

# Public Forum

Value & Ethics Sub- Committee

11 March 2024



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

### Questions

Number	Name
1	Mike Oldreive
2	Suzanne Audrey
3	Joanna Booth

### Statements

Number	Name
1	Suzanne Audrey
2	Joanna Booth
3	Mike Oldreive
4	Dan Ackroyd



## 1 - Mike Oldreive

Hi there

please find below 2 questions for V&E on Monday.

They were asked at Full Council in December, but the MO failed to answer, responding as follows:

*"These questions have already been covered at Values and Ethics committee. • The administration has no responsibility for this area, it's not an executive function and therefore I cannot comment on it. • Therefore, these questions need to be resubmitted to the Values and Ethics Committee where both the monitoring officer and cross-party committee responsible can respond."*

I appreciate that the MO has finally named the Independent persons ( as an answer to my question at Audit Committee) that he appointed together with the Head of Legal Services, but I would like a full answer to my question (s).

### QUESTIONS FOR FULL COUNCIL 14 NOVEMBER

#### Mike Oldreive

Q1: The Monitoring Officer has told me in a written answer to Values & Ethics Committee (9 October 2023) that, during his tenure (2018 onwards):

*" 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."*

[the MO seems to imply that if individuals are appointed to actions other than "investigation" of a complaint, then that is a discretionary matter (which is true) and that therefore the "appointment" is outside the remit of LA2011 (which is incorrect). LA 2011 clearly sets out the arrangements a Council must have in place for setting standards and dealing with complaints. Any Independent Person must be appointed in accordance with s28 of the Localism Act 2011.]

Can the Monitoring Officer confirm that this approach, (where he and the Head of Legal Services appointed "Independent Persons", apparently without Member approval) was lawful and fully met the requirements of s28 of the Localism Act 2011 for all "IPs" used in complaints handling, by completing the attached table.

Requirement of Localism Act 2011- references to subsections of section 28.	MO confirms that requirements met YES/NO
IP 1 Date appointed:	
8 c (i) the vacancy for an independent person has been advertised in such manner as the authority considers is likely to bring it to the attention of the public,	
8 c (ii) the person has submitted an application to fill the vacancy to the authority	

8 c (iii) the person's appointment has been approved by a majority of the members of the authority;	
Subsections 8a and 8b and 10	
IP 2 Date appointed ... etc	

## Response

**This question has already been responded to;**

**3 IPs have been consulted since 2019**

**They were appointed as IPs for other local authorities, and assisted in the initial assessment phase. There was no referral for investigation on the complaints they considered and they were not appointed by Full Council. The statutory duty to consult was not engaged.**

- **No Independent Persons have been appointed by the Council since 2013 until the 3 appointments to be ratified today by Full Council.**
- **When needed, the Monitoring Officer has instructed duly appointed Independent Persons from neighbouring authorities to fulfil this role.**

**The IPs who advised the MO prior to the current IPs being appointed by Full Council were  
Roger Morris ( IP appointed by BANES)  
Tony Drew ( ditto and now Bristol)  
Nick Carter Brown ( N Somerset)**

Q2: Since 2018 how much has been paid as allowances to the individuals "appointed" by the Monitoring Officer and Head of Legal Services as "Independent Persons", and on what basis are these payments considered to be lawful? (please provide reference to relevant legislation).

Please provide as a table:

Financial Year ending:	Value of allowances paid, £		
	IP 1	IP2	IP 3 etc
2018			
2019			
2020			
2021			
2022			
2023			
2024 to date			

END

## Response.

This has already been responded to:

- An ex-gratia payment of £100 was made to an Independent Person from a neighbouring authority this financial year.

The IPs appointed by Full Council have been paid a small ex gratia of £500 (per annum) plus reimbursement for travel expenses.

Thanks

Mike Oldreive

## 2 – Suzanne Audrey

Questions to Values and Ethics committee. Suzanne Audrey

### REGISTER OF INTERESTS

**Background.** I have been trying to understand what should be declared in a councillor’s register of interests. I assumed if travel and hospitality are paid for by an external organisation this should be declared: “Generally it would be anticipated that external funding for a trip should be disclosed. Members should take legal advice if they are not sure and they must also remember to register any interests on their return from travel” [<https://www.bristol.gov.uk/files/documents/3359-international-travel-policy-and-procedures-for-members/file> p4].

As far as I can tell the elected mayor declares externally funded travel and hospitality. But, for example, a quick look through the international travel for the deputy mayors [available at [Open data \(bristol.gov.uk\)](https://www.bristol.gov.uk)], suggests numerous externally funded trips have not been declared in the respective registers of interest.

Deputy Mayor, Cllr Craig Cheney

24/04/2022	(New York) Bloomberg Harvard Leadership Initiative
11/06/2019	(Rome) City of Film Bristol Partnership funding

Deputy Mayor, Cllr Asher Craig

09/05/2022	Bordeaux City Council & French Foreign Ministry covered travel & accommodation
13/09/2021	Bordeaux City Council
21/07/2019	World Sustainable Urban Food Centre of València (CEMAS)
03/09/2019	(Brussels) EU Commission
06/11/2018	(Milan) EUROCITIES (flights) and the City of Milan Council (accommodation)
17/11/2018	(Vienna) Innovation in Politics (organiser) funded flights and accommodation
03/12/2018	(Brussels) EUROCITIES
19/02/2019	(Seattle) flights/accommodation/transfers/meals covered by University of Washington, Tacoma
07/05/2017	(New York) Bloomberg
20/05/2018	(Washington DC & Pittsburg/USA) ‘Various organisations’

**Question 1.** Please will you outline the advice given to councillors about completing their register of interests in relation to externally funded travel and hospitality, and the measures taken to ensure that relevant items are appropriately recorded?

## **Response**

**Councillors are provided with training on the Member Code of Conduct. Any councillor can seek advice about any of their interests that need to be declared, including gifts and hospitality from officers.**

**Question 2.** If it is discovered that members have failed to record externally funded travel and hospitality, what is the process for correcting the omissions?

## **Response.**

**Councillors are aware that it is their responsibility to ensure that the register of interests is kept up to date. The register of interests including gifts and hospitality will be updated whenever a councillor advises of a new entry.**

## **INDEPENDENT PERSONS**

**Background.** As my statement indicates, I have been waiting for a response to the following questions and hope they can be answered at this meeting of the Values and Ethics Committee.

**Question 1.** Please provide the names of all Bristol City Council Independent Persons appointed since September 2013, together with the dates of appointment.

These questions have already been responded to

## **Response.**

**3 IPs have been consulted since 2019**

**They were appointed as IPs for other local authorities, and assisted in the initial assessment phase. There was no referral for investigation on the complaints they considered and they were not appointed by Full Council. The statutory duty to consult was not engaged.**

- **No Independent Persons have been appointed by the Council since 2013 until the 3 appointments to be ratified today by Full Council.**
- **When needed, the Monitoring Officer has instructed duly appointed Independent Persons from neighbouring authorities to fulfil this role.**

**The IPs who advised the MO prior to the current IPs being appointed by Full Council were  
Roger Morris ( IP appointed by BANES)  
Tony Drew ( ditto and now Bristol)  
Nick Carter Brown ( N Somerset)**

**Question 2.** Please explain why the appointment of Independent Persons has not been ratified by Bristol City Council Full Council in the ten years since September 2013.

**Response.**

**The 3 IPs consulted since 2019 were appointed as IPs for other local authorities, and assisted in the initial assessment phase. There was no referral for investigation on the complaints they considered and they were not appointed by Full Council. The statutory duty to consult was not engaged.**

### **3 – Joanna Booth**

Hi Democratic Services,

Please forward these questions to the appropriate person at V&E.

1. The Bristol City Council constitution, in PART 3.2: NON-EXECUTIVE FUNCTIONS, B. TERMS OF REFERENCE OF COMMITTEES, seemingly provides a structured path to: Consider any allegations/complaints regarding the conduct and/or any capability issues (performance or health) of the Head of Paid Service, Monitoring Officer, Chief Finance Officer.

When I merely mentioned this in a statement to the HR committee, I was first told they had no such power; I was then told even if they did have such a power, a mere resident could not raise or instigate such an inquiry. According to the interpretations of the legal services offering advising the chair of HR, only a staff member could raise such an issue.

I was told to raise a complaint about the behaviour of the officer I was referring to.

Can the V&E committee point me to a structured pathway in our constitution or in other legislation or legal frameworks that make up the rules of local authorities, to how a resident can invoke an inquiry into an officer, and what possible remedies are available to residents if they invoke such processes?

**Response.**

**Statutory chief officers, the monitoring officer, have statutory employment protection due to the nature of their role. These statutory provisions are adopted as mandatory standing orders and are found in the Employee procedure rules in the constitution. They are also contractually reflected in the JNC conditions of service.**

**If a resident is not satisfied with the action of the Council, then they may use the Council's complaints process.**

Can you also tell me how the HR committee chair and members are advised of their roles and responsibilities? I am worried they do not have the appropriate knowledge to carry out their roles.

## **Response.**

**HR Committee members will receive training as part of their induction.**

## **Q2 - Withdrawn**

As regards to the appropriateness of officers and members as part of the committee, I would like to know how ethics are monitored for those subject to it?

## **Response**

**All councillors are bound by the Member Code of Conduct and officers are bound by the Employee Code of Conduct.**

I will try to attend and ask these in person but I also want written answers.

All the best,  
Joanna

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**Joanna Booth**  
**Journalist**

## **Statement to Values and Ethics Committee, Monday 11 March**

At the Values and Ethics Committee on 9 October 2023, in response to questions from the public, the Monitoring Office, Mr Tim O’Gara, stated that Independent Persons were appointed by the Monitoring Officer and Head of Legal Services, and there was no requirement in the legislation stating that the appointment was made by Full Council. This was incorrect.

A post-meeting statement was issued dated 20 October 2023 which indicated: “The recent recruitment process for Independent Persons will require the ratification of those appointments by Full Council.” Mr O’Gara did not attend the following Values and Ethics committee and so was not available to answer questions from the public about this error.

Since the ratification of Mr Christopher Eskell on 10 September 2013 a number of Independent Persons have been appointed but not ratified by Full Council. However, the public do not know how many, who they were, when they were appointed, and why Full Council was not asked to ratify them in line with Section 28 of the Localism Act 2011.

I submitted the following questions about the appointment of Independent Persons to Full Council on 12 December 2023:

Q1. Please provide the names of all Bristol City Council Independent Persons appointed since September 2013, together with the dates of appointment.

Q2. Please explain why the appointment of Independent Persons has not been ratified by Bristol City Council Full Council in the ten years since September 2013. Please note it is not sufficient to say, for example, that the Monitoring Officer and/or Head of Legal Services appointed the Independent Persons. The question is about why the appointments were not ratified by Full Council in line with Section 28 of the Localism Act 2011.

I was informed by the elected Mayor, Marvin Rees, that this was not an executive matter and the questions should be directed to the Monitoring Officer and the Values and Ethics Committee for response. As the Values and Ethics Committee were not meeting for some time, I emailed my questions to the Monitoring Officer, Mr O’Gara, on 21 December 2023 and again on 19 January 2024.

Unfortunately, Mr O’Gara has failed to respond to, or even acknowledge, my emails. I would, therefore, be grateful if the Values and Ethics Committee would look into this matter and provide a response to my questions.

**Suzanne Audrey**



Hi Democratic Services,

The following is a statement for the V&E Committee:

The monitoring officer is once again attempting to provide dispensation to landlords so they don't have to declare their interests in council. The excuse being given is that this allows for renters to take part in the debate and that landlords and tenants must be grouped together. I have some worries about this.

We have seen over the years, the monitoring officer's discretion with pecuniary interests. We have seen it in regards to a cabinet member's company receiving council contracts, the mayor not disclosing his membership of a gym he gave land worth £1.35m to, and even the cabinet member for energy working at the National Grid.

There is quite a clear power differential between a renter and a landlord. I hope the committee ensures that landlords do need to declare their pecuniary interest and be excluded from the debate. The monitoring officer has previously decided on individual dispensations in exactly this manner with other DPis so he can certainly grant them to renters if he decides it's necessary.

I do not see why it would be believable now that a blanket dispensation is needed otherwise renters would have to face being excluded from the debate. I can only imagine the request is intended to avoid any embarrassment for members who are landlords.

I hope the committee can see past this request and decides to deny the request for dispensation for landlords. Only tenants should be allowed a dispensation and this can be done individually. We know it can because we have ample evidence of it being applied in the past by the same MO.

I will be attending the meeting.

Thank you,  
Joanna

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**Joanna Booth**  
**Journalist**

Hi there

here is my statement for Monday:

I refer to Agenda item 6 - Revised complaints procedure.

While it's good to see that some of the concerns raised by the public have been taken on board in the new policy, this is only as a result of public pressure and Ombudsman concerns, that we have noted in previous statements.

There are still 2 major issues that reflect the problematic attitude in place at the City Council as regards Councillor relationships with the public:

1. the continuing emphasis on public to maintain confidentiality.
2. the "public interest" test items

#### Confidentiality ( para 4.3/4.4)

I have set out before my concerns over the Monitoring officer's use of "confidentiality". The LGA's guidance makes it clear that applying confidentiality to the public is not possible.

Ethically, it is not desirable either and there is currently consultation within the legal profession around the use of "gagging clauses" - with a general presumption against them, in the public interest. Why should councillors who break the rules expect confidentiality?

This is not proportionate or fair. Councillors must remain accountable to the electorate.

Why should a MO (an unelected local government bureaucrat) have power to censor a member of the public? This is not part of the LGA code or guidance.

As noted, members of the public risk charges of defamation if their claim is untrue- so be it! That is our right. We take that risk.

I would ask members to get rid of this clause. It is unhelpful and acts against Nolan Principles and the public.

#### Public Interest

A quick Google search of public interest tests gives a much more rounded and more **public** oriented lists of items for possible consideration. BCC draft policy seems to have a random list of thoughts in the draft policy from the HOLS.

for example:

*" no further action should be taken"*- this has nothing to do with public interest. It is meaningless in this context.

*"impact on the councillor"*- how is this anything to do with PUBLIC interest? If there are grounds for a complaint it should be investigated. This looks very much like making excuses for councillor's behaviour. The public won't accept that and neither should any members with integrity.

Members should not accept this "test" as it stands and need to look at some further examples to generate a sensible policy and guidelines - for example Guidance on the Code of Conduct for Local Authority Members Public Interest Test, Public Services Ombudsman for Wales seems to me to set out some good points for a framework- points which ensure the public interest is fully considered.

To give context to this new policy and the officers responsible for drafting these clauses:

- the Monitoring Officer and Head of Legal Services (Tim O'Gara / Nancy Rollason) have appointed 3 Independent Persons unlawfully
- the Head of Legal Services failed to mention a critical Ombudsman report in her annual case management report
- the Head of Legal Services failed to mention that this Ombudsman report required the authority to amend its Members' complaints policy, which was to be discussed at a V&E meeting
- the Head of Legal Services misled Councillors at V&E committee by stating, when questioned by Cllr Goodman, that the annual case management report was in the same format as previous years. This is untrue, and as the author of that report, every year for the past 5 + years she would know that. The HOLS omitted key dates from this year's report to obscure the fact that some complaints are taking over 5 months just to be assessed ( that is just to decide whether the matter is a valid complaint)

Finally, this new policy does nothing to resolve the past difficulties and the past decisions made by the MO & HOLS.

I remain labelled as "politically motivated" and my complaint remains unresolved.

I am still not sure if my personal information has been shared with an unlawfully appointed third party.

I am accused of breaching confidentiality for an issue that was completely in the public domain, where no mention of confidentiality was made in any correspondence or policy from the Council.

I do not accept the decision made on my complaint by the Monitoring Officer, the HOLS and the unlawfully appointed " Independent Person" ( who is still unidentified). How can their process have any credibility?

I request that members stand up for those who elected them and ask for an independent review of the decisions of the MO for all cases where Independent Persons were appointed unlawfully. The Member complaints system managed by the Monitoring Officer (Tim O'Gara) and Head of Legal Services (Nancy Rollason) has failed to meet standards of good governance and has failed the public.

END

Please find below a statement for the Values and Ethics committee on Monday.

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The complaints process against members at Bristol Council was operated without lawfully appointed independent members for multiple years.

During that time, no complaint against a councillor was been investigated, let alone upheld.

That the Councillors on this committee seem satisfied with this situation, and have not spoken out about it, speaks for itself.

sincerely,  
Dan  
Ackroyd

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