspicion of influence on my part to show favour from persons seeking to acquire, develop or do business with the local authority or from persons who may apply to the local authority for any permission, licence or other significant advantage.**
  
- 10.2 I register with the Monitoring Officer any gift or hospitality with an estimated value of at least £50 within 28 days of its receipt.**
  
- 10.3 I register with the Monitoring Officer any significant gift or hospitality that I have been offered but have refused to accept.**

In order to protect your position and the reputation of the local authority, you should exercise caution in accepting any gifts or hospitality which are (or which you reasonably believe to be) offered to you because you are a councillor. The presumption should always be not to accept significant gifts or hospitality. However, there may be times when such a refusal may be difficult if it is seen as rudeness in which case you could accept it but must ensure it is publicly registered. However, you do not need to register gifts and hospitality which are not related to your role as a councillor, such as Christmas gifts from your friends and family. It is also important to note that it is appropriate to accept normal expenses and hospitality associated with your duties as a councillor. If you are unsure, do contact your Monitoring Officer for guidance.

## **Appendices**

### **Appendix A – The Seven Principles of Public Life**

The principles are:

#### **Selflessness**

Holders of public office should act solely in terms of the public interest.

#### **Integrity**

Holders of public office must avoid placing themselves under any obligation to people or organisations that might try inappropriately to influence them in their work. They should not act or take decisions in order to gain financial or other material benefits for themselves, their family, or their friends. They must disclose and resolve any interests and relationships.

#### **Objectivity**

Holders of public office must act and take decisions impartially, fairly and on merit, using the best evidence and without discrimination or bias.

#### **Accountability**

Holders of public office are accountable to the public for their decisions and actions and must submit themselves to the scrutiny necessary to ensure this.

#### **Openness**

Holders of public office should act and take decisions in an open and transparent manner. Information should not be withheld from the public unless there are clear and lawful reasons for so doing.

#### **Honesty**

Holders of public office should be truthful.

#### **Leadership**

Holders of public office should exhibit these principles in their own behaviour. They should actively promote and robustly support the principles and be willing to challenge poor behaviour wherever it occurs.

## Appendix B Registering interests

Within 28 days of becoming a member or your re-election or re-appointment to office you must register with the Monitoring Officer the interests which fall within the categories set out in **Table 1 (Disclosable Pecuniary Interests)** which are as described in "The Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012". You should also register details of your other personal interests which fall within the categories set out in **Table 2 (Other Registerable Interests)**.

**"Disclosable Pecuniary Interest"** means an interest of yourself, or of your partner if you are aware of your partner's interest, within the descriptions set out in Table 1 below.

**"Partner"** means a spouse or civil partner, or a person with whom you are living as husband or wife, or a person with whom you are living as if you are civil partners.

1. You must ensure that your register of interests is kept up-to-date and within 28 days of becoming aware of any new interest, or of any change to a registered interest, notify the Monitoring Officer.
2. A 'sensitive interest' is as an interest which, if disclosed, could lead to the councillor, or a person connected with the councillor, being subject to violence or intimidation.
3. Where you have a 'sensitive interest' you must notify the Monitoring Officer with the reasons why you believe it is a sensitive interest. If the Monitoring Officer agrees they will withhold the interest from the public register.

### Non participation in case of disclosable pecuniary interest

4. Where a matter arises at a meeting which directly relates to one of your Disclosable Pecuniary Interests as set out in **Table 1**, you must disclose the interest, not participate in any discussion or vote on the matter and must not remain in the room unless you have been granted a dispensation. If it is a 'sensitive interest', you do not have to disclose the nature of the interest, just that you have an interest. Dispensation may be granted in limited circumstances, to enable you to participate and vote on a matter in which you have a disclosable pecuniary interest.
5. [Where you have a disclosable pecuniary interest on a matter to be considered or is being considered by you as a Cabinet member in exercise of your executive function, you must notify the Monitoring Officer of the interest and must not take any steps or further steps in the matter apart from arranging for someone else to deal with it ]

### Disclosure of Other Registerable Interests

6. Where a matter arises at a meeting which **directly relates** to the financial interest or wellbeing of one of your Other Registerable Interests (as set out in **Table 2**), you must disclose the interest. You may speak on the matter only if members of the public are also allowed to speak at the meeting but otherwise must not take part in any discussion or vote on the matter and must not remain in the room unless you have been granted a dispensation. If it is a 'sensitive interest', you do not have to disclose the nature of the interest.

## Disclosure of Non-Registerable Interests

7. Where a matter arises at a meeting which **directly relates** to your financial interest or well-being (and is not a Disclosable Pecuniary Interest set out in Table 1) or a financial interest or well-being of a relative or close associate, you must disclose the interest. You may speak on the matter only if members of the public are also allowed to speak at the meeting. Otherwise you must not take part in any discussion or vote on the matter and must not remain in the room unless you have been granted a dispensation. If it is a 'sensitive interest', you do not have to disclose the nature of the interest.
8. Where a matter arises at a meeting which **affects** –
  - a. your own financial interest or well-being;
  - b. a financial interest or well-being of a relative or close associate; or
  - c. a financial interest or wellbeing of a body included under Other Registerable Interests as set out in **Table 2**

you must disclose the interest. In order to determine whether you can remain in the meeting after disclosing your interest the following test should be applied

9. Where a matter (referred to in paragraph 8 above) **affects** the financial interest or well-being:
  - a. to a greater extent than it affects the financial interests of the majority of inhabitants of the ward affected by the decision and;
  - b. a reasonable member of the public knowing all the facts would believe that it would affect your view of the wider public interest

You may speak on the matter only if members of the public are also allowed to speak at the meeting. Otherwise you must not take part in any discussion or vote on the matter and must not remain in the room unless you have been granted a dispensation.

If it is a 'sensitive interest', you do not have to disclose the nature of the interest.

10. [Where you have an Other Registerable Interest or Non-Registerable Interest on a matter to be considered or is being considered by you as a Cabinet member in exercise of your executive function, you must notify the Monitoring Officer of the interest and must not take any steps or further steps in the matter apart from arranging for someone else to deal with it ]

### Table 1: Disclosable Pecuniary Interests

This table sets out the explanation of Disclosable Pecuniary Interests as set out in the [Relevant Authorities \(Disclosable Pecuniary Interests\) Regulations 2012](#).

<b>Subject</b>	<b>Description</b>
<b>Employment, office, trade, profession or vocation</b>	Any employment, office, trade, profession or vocation carried on for profit or gain.
<b>Sponsorship</b>	Any payment or provision of any other financial benefit (other than from the council) made to the councillor during the previous 12-month period for expenses incurred by him/her in carrying out his/her duties as a councillor, or towards his/her election expenses. This includes any payment or financial benefit from a trade union within the meaning of the Trade Union and Labour Relations (Consolidation) Act 1992.
<b>Contracts</b>	Any contract made between the councillor or his/her spouse or civil partner or the person with whom the

	<p>councillor is living as if they were spouses/civil partners (or a firm in which such person is a partner, or an incorporated body of which such person is a director* or a body that such person has a beneficial interest in the securities of*) and the council —</p> <p>(a) under which goods or services are to be provided or works are to be executed; and (b) which has not been fully discharged.</p>
<b>Land and Property</b>	<p>Any beneficial interest in land which is within the area of the council. ‘Land’ excludes an easement, servitude, interest or right in or over land which does not give the councillor or his/her spouse or civil partner or the person with whom the councillor is living as if they were spouses/civil partners (alone or jointly with another) a right to occupy or to receive income.</p>
<b>Licenses</b>	<p>Any licence (alone or jointly with others) to occupy land in the area of the council for a month or longer</p>
<b>Corporate tenancies</b>	<p>Any tenancy where (to the councillor’s knowledge)—</p> <p>(a) the landlord is the council; and (b) the tenant is a body that the councillor, or his/her spouse or civil partner or the person with whom the councillor is living as if they were spouses/civil partners is a partner of or a director* of or has a beneficial interest in the securities* of.</p>
<b>Securities</b>	<p>Any beneficial interest in securities* of a body where—</p> <p>(a) that body (to the councillor’s knowledge) has a place of business or land in the area of the council; and (b) either—</p> <p>(i) the total nominal value of the securities* exceeds £25,000 or one hundredth of the total issued share capital of that body; or (ii) if the share capital of that body is of more than one class, the total nominal value of the shares of any one class in which the councillor, or his/her spouse or civil partner or the person with whom the councillor is living as if they were</p>

	spouses/civil partners have a beneficial interest exceeds one hundredth of the total issued share capital of that class.
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\* 'director' includes a member of the committee of management of an industrial and provident society.

\* 'securities' means shares, debentures, debenture stock, loan stock, bonds, units of a collective investment scheme within the meaning of the Financial Services and Markets Act 2000 and other securities of any description, other than money deposited with a building society.

**Table 2: Other Registrable Interests**

You must register as an Other Registerable Interest :

- a) any unpaid directorships
- b) any body of which you are a member or are in a position of general control or management and to which you are nominated or appointed by your authority
- c) any body
  - (i) exercising functions of a public nature
  - (ii) directed to charitable purposes or
  - (iii) one of whose principal purposes includes the influence of public opinion or policy (including any political party or trade union)

of which you are a member or in a position of general control or management



## Appendix C – the Committee on Standards in Public Life

The LGA has undertaken this review whilst the Government continues to consider the recommendations made by the Committee on Standards in Public Life in their report on [Local Government Ethical Standards](#). If the Government chooses to implement any of the recommendations, this could require a change to this Code.

The recommendations cover:

- Recommendations for changes to the Localism Act 2011 to clarify in law when the Code of Conduct applies
- The introduction of sanctions
- An appeals process through the Local Government Ombudsman
- Changes to the Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012
- Updates to the Local Government Transparency Code
- Changes to the role and responsibilities of the Independent Person
- That the criminal offences in the Localism Act 2011 relating to Disclosable Pecuniary Interests should be abolished

The Local Government Ethical Standards report also includes Best Practice recommendations. These are:

**Best practice 1:** Local authorities should include prohibitions on bullying and harassment in codes of conduct. These should include a definition of bullying and harassment, supplemented with a list of examples of the sort of behaviour covered by such a definition.

**Best practice 2:** Councils should include provisions in their code of conduct requiring councillors to comply with any formal standards investigation and prohibiting trivial or malicious allegations by councillors.

**Best practice 3:** Principal authorities should review their code of conduct each year and regularly seek, where possible, the views of the public, community organisations and neighbouring authorities.

**Best practice 4:** An authority's code should be readily accessible to both councillors and the public, in a prominent position on a council's website and available in council premises.

**Best practice 5:** Local authorities should update their gifts and hospitality register at least once per quarter, and publish it in an accessible format, such as CSV.

**Best practice 6:** Councils should publish a clear and straightforward public interest test against which allegations are filtered.

**Best practice 7:** Local authorities should have access to at least two Independent Persons.

**Best practice 8:** An Independent Person should be consulted as to whether to undertake a formal investigation on an allegation, and should be given the option to

review and comment on allegations which the responsible officer is minded to dismiss as being without merit, vexatious, or trivial.

**Best practice 9:** 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.

**Best practice 10:** A local authority should have straightforward and accessible guidance on its website on how to make a complaint under the code of conduct, the process for handling complaints, and estimated timescales for investigations and outcomes.

**Best practice 11:** Formal standards complaints about the conduct of a parish councillor towards a clerk should be made by the chair or by the parish council, rather than the clerk in all but exceptional circumstances.

**Best practice 12:** Monitoring Officers' roles should include providing advice, support and management of investigations and adjudications on alleged breaches to parish councils within the remit of the principal authority. They should be provided with adequate training, corporate support and resources to undertake this work.

**Best practice 13:** A local authority should have procedures in place to address any conflicts of interest when undertaking a standards investigation. Possible steps should include asking the Monitoring Officer from a different authority to undertake the investigation.

**Best practice 14:** Councils should report on separate bodies they have set up or which they own as part of their annual governance statement and give a full picture of their relationship with those bodies. Separate bodies created by local authorities should abide by the Nolan principle of openness and publish their board agendas and minutes and annual reports in an accessible place.

**Best practice 15:** Senior officers should meet regularly with political group leaders or group whips to discuss standards issues.

***The LGA has committed to reviewing the Code on an annual basis to ensure it is still fit for purpose.***

### Extract Minute – Committee Model Working Group – 8 September 23

#### Member Code of Conduct

The Director of Legal and Democratic Services introduced the report stating that the recommendation was that the Council adopted the LGA's model Code of Conduct, in line with the majority of Local Authorities. He went on to remind Members that the Values and Ethics Subcommittee had responsibility for recommending the proposed changes to the Member Code of Conduct to Full Council. Therefore, the CMWG were being asked to make any comments on the revised document which would be relayed to the Values and Ethics Sub Committee at their meeting on 25<sup>th</sup> September 23.

Members were advised that the key changes between Bristol City Council's existing and model Code of Conduct included:

- The LGA Code of Conduct contained definitions in a number of areas, including bullying and harassment, which could be useful additions to Bristol's guidance.
- The LGA recommended that the Code of Conduct be reviewed annually, rather than every four years.

Members discussed both Codes of Conduct, and the following points were raised;

- The LGA model Code of Conduct was a useful document and should be recommended to the Values and Ethics Sub Committee for adoption by Bristol City Council, subject to consideration of the wording in a number of areas, as set out below.
- The comments made in the public forum statement from Clive Stevens in relation to Councillors not being permitted to bring the Council into disrepute required further discussion by the Values and Ethics Sub Committee. In many instances Councillors must be free to express their views unfettered.
- Subjective wording must be avoided in the Code of Conduct where possible. The standards set out must be clear, fair and realistic.
- The Group would like the Value and Ethics Subcommittee to consider the references to Scrutiny throughout the LGA Model Code of Conduct, given that this would now occur within Committees rather than as a separate function.

**RESOLVED: That the comments from the Committee Model Working Group in relation to the LGA's model Code of Conduct be relayed to the Values and Ethics Sub Committee.**

# Value & Ethics Sub-committee

9 October 2023



**Report of:** Director – Legal and Democratic Services

**Title:** Member-Officer Protocol

**Ward:** All

**Officer Presenting Report:** Director – Legal and Democratic Services

## **Recommendations:**

That the Value and Ethics Sub-committee considers and makes recommendations in respect of the matters raised in this report.

## **The significant issues in the report are:**

The Value & Ethics Sub-committee is invited to consider the matters raised in this report and make recommendations to Full Council about the Member-Officer Protocol.



## **1. Summary**

The preparations for the Committee Model of governance provides an opportunity to review the Member-Officer Protocol. This report proposes changes to the Member-Officer Protocol. The Committee Model Working Group consider this report at its meeting on 8 September 2023 and comments for the Value and Ethics Sub-committee are appended to this report for consideration.

The Value and Ethics Sub-committee is invited to consider the proposed changes to the Member-Officer Protocol and make a recommendation to Full council about the arrangements that should be in place relating to the Member-Officer Protocol from May 2024.

## **2. Detail of report**

The current Member-Officer Protocol was adopted by the Council in 2019 and has been in force since the May 2021 elections (originally scheduled for May 2020, but postponed due to the Covid-19 pandemic).

The Value and Ethics Sub-committee is invited to consider proposed changes to the Member-Officer Protocol and the arrangements that should be in place for a Member-Officer Protocol from May 2024.

## **3. Proposed changes to the Member-Officer Protocol**

It is proposed that the following changes should be made to the Member-Officer Protocol.

- (a) Amendments to reflect the change from Mayor and Cabinet model of governance to the Committee Model of governance;
- (b) Deletion of references to the provisions relating to rights of members generally in respect of scrutiny functions;
- (c) Updated to reflect the requirement for Members and Officers to promote equality;
- (d) Updated to reflect the requirement for Members and Officers to declare their personal relationships which may be seen as influencing their work to the Chief Executive;
- (e) Changes to reflect decision-making arrangements for Full Council, Policy Committees and Officers;
- (f) Updated to include details relating to briefings for Chairs, Vice-chairs and Party Group Spokespersons;
- (g) Updated to include details relating to briefings for local ward councillors;
- (h) Updated to include details relating to communications, including electronic communications;
- (i) Updated to provide guidance in respect of dispute resolution.

Full details of the proposed changes can be found in the amended Member-Officer Protocol in Appendix 1. The comments from the Committee Model Working Group can be found in Appendix 2 and a number of typographical errors and clarifications raised by the Working Group have been incorporated into the amended Protocol in Appendix 1.

## **4. Legal and Constitutional matters**

The Legal and Constitutional matters raised by this report are as follows.

Whilst there is no legal requirement for the Council to have in place a Member-Officer Protocol, it is custom and practice for Councils to adopt a Member-Officer Protocol to ensure a positive and constructive working relationship between Members and Officers.

The current Member-Officer Protocol is one of the Codes and Protocols in Part 5 of the Constitution.

The Value and Ethics Sub-committee is responsible for advising the Council on the adoption and operation of the Member Code of Conduct and for making recommendations for change. It follows therefore, that the Value and Ethics Sub-committee should also consider matters relating to the Member-Officer Protocol.

#### **4. Recommendation to Full Council**

The Value and Ethics Sub-committee should consider the amended Member-Officer Protocol and make a recommendation to Full council to adopt a revised protocol as part of the preparation for the Committee Model of governance and which will be implemented from May 2024.

#### **Appendices:**

Appendix 1 – Amended Member-Officer Protocol

Appendix 2 – Extract minutes from Committee Model Working Group – 8 September 2023

#### **LOCAL GOVERNMENT (ACCESS TO INFORMATION) ACT 1985**

##### **Background Papers:**

None

# Protocol on Member/Officer Relations

## Introduction

1. An effective working relationship between elected Members of the Council ('Members') and Council staff ('Officers') is critical to the successful operation of Council business. Excellent working relationships are required to deliver best value services to local citizens and to maintain confidence in local government in Bristol. This protocol is designed to help Members and Officers to perform effectively by giving guidance on their respective roles and their relationship with each other. This protocol applies to independent Chairs and Members of committees when they are acting in that capacity.

## Respective roles

2. Members and Officers are public servants. They are indispensable to each other, but their responsibilities are distinct. All Members (~~including the Directly Elected Mayor~~) are responsible to the electorate and serve only so long as their term of office lasts. Officers are responsible to the Council as a corporate body and not to any single Member. Their job is to give advice to all Members (~~including the Mayor~~) and to the authority, and to carry out the authority's work under the direction and control of the Council, ~~its Executive~~ and relevant Committees. Officers are accountable to the Head of Paid Service.

The role of Political Assistants ~~and the Mayor's Assistants are~~ covered under specific legislation.<sup>1</sup>

3. Respect between Members and Officers, both personally and for their different roles, is crucial to the successful operation of the Council's business.

## Members' roles

4. Members generally have six main areas of responsibility:
  - (a) Determining Council Policy, Budget and Strategy;
  - (b) Making decisions within overall Council policy (for example on planning applications, or on the establishment or closure of a school);
  - (c) Monitoring and reviewing performance;
  - (d) Representing Bristol and the Local Authority;
  - (e) Community Leadership;

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<sup>1</sup> [S.9 Local Government and Housing Act 1989](#)

[Reg.3\(7\) The Local Authorities \(Elected Mayor and Mayor's Assistant\) \(England\) Regulations 2002](#)

[reg.3\(1\)\(c\) of The Local Government Officers \(Political Restrictions\) Regulations 1990](#)

- (f) So far as possible, Acting as advocates on behalf of constituents;

It is not the role of Members to involve themselves in the day-to-day management of the Council's services.

5. The ~~Mayor, Members of the Executive and~~ Leader, Deputy Leader Committee Chairs and Vice Chairs have additional powers or responsibilities. As a result, their relationships with Officers may differ from and have additional complexity compared to those of Members without those responsibilities. However, such Members must still respect that Officers have a duty to be impartial and therefore must not ask them to undertake work of a political nature.
6. All Members ~~and the Mayor~~ have the same rights and duties in their relationships with Officers.

### Officers' Roles

7. The role of Officers is to give advice and information to Members to inform their decision making and to implement the policies and decisions of the Council. In giving their advice, it is the responsibility of the Officer to present their professional views and recommendations. Members must not pressurise an Officer to make a recommendation contrary to their professional view or seek to persuade an Officer to withdraw a report.
8. In discharging their role as an Officer of the authority, staff must act in a politically neutral way.
9. Certain officers<sup>2</sup> hold statutory posts, which confer legal responsibilities over and above their obligations to the authority and its Members. Members must respect these obligations and must not obstruct them in the discharge of these responsibilities. Certain Officers hold politically restricted posts. Additional guidance can be found at Appendix A.

### Expectations

- 10.1 Members can expect from Officers:
- (a) Commitment to the Council as a whole and not only to a part of it, or to any political group;
  - (b) Promote equality and inclusion and treat others with Respect and courtesy;
  - (c) The highest standards of integrity;
  - (d) A working partnership;
  - (e) An understanding of and support for respective roles, workloads and pressures;
  - (f) Timely responses to enquiries and complaints i.e. within the corporate standard of 7 working days;

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<sup>2</sup> Head of Paid Service, Monitoring Officer, Chief Finance Officer, Director of Adult Social Services, Director of Children's Services, Director of Public Health and Statutory Scrutiny Officer.



- (g) Professional advice, not influenced by political views or preference, which does not compromise the political neutrality of Officers;
- (h) Regular up-to-date information that is appropriate and relevant to their needs, having regard to any individual responsibilities that they have;
- (i) Awareness of and sensitivity to the political environment;
- (j) Training and development in order to carry out their role effectively;
- (k) Appropriate confidentiality;
- (l) Support for the role of Members as the local representatives of the authority;
- (m) Compliance with the Employees' Code of Conduct.

#### 10.2 Officers can expect from Members:

- (a) Promote equality and inclusion and treat others with respect and courtesy;
- (b) The highest standards of integrity, including maintaining confidentiality where required;
- (c) A working partnership;
- (d) An understanding of and support for individual Officers' roles, workloads and pressures;
- (e) Political leadership;
- (f) Not to be subject to bullying or to be put under pressure, taking into consideration the seniority of roles and potential vulnerability of Officers in junior roles;
- (g) That Members will not use their position or relationships with Officers to seek to advance their personal interests, or those of others, or to influence decisions improperly;
- (h) Compliance with the Members' Code of Conduct;
- (i) Participation in any mandatory training sessions e.g. before sitting on Selection or Regulatory Committees.

#### **Close Personal Relationships**

11. Both Members and Officers must maintain public confidence in the separation of their roles. Close personal relationships between Members and Officers can cause confusion and get in the way of the proper discharge of the authority's functions. Members and Officer must declare to the Chief Executive any relationships which may be seen as influencing their work to avoid creating any appearance of improper conduct. Additional guidance can be found at Appendix A.

#### **Political Groups**

12. The operation of political groups is an integral feature of local government. They have an important part to play in the development of policy and the political management of the authority. It is in the interest of the authority to support the effective operation of political groups.
13. The impartiality of Officers should not be compromised through their support

of political groups. Officers may assist party groups if requested to do so, 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. All groups must be informed of party briefings and offered an identical session.

14. —Officers may not engage in political discussion when attending party group —meetings. Information will be provided on the issue being considered and —appropriate questions answered. Officers must withdraw after any briefing and questions, and before political discussion commences. Officers should not support political groups by writing political reports.

Party group meetings do not make decisions on behalf of the Council. Where Officers provide information and advice to a party group meeting in relation to Council business, this is not a substitute for providing all necessary information and advice to the relevant Committee or Sub-Committee of the Council when the matter in question is considered.

15. Special care needs to be taken if Officers are providing information and advice to a party group meeting which includes people who are neither Members nor Officers of the Council, as they are not bound by the Council Code of Conduct. Officers must be cautious about attending and/or giving advice to such meetings and seek guidance from the Head of Paid service or the Monitoring Officer if they have any concerns about doing so.
16. Officers must respect the confidentiality of any party group discussions at which they are present and in particular they must not relay the content of any discussion to another party group.
17. The Council can only provide support services (e.g. stationery, typing, printing, photocopying, transport etc.) to Members to assist them in discharging their role as Members of the Council. It is recognised that some Members may need additional support. Council resources should not be used in connection with party political or campaigning activity or for private purposes, including the use of ICT and social media as set out in the Member Code of Conduct.

#### Decision-making by Reports to Full Council, Executive or Policy Committees and Officers

18. The following arrangements will apply to formal decision-making by Full Council, Policy Committees and Officers.

(a) Under the Council's Constitution ~~adopted by the Council to comply with the Local Government Act 2000,~~ decisions may be made by ~~the directly Elected Mayor or Members of the Executive to whom the Mayor has delegated decision-making power. In other cases, they may also be taken by the~~ Full Council, ~~or~~ committees or sub-committees. The Council's Constitution provides that Member decisions may only be taken on the basis of a written report containing all relevant

considerations. Reports to the Policy Committees Mayor, Executive (whether collectively or otherwise) or to a committee or sub-committee should be written by the ~~Executive Director~~ or another officer authorised by them.

(b) Members of a committee or sub-committee shall take decisions within the remit of that committee or sub-committee and will not otherwise instruct Officers to act.

(c) At some committee or sub-committee meetings, a resolution may be passed which authorises a named Officer to take action between meetings in consultation with the Chair (or other Members). In these circumstances it is the Officer, not the Chair, who takes the action and is responsible for it.

(d) Senior Officers (including the Monitoring Officer and the Chief Finance Officer) have the right to attend meetings and to present reports and give advice to committees and sub-committees.

Additional guidance can be found at Appendix A.

### **Chair, Vice-chair and Group Spokespersons briefings**

19. The following arrangements will apply to Chair, Vice-chair and Group Spokespersons briefings.

(a) Regular briefings will be given to the Chair and Vice-chair of Policy Committees by officers and the decision logs and actions from those briefings will be made available to all members of the relevant policy committee. Briefings for the Chair and Vice-chair are not formal decision-making meetings as decisions under the Committee Model of governance cannot be taken by individual members: they can only be made by a committee or delegated to officers.

(b) Agenda setting meetings for policy committees will include the Chair, Vice-chair and Group Spokespersons and will be attended by senior officers.

### **Local Ward Member briefings**

20. The following arrangements will apply to Local Ward Member briefings.

(a) Where Officers are dealing with a local ward issue, they shall ensure that all Local Ward Members are appropriately briefed on the issue.

(b) Where a Local Ward Member requests a meeting on a local ward issue with Officers, Officers shall ensure that meetings are arranged in a timely way.

(c) All briefings and meetings between Local Ward Members and Officers about a local ward issue will need to be mindful of any formal process that is being carried out.

(d) General information regarding activities in a particular ward, should, where appropriate, be sent to all Local Ward Members for information.

## Communications, including electronic communications

21. The following arrangements will apply to communications on behalf of the Council and to the use of electronic communications.

- (a) Official letters written on behalf of the Council dealing with Council business should normally be in the name of the relevant Officer. It may be appropriate in some circumstances (e.g. representations to a Government Minister) for letters to appear in the name of the Leader of the Council or the Chair of a Policy Committee or other Committee of the Council.
- (b) Where Members feel that an Officer is better placed to respond to correspondence relating to Council business, Members should pass that correspondence to Officers, so that Officers can respond on behalf of the Council.
- (c) Correspondence between an individual Member and an Officer should not be shared by an Officer with any other Member, unless the Officer has been authorised to share the correspondence with other Members.
- (d) Correspondence which creates legally enforceable obligations or which give instructions on behalf of the Council should never be sent in the name of a Member.
- (e) Officers can provide Members with technical, Council information, which Members can use as part of their own correspondence and Members should correspond in their own name. When writing in an individual capacity, Members must make clear that fact.
- (f) Members and Officers should follow the Council's Electronic Communications Policy at all times.

## **Access to Information**

2219. Members have a right to view Council documents (including both exempt and confidential material) in accordance with the statutory framework, i.e. where matters are to be considered at a formal committee meeting of the Council. Members may also be entitled to access information which is reasonably necessary to enable them to exercise their duties as a Member of the Council. Members with a particular role may have an additional (and in some cases statutory) right to access information, for example:

- (a) ~~Policy Committee~~Executive Members - matters relating to any policy committee of which they are a member ~~their portfolio~~;
- ~~(b) — Scrutiny Members — matters relating to their terms of reference and committee business;~~
- ~~(c)~~(b) Ward Members - matters with particular implications for the ward (i.e. significantly more than for the general city).

230. All Members are also entitled to be briefed, as appropriate, on the same basis and within the same ~~——~~ constraints as set out above.

241. Access to information is also limited where:

- (a) The information is primarily needed for a non-Council purpose;
- (b) There is a conflict of interest;
- (c) There is an over-riding individual right of confidentiality (for example, in a children's or employment matter).

~~252.~~ The Proper Officer (Director of Legal and Democratic services) will make final decisions on Member access to information. Full Council appoints an officer to discharge certain statutory functions known as the Proper Officer. The relevant Proper Officer for access to information is the Director of Legal and Democratic Services<sup>3</sup>.

~~263.~~ Members may have access to exempt information in reports or exempt appendices. Exempt information is defined in our Constitution in the Access to Information Procedure rules [APR10.3](#).

~~274.~~ The presumption is that all information in formal reports should be open to the public but, where this is not possible, the public will be made aware of the nature of any information that is being discussed in exempt session. Any exempt information will, wherever possible, be contained in an exempt appendix.

~~285.~~ The process for deciding on whether information in a report is exempt and the relevant Member access is as follows:

- (a) Report authors must ensure that as much information as possible is open by using exempt appendices and/or redactions;
- (b) Where an Officer considers that information may be exempt, the Proper Officer will decide based on the rules set out above;
- (c) If the Proper Officer is satisfied that there is information that may need to be discussed in exempt session, they will consult with the Chair of the ~~Overview and Scrutiny Management Board or relevant Scrutiny Commission before making a final decision~~ relevant Policy Committee;
- ~~(d)~~ — Members of the relevant Policy Committee ~~Scrutiny Commission~~ will be given access to the exempt information in the report once the papers are published. ~~In some instances the Proper Officer may decide that this will be by managed access (i.e. viewing of hard copy documents), but this will only be in exceptional circumstances.~~

~~296.~~ Apart from information in reports, confidential material may be shared with Members if requested (except where there is an overriding Council interest e.g. protecting its legal and financial position) and natural justice requires disclosure (for example, giving an individual the chance to respond to allegations). All requests for access to confidential information will be considered by the Proper Officer.

~~3027.~~ ~~Executive Members, individually and collectively,~~ The Chairs and Vice-chairs of Policy Committees are entitled to regular — confidential briefings on matters relevant to their portfolios and in support of the — policies they are developing,

<sup>3</sup> A list of Proper Officer functions can be found in the [Constitution](#)

prior to the formulation of formal proposals. — Informal briefings cannot be a substitute for providing all necessary advice in — the formal decision-making process. Officers must ensure that their objective — professional advice is robustly presented in the formal report.

~~28. — Scrutiny Chairs are entitled to regular and confidential briefings on matters relating to Scrutiny business (as a group, or individually).~~

~~3129.~~ Any unauthorised disclosure of Council documents will be treated as a breach of the Code of Conduct for Members (and Officers) and unlawful disclosure of Council documents may also expose the Member (or Officer) to the risk of legal action from a third party.

### **Publicity**

~~320.~~ The Council has a duty to publicise its services and activity and to explain its objectives and policies to citizens in an accessible manner.

~~331.~~ The Government has issued a code of Recommended Practice on Local Authority Publicity which deals with the conventions that apply to publicity. It requires that all local authorities shall have regard to its provisions in reaching decisions relating to publicity.

~~342.~~ Particular care should be taken in relation to any publicity in the run-up to an election. Prior to each pre-election period, specific guidance is provided by the Monitoring Officer to all Members and Officers on the necessary precautions required in relation to publicity.

~~353.~~ The Code does not apply to press releases and publicity that Members may arrange and distribute in their individual political capacity. Members should refer to the Member Code of Conduct, which sets out the requirements related to publicity and communications. Members should neither use Council resources for party political purposes, nor ask officers to do so.

### **Dispute Resolution**

~~36. — If an officer or a member feels that the protocol has not been followed, then they should raise it with the officer or member in question and if the matter is not resolved, it should be referred to the officer's line manager or the member's Party Group Whip or Leader as appropriate.~~

### **Scrutiny Function**

~~34. — Scrutiny Members determine their programme for scrutinising the implementation of decisions and recommending policy changes to the executive. Reports commissioned and evidence requested will avoid:~~

- ~~(a) Duplicating work which is being contemplated or already being undertaken in support of developing executive policies;~~
- ~~(b) Incurring unreasonable costs and use of Officer time.~~

~~35. Overview and Scrutiny bodies have statutory powers to scrutinise decisions the executive is planning to take, those it plans to implement, and those that have already been taken/implemented. Creating a strong organisational culture that supports scrutiny work that can add value by, for example, improving policy-making and the efficient delivery of public services.~~

~~36. Effective Overview and Scrutiny should:~~

- ~~(a) Provide constructive 'critical friend' challenge;~~
- ~~(b) Amplify the voices and concerns of the public;~~
- ~~(c) Be led by independent people who take responsibility for their role;~~
- ~~(d) Drive improvement in public services.~~

~~37. A Scrutiny Commission does not have the power to require a department to prepare reports for it, but the obligation upon Officers is to make all reasonable efforts to support Scrutiny and requests for information will only be refused in exceptional circumstances. The Head of Paid Service will have the final decision on whether a report will be provided to Scrutiny.~~

~~38. Where the Executive and a Scrutiny Commission are considering the same service area, the Executive Member, relevant Scrutiny Commission Chair and Head of Paid Service should agree a joint programme of work and the order in which reports should be consulted upon and presented.~~

Further advice on the application of this Protocol can be obtained from the Monitoring Officer. This Protocol will be reviewed annually by the Values and Ethics Sub Committee of the Audit Committee and guidance on its application will be provided as appropriate.

Updated ~~22<sup>nd</sup> October 2019~~August 2023 (Draft)

## Additional Guidance Notes

### 1. ~~Executive Decision-makings~~

- 1.1 ~~Executive Members introduce reports at Cabinet.~~ Officer advice should be obtained, if possible, before the meeting on any alternative recommendation to be moved in order to ensure that relevant operational, financial and legal factors are taken into account.
- 1.2 The principle of unified advice requires that financial and legal and other implications of a decision are obtained and made clear in the report. The [Article 14](#) principles of decision making must be taken into account when preparing the report.
- 1.3 ~~The Chairs and Vice-chairs of Policy Committees will~~~~Executive Members~~ determine the timetable for developing their policies, —including:
- (a) The point at which confidential ideas become formal proposals for publication;
  - (b) Who to consult and to what deadline;
  - (c) The timing of ~~executive~~ reports to Policy Committees.
- 1.4 ~~Deferring a report is an executive decision and responsibility (within legal constraints).~~ The Chief Financial Officer and/or the Monitoring Officer may require a report to be withdrawn.

### 2. Councillor Involvement in Casework and Staff Issues

- 2.1 A Member pursuing a ward matter on behalf of a family member or friend should declare the relationship and consider whether to ask another Member to represent.
- 2.2 Members should not provide a reference in relation to staffing matters within the Council (other than in exceptional circumstances). They should avoid involvement in staff lobbying outside of formal procedures.
- 2.3 Officers may raise issues with their local Councillor as citizens. They should not lobby a Councillor inappropriately on personal employment or budgetary matters in accordance with the [Code of Conduct for Employees](#).
- 2.4 Councillors should refuse to respond to inappropriate lobbying from Officers and inform the Head of Paid Service who can direct the individual to the appropriate channels.
- 2.5 Senior Officers should ensure their staff are aware of these requirements and ways that their views can be put forward.



### 3. Politically Restricted Posts

3.1. [The Local Government and Housing Act 1989](#) introduced a regime aimed at ensuring that key local authority employees are politically impartial. The Act designates certain posts as 'politically restricted' and those who hold such positions are disqualified from holding office as a Member of Parliament or Member of a local authority.

3.2 The following posts are politically restricted:

- a) The Head of Paid service;
- b) The Monitoring Officer and the Chief Financial Officer;
- c) The Chief Officers and Deputy Chief Officers;
- d) The Political Assistants and the advisor to the Mayor;
- e) Any other posts that conduct the following activities:
  - Giving advice on a regular basis to the authority themselves, to any committee or sub-committee of the authority or to any joint committee on which the authority are represented or to the executive of the authority, to any committee of that executive, or to any member of that executive who is also a member of the authority;
  - Speaking on behalf of the authority on a regular basis to journalists or broadcasters.

It is possible for Officers to apply to be removed from the list and details can be obtained from the Monitoring Officer.

## Appendix 2

### Extract Minute - Committee Model Working Group - 8 September 23

#### 7. Member Officer Protocol

The Director of Legal and Democratic Services introduced the report and reminded Members that the Value and Ethics Subcommittee also has responsibility for signing off the Member Officer Protocol and the purpose of the report was to gather feedback from the CMWG to help inform their discussions. Councillors made the following comments/recommendations:

- **Paragraph 1.3.** The reference to the 'executive' had been included in error and would be amended.
- **Paragraph 4f.** The wording regarding Councillors advocating for their constituents should be changed to state as far as possible.
- **Paragraph 10.** The two sections split out between officers and members had the same indexing at the start which can cause confusion. This should be amended. Where there is mention of confidentiality, Members would like officers to make it clear in correspondence or verbal communication where something is confidential or not yet in the public domain. Additionally, Members were reminded that if they have any concerns regarding the conduct of officers, they should raise this in the first instance with the officer's line manager. If a satisfactory conclusion is not reached, then the Member should escalate to the Head of Human Resources, or the Monitoring Officer.
- **Paragraph 10b.** Members requested this wording be amended to refer to equality and inclusion.
- **Paragraph 10i.** Officers stated that 'Working in a Political Environment' training is delivered regularly to officers and had to date, been provided to over 1000 attendees.
- **Paragraph 21b.** The wording should be changed to 'where you feel an officer is best suited to respond'. This could be due to technical knowledge being required, or a press query etc. It was not intended to prevent Members from responding to constituents where appropriate.
- **Paragraph 21c.** Officers clarified that this paragraph meant that officers would not share information from a Councillor, with other Councillors, without consent and agreed this would be amended in the final report.
- **Paragraph 30.** Vice-Chairs is misspelled and will be corrected.
- **Paragraph 31.** Members recommended changing 'unauthorised' to 'unlawful', so it is clearer. Members also wanted to know why exposure to risk of legal action was only aimed at Members and not officers. The Monitoring Officer agreed to review this.
- **(Former) Paragraph 34.** The Committee were advised that the Scrutiny section had been deleted from the revised Member Officer Protocol because the function would no longer be delivered in the same way, but all relevant points would be included in the new Policy Committee Procedure Rules.

**RESOLVED: That the comments from the Committee Model Working Group in relation to the Members Officer Protocol tracked changes version be relayed to the Values and Ethics Sub Committee.**