

BIRMINGHAM CITY COUNCIL

STANDARDS COMMITTEE

THURSDAY, 16 FEBRUARY 2023 AT 13:30 HOURS
IN HMS DARING ROOM, COUNCIL HOUSE, VICTORIA SQUARE,
BIRMINGHAM, B1 1BB

A G E N D A

1 DECLARATIONS OF INTERESTS

Members are reminded they must declare all relevant pecuniary and other registerable interests arising from any business to be discussed at this meeting.

If a disclosable pecuniary interest is declared a Member must not participate in any discussion or vote on the matter and must not remain in the room unless they have been granted a dispensation.

If other registerable interests are declared a Member may speak on the matter only if members of the public are 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 they have been granted a dispensation.

If it is a 'sensitive interest', Members do not have to disclose the nature of the interest, just that they have an interest.

Information on the Local Government Association's Model Councillor Code of Conduct is set out via <http://bit.ly/3WtGQnN>. This includes, at Appendix 1, an interests flowchart which provides a simple guide to declaring interests at meetings.

2 APOLOGIES

To receive any apologies.

3 MINUTES

To confirm and sign the Minutes of the meeting held on 26 January 2023.

Minutes to follow.

3 - 6

4 **UPDATE ON TRAINING PLAN: CODE OF CONDUCT**

Report of the Assistant Director (Governance).

7 - 12

5 **DISPENSATION UPDATE**

Report of the Assistant Director (Governance).

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6 **MEMBER COMPLAINT UPDATES: NOVEMBER 2022 - JANUARY 2023**

Report of the Assistant Director (Governance).

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7 **DEBATE NOT HATE UPDATE**

Report of the Assistant Director (Governance).

8 **OTHER URGENT BUSINESS**

To consider any items of business by reason of special circumstances (to be specified) that in the opinion of the Chair are matters of urgency.

9 **AUTHORITY TO CHAIR AND OFFICERS**

Chair to move:-

'In an urgent situation between meetings, the Chair jointly with the relevant Chief Officer has authority to act on behalf of the Committee'.

Birmingham City Council Standards Committee

16 February 2023



Subject: Update on Training Plan – Code of Conduct

Report Author: Robert Connelly Assistant Director – Governance

1. Purpose of report:

- 1.1 To provide the Committee with an update on a training plan for elected members on the Code of Conduct and Declaration of Interests.

2. Recommendations:

- 2.1 To note the report

3. The relevant legislation and protocols:

- 3.1 The Localism Act 2011 (“the Act”) introduced fundamental changes to the regulation of standards of conduct for elected and co-opted members.
- 3.2 The Act requires that, a relevant authority must, amongst other things, promote and maintain high standards of conduct by its members and co-opted members.
- 3.3 As such every relevant authority must have in place a code of conduct that is consistent with the Nolan principles. In May 2021, Birmingham City Council adopted the Local Governments Associations model code of conduct with some slight amendments to reflect Birmingham’s local circumstances.
- 3.4 The Code aims to protect the public, Councillors, Local Authority officers as well as the reputation of Local Government. As such it sets out general principles of behaviours expected of all Councillors.
- 3.5 Under the Act and the relevant Authorities (Disclosable Pecuniary Interests Regulations) 2012, Members must declare any Disclosable Pecuniary Interest and must not speak or vote where they have such an interest unless that have obtained a dispensation.

4. Background

- 4.1 As part of the ongoing Member development it has been identified that members would benefit from further training on the Code of Conduct and in particular the registering of interests and what needs to be declared and where it has been identified that a disclosable pecuniary interest exists what action the Member must take.
- 4.2 Linked to this is the motion/resolution of Council at its November 2022 meeting where the Standards Committee was asked to update the Council's Code of Conduct to ensure that elected Members declare the use of all other properties, other than their primary residence, if the use has potential safeguarding implications (see item 6 of the Standards Committee agenda on 26th January 2023. [Microsoft Word - Agenda CC 06012015.doc \(cmis.uk.com\)](#)).
- 4.3 Since the Standards Committee meeting on 26th January, Hoey Ainscough Associates Ltd have been instructed by the Monitoring Officer to:
- Assist with the updating of the Code of Conduct to reflect the Council motion/resolution as set out in paragraph 4.2
 - Deliver training to elected Members (and relevant officers) on the Code of Conduct (as amended) with particular emphasis on declarations of interest.
- 4.4 Hoey Ainscough Associates Ltd are renowned for their expertise on Member conduct and it is proposed that the training will also cover the use of social media, disclosure of confidential information and member-officer relations.
- 4.5 Hoey Ainscough Associates Ltd have worked with over 400 authorities in one form or another through provision of training, investigative support and wider governance advice and are the national experts on standards arrangements and advised the Committee on Standards in Public Life during their recent review of the statutory framework.
- 4.6 They were also commissioned by the Local Government Association to draw up the new model Code of Conduct and supporting guidance published in 2021, which as mentioned in paragraph 3.3 was adopted by Birmingham in May 2021.
- 4.7 It is proposed that the training will be rolled out later this year (and likely to be from August 2023) on a group basis. Prior to that it is proposed that there will be an initial session (likely to be in the week commencing 1st May) for members of the Standards Committee (and relevant officers) as this will then enable the sessions to be tailored for the needs of each political group.
- 4.8 It is anticipated that prior to the first session in May, that the current Code of Conduct will have been updated to reflect the Council resolution and the training will therefore cover those changes and set out the additional obligations on elected members to disclose their relevant interests.

5. Financial Implications

- 5.1 The only financial implications arising from this report are the costs of engaging Hoey Ainscough Associates Ltd but those costs can be met from existing budgets

6. Legal Implications

- 6.1 Pursuant to the Localism Act a relevant authority must, amongst other things promote and maintain high standards of conduct by its members and co-opted members.
- 6.2 Authorities (Disclosable Pecuniary Interests Regulations) 2012 requires elected members to declare any disclosable pecuniary interests.

7. Human Resources

- 7.1 There are none arising from this report.

Birmingham City Council Standards Committee

16 February 2023



Subject: Applications for Dispensations made to the Monitoring Officer

Report of: Janie Berry, City Solicitor & Monitoring Officer

Report Writer: Robert Connelly Assistant Director – Governance

1. Purpose of report:

- 1.1 To provide Standards Committee of requests for dispensations made pursuant to the Localism Act in respect of the meeting of Full Council on 28 February (Budget meeting).

2. Recommendations

- 2.1 To note the report

3. Relevant legislations and Protocols

- 3.1 In certain circumstances Councillors may be granted a dispensation which enables them to take part in Council business where this would otherwise be prohibited because they have a Disclosable Pecuniary Interest. Provided Councillors act within the terms of their dispensation there is deemed to be no breach of the Code of Conduct or the law.
- 3.2 Section 31(4) of the Localism Act states that dispensations may allow the Councillor:
 - (a) to participate, or participate further, in any discussion of the matter at the meeting(s); and/or
 - (b) to participate in any vote, or further vote, taken on the matter at the meeting(s).
- 3.3 If a dispensation is granted, the Councillor may remain in the room where the meeting considering the business is being held and may also vote.

- 3.4 If a Councillor participates in a meeting where he/she has a Disclosable Pecuniary Interest and he/she does not have a dispensation, they may be committing a criminal offence under s34 Localism Act 2011.

4. Process for making a request

- 4.1 Any Councillor who wishes to apply for a dispensation must make a request to the Monitoring Officer (or their Deputy) as soon as possible before the meeting which the dispensation is required.
- 4.2 Any request should clearly set out the grounds upon which the request is made.
- 4.3 Where possible the Monitoring Officer will consult with the Chair of the Standards Committee but where that is not possible the Monitoring Officer can grant a dispensation and will report this to the Standards Committee at its next meeting.

5. Criteria

- 5.1 In the case of a Disclosable Pecuniary Interest, a dispensation maybe granted if it is considered that:
- a. without the dispensation the number of persons prohibited by Section 31(4) Localism Act 2011 from participating in any particular business would be so great a proportion of the body transacting the business as to impede the transaction of the business (i.e. the meeting would be inquorate)
 - b. without the dispensation the representation of different political groups on the body transacting any particular business would be so upset as to alter the likely outcome of any vote relating to the business
 - c. granting the dispensation is in the interests of persons living in the Council's area without the dispensation each member of the Council's executive would be prohibited by Section 31(4) Localism Act 2011 from participating in any particular business to be transacted by the Council's executive: or
 - d. it is otherwise appropriate to grant a dispensation.
- 5.2 In addition the Monitoring Officer will take into account:
- i. the nature of the Councillor's prejudicial interest
 - ii. the need to maintain public confidence in the conduct of the Council's business
 - iii. the possible outcome of the proposed vote

- iv. the need for efficient and effective conduct of the Council's business
any other relevant circumstances.

6. Dispensations Requested

- 6.1 On 28th February there is a meeting of Council to approve the budget for 2023/2024 and the following requests for dispensations have been agreed.

	Name	Dispensation requested in writing	Status	Duration	Reason
1.	Councillor Ian Ward	Yes	Agreed	Budget items to be debated at the Council meeting on 28 th February	Partner works at BCC
2.	Councillor Robert Alden	Yes	Agreed	Budget items to be debated at the Council meeting on 28 th February	Partner works at BCC Receipt of income from LGA
3.	Councillor Saima Suleman	Yes	Agreed	Budget items to be debated at the Council meeting on 28 th February	Potential interest as partner has both a Hackney Carriage and Private Hire Licence
4.	Councillor Fred Grindrod	Yes	Agreed	Budget items to be debated at the Council meeting on 28 th February	Partner works at BCC maintained school
5.	Councillor Ray Goodwin	Yes	Agreed	Budget items to be debated at the Council meeting	Partner works at BCC (Schools) Interests in Community Assets which received BCC

				on 28 th February	funding
6.	Councillor Gareth Moore	Yes	Agreed	Budget items to be debated at the Council meeting on 28 th February	Trustee of various Charity organisations within the City
7.	Councillor Roger Harmer	Yes	Agreed	Budget items to be debated at the Council meeting on 28 th February	Partner works at BCC maintained school
8.	Councillor Albert Bore	Yes	Agreed	Budget items to be debated at the Council meeting on 28 th February	BCC appointee to the Board of B: Music Ltd who are in receipt of an annual grant from BCC.
9.	Councillor Mahmood Hussain	Yes	Agreed	Budget items to be debated at the Council meeting on 28 th February	NPI – daughter works at BCC maintained school
10.	Councillor John Cotton	Yes	Agreed	Budget items to be debated at the Council meeting on 28 th February	Partner works at BCC

7 Financial Implications

7.1 There are none arising from this report

8. Legal Implications

8.1 There are no other legal implications other than those set out in this report.

9 Human Resources

9.1 There are none arising from this report

Birmingham City Council Standards Committee

16 February 2023



Subject: Update on Councillors complaints for the period 1 November 22 to 31 January 2023

Report Author: Robert Connelly Assistant Director – Governance

1. Purpose of report:

- 1.1 To provide Standards Committee with an update on complaints under the Councils Code of Conduct during the period 1st November 2022 to 31st January 2023.

2. Recommendations

- 2.1 To note the report

3. Relevant legislations and Protocols

- 3.1 The Localism Act 2011 (“the Act”) introduced fundamental changes to the regulation of standards of conduct for elected and co-opted members.
- 3.2 Under Section 27 of the Act, a relevant authority must:
 - i. promote and maintain high standards of conduct by its members and co-opted members; and
 - ii. when discharging its duty, adopt a voluntary code dealing with the conduct that is expected of members and co-opted members of the authority when they are acting in their capacity as members (that is in an official capacity)
- 3.3 Under section 28(6) of the Act a relevant authority must have in place arrangements:
 - i. under which allegations can be investigated; and
 - ii. under which decisions on allegations can be made

- 3.4 The Code aims to protect the public, Councillors, Local Authority officers as well as the reputation of Local Government. As such it sets out general principles of behaviours expected of all Councillors.

4. Complaints

- 4.1 A total of 8 complaints have been made during the period covered by this report.

- 4.2 These cases can be broken down into categories as follows:

Complaint Type	Number
Failure/delay in responding to a constituent	1
Making misleading statements	1
Complaint incomplete/insufficient//Anonymous	2
Incorrect declaration of interest	0
Service delivery	0
Performance	1
Behaviour	3
Councillor / Councillor	0
Other	0
Total	8

- 4.3 In all cases when a complaint is received there is an initial assessment by the Monitoring Officer (or her/his staff) to determine whether it falls within the scope of the Code of Conduct and therefore within the remit of the Standards Committee (the Committee).
- 4.4 In some cases, at this initial assessment stage a complaint may be deemed “invalid” as it doesn’t fall within the scope of the code of conduct. This would include, for example, complaints that relate to service delivery. When complaints of those nature are received, they will be referred to the relevant service area.
- 4.5 These will also include complaints that are incomplete or lack sufficient detail to allow for an assessment to be made. In respect of the latter a complainant will normally be contacted for further information but if that is not forthcoming the matter will be closed.

- 4.6 In all bar one of the complaints, an initial assessment has been completed and where appropriate, the assessment shared with the Independent Person and/or the Chair of the Committee.
- 4.7 In the remaining complaint, further information has been sought from the Councillor subject to the complaint prior to completing the assessment.
- 4.8 It should be noted that of the 8 complaints received 2 complainants have made 2 complaints each against separate councillors.
- 4.9 It is proposed that as part of the April meeting of the Standards Committee further details of the complaint and the outcome will be provided.

5. Cases summaries

- 5.1 As set out previously, it has been agreed with the Chair of the Committee that the Standards Committee should be given regular updates on external cases involving alleged breaches of Councils code of Conduct.

Cllr Stephen Melia – Sandwell Borough Council

Cllr Melia had pleaded guilty to an assault in February 2022 following an incident when a blogger was seen filming Councillors as they walked across a car park ahead of a meeting of full council.

The blogger questioned Councillors about potential corruption and cronyism and as Cllr Melia walked past he pointed a finger at the blogger and knocked his mobile phone out of his hand.

Following completion of the criminal case a complaint was made against Cllr Melia under Sandwell's Code of Conduct.

Found to have breached the Code and had brought the Council into disrepute.

The Committee recommended that Cllr Melia be removed from any Committee position he held and that he apologise to the blogger both verbally at the next council meeting and that he also send a written apology.

- 5.2 As the Standards Committee will know, for the Code of Conduct to be engaged a Councillor must be acting within their official capacity. One of the determining factors when considering capacity is whether the content is sufficiently connected to Council business in order for that to be case. As such when any complaint is received a determination must be made on whether what capacity the Councillor was acting in.

- 5.3 In December 2022 the Local government & Social Care Ombudsman made a finding that Teignbridge District Council was at fault as it failed to follow due process when investigating him for alleged breaches of its code of conduct for elected councillors and as such made a number of recommendations

The Council should also learn lessons from this complaint. It should ensure it has a written procedure for its officers and any independent investigators asked to consider standards complaints that should include:

- ensuring the Council has a record of complaints being made in writing;
- ensuring there is a clear written record of consultation with an Independent Person to include their response;
- recording that the written complaint has been shared with the Councillor complained of, or a clear written record as to the reasons why not;
- ensuring that where an investigation expands to consider further allegations arising during the investigation, it keeps a clear written record of that and a record that this has been explained to the Councillor complained about; and
- that in all appropriate cases it considers the rights of the councillor complained about to free expression under Article 10 of the Human Rights Act, as part of any investigation report and subsequent committee decision making.

6. Financial Implications

- 6.1 The only financial implications arising from this report are the costs of engaging Hoey Ainscough Associates Ltd but those costs can be met from existing budgets

7. Legal Implications

- 7.1 Pursuant to the Localism Act a relevant authority must, amongst other things promote and maintain high standards of conduct by its members and co-opted members.
- 7.2 Authorities (Disclosable Pecuniary Interests Regulations) 2012 requires elected members to declare any disclosable pecuniary interests.

8. Human Resources

- 8.1 There are none arising from this report



Birmingham City Council

Standards Committee

Date: 16 February 2023

Subject: Debate not Hate: The impact of abuse on local democracy

Author: Robert Connelly, Assistant Director Governance & Deputy Monitoring Officer

1. Purpose of report:

- 1.1 To bring to the attention of the Standards Committee (the Committee) the Local Government Association (LGA) programme around civility in public life especially in response to increasing concern about intimidation and toxicity of debate and the impact this has been having on the democratic process.

2. Recommendations

- 2.1 To note the work undertaken by the LGA in promoting civility in public life.
- 2.2 To put the LGA's "Debate not Hate" campaign on the Committee's forward plan for consideration.

3. Background

- 3.1 The LGA's Civility in Public Life and Digital Citizenship work was established following the publication of the Committee for Standards in Public Life reports into Intimidation in public life in 2019. The work is, primarily aimed at:
 - articulating good standards for anyone engaging in public and political discourse
 - understanding the scale and impact of intimidation and abusive behaviour on membership organisations, and developing recommendations for achieving positive debate and public decision-making on a local level
 - supporting LGA members and all democratically elected local representatives in addressing intimidation and abuse, so they deliver the best on behalf of their communities
 - recognising that daily interactions continue to take place online and new technologies of information are constantly used to facilitate communication with citizens, officers and councillors. Online abuse and intimidation of local councillors and supporting officers working with them is a major challenge to local democracy and to the diversity of local representatives.

- 3.2 The LGA commissioned a call for evidence of abuse and intimidation of councillors, which was launched in October 2021. On 28 June 2022, the LGA published “Debate Not Hate: The impact of abuse on local democracy” (the LGA Report), a copy of which has been attached to this report at Appendix 1 and can also be found online at the following link: [Debate Not Hate: The impact of abuse on local democracy | Local Government Association](#)
- 3.3 The LGA have identified that 7 out of 10 Councillors (ie the majority) have reported abuse. The LGA Report contains recommendations from the evidence gathered over the first 6 months.
- 3.4 As identified in the LGA Report common themes amongst the evidence are as follows:
- “Variability of support – The support offered by councils, political parties, and the police varied across the country. In particular, respondents identified a lack of proactive support from some councils and responses from some police forces to threats made against councillors and their families.
 - Targeted abuse – Evidence from the qualitative responses indicated that councillors and candidates with protected characteristics were more likely to 4 receive personalised abuse. Misogyny, racism and homophobia were particularly highlighted in the responses.
 - Personal and democratic impacts – Abuse and intimidation can significantly impact councillors and their families, and the wider community. Several respondents described the negative impacts of ongoing abuse on their mental health and wellbeing. In addition, respondents supported the idea that abuse can impact councillors’ willingness to stand for re-election or deter others from considering standing for public office.
 - Vulnerability of councillors – Many respondents highlighted the visibility and accessibility of councillors in their local community, particularly when councillors’ home addresses are available online. Councillors are therefore vulnerable to physical abuse, particularly compared to national politicians who may have greater protections and access to specialist police support.
 - Normalisation – There is a growing feeling that abuse and intimidation, particularly online, are becoming normalised. Attitudes around councillors expecting abuse and being expected to manage abuse with little support were prevalent in the responses
- 3.5 The Recommendations made are as follows:
- “Recommendation 1: Councils and other relevant partners should take greater responsibility for the safety and wellbeing of councillors and take a proactive approach to preventing and handling abuse and intimidation against councillors. This should include addressing the impacts of abuse on councillors’ mental health and wellbeing and working in partnership with other agencies and councils to ensure that threats and risks to councillors’ safety, and that of their families, are taken seriously.

- Recommendation 2: The LGA should continue to gather and disseminate good practice from across the sector, consider what more can be done to prevent abuse and intimidation of councillors through the Civility in public life programme, and support councils and councillors when these incidents occur.
- Recommendation 3: Police forces should work to improve the consistency of responses to abuse of and threats made against councillors and take a riskbased approach that accounts for the specific risks that councillors face, as they do with other high-risk individuals, such as MPs. This should include identifying best practice in relation to councillor support and safety and sharing it across the country.
- Recommendation 4: The Government should prioritise legislation to put it beyond doubt that councillors can withhold their home address from the public register of pecuniary interests.
- Recommendation 5: The LGA should work with political parties, election and democratic officers, and organisations responsible for guidance to raise awareness of the options currently available and promote the practice of 5 keeping home addresses private during the election process and once elected.
- Recommendation 6: Social media companies and internet service providers should acknowledge the democratic significance of local politicians and provide better and faster routes for councillors reporting abuse and misinformation online.
- Recommendation 7: The relevant Government department should convene a working group, in partnership with the LGA, to bring together relevant agencies to develop and implement an action plan to address the issue of abuse of local politicians and their safety.”

3.6 In respect to Recommendation 7, LGA have provided a link as follows:

<https://www.local.gov.uk/about/campaigns/debate-not-hate/debate-not-hate-sign-our-public-statement>

to its “Debate Not Hate public statement” for Councillors, MPs and organisations to sign to support the work of the LGA and act as a call to action for the relevant Government department to form a working group.

4. Financial Implications

4.1 There are none arising from this report.

5. Legal Implications

5.1 There are none arising from this report.

6. Human Resources

6.1 There are none arising from this report.