



## Standards Committee

**Thursday 29 June 2017 at 6.00 pm**

Board Room 4 - Brent Civic Centre, Engineers Way,  
Wembley HA9 0FJ

### Membership:

#### Members

Councillors:

Allie (Chair)  
Kabir (Vice-Chair)  
Ahmed  
Krupa Sheth  
Warren

#### Substitute Members

Councillors:

Dixon, Hylton, Moher, Nerva and Shaw

#### Independent Members:

Sheila Darr  
Robert Cawley  
Karen McArthur  
Margaret Adenike Bruce

#### Independent Person:

Mandip Johal

**For further information contact:** Thomas Cattermole, Head of Executive and Member Services: 020 8937 5446, [thomas.cattermole@brent.gov.uk](mailto:thomas.cattermole@brent.gov.uk)

For electronic copies of minutes, reports and agendas, and to be alerted when the minutes of this meeting have been published visit: [democracy.brent.gov.uk](http://democracy.brent.gov.uk)

**The press and public are welcome to attend this meeting**

## **Notes for Members - Declarations of Interest:**

If a Member is aware they have a Disclosable Pecuniary Interest\* in an item of business, they must declare its existence and nature at the start of the meeting or when it becomes apparent and must leave the room without participating in discussion of the item.

If a Member is aware they have a Personal Interest\*\* in an item of business, they must declare its existence and nature at the start of the meeting or when it becomes apparent.

If the Personal Interest is also a Prejudicial Interest (i.e. it affects a financial position or relates to determining of any approval, consent, licence, permission, or registration) then (unless an exception at 14(2) of the Members Code applies), after disclosing the interest to the meeting the Member must leave the room without participating in discussion of the item, except that they may first make representations, answer questions or give evidence relating to the matter, provided that the public are allowed to attend the meeting for those purposes.

### **\*Disclosable Pecuniary Interests:**

- (a) **Employment, etc.** - Any employment, office, trade, profession or vocation carried on for profit gain.
- (b) **Sponsorship** - Any payment or other financial benefit in respect expenses in carrying out duties as a member, or of election; including from a trade union.
- (c) **Contracts** - Any current contract for goods, services or works, between the Councillors or their partner (or a body in which one has a beneficial interest) and the council.
- (d) **Land** - Any beneficial interest in land which is within the council's area.
- (e) **Licences** - Any licence to occupy land in the council's area for a month or longer.
- (f) **Corporate tenancies** - Any tenancy between the council and a body in which the Councillor or their partner have a beneficial interest.
- (g) **Securities** - Any beneficial interest in securities of a body which has a place of business or land in the council's area, if the total nominal value of the securities exceeds £25,000 or one hundredth of the total issued share capital of that body or of any one class of its issued share capital.

### **\*\*Personal Interests:**

The business relates to or affects:

- (a) Anybody of which you are a member or in a position of general control or management, and:
  - To which you are appointed by the council;
  - which exercises functions of a public nature;
  - which is directed is to charitable purposes;
  - whose principal purposes include the influence of public opinion or policy (including a political party of trade union).
- (b) The interests a of a person from whom you have received gifts or hospitality of at least £50 as a member in the municipal year;

or

A decision in relation to that business might reasonably be regarded as affecting, to a greater extent than the majority of other council tax payers, ratepayers or inhabitants of the electoral ward affected by the decision, the well-being or financial position of:

- You yourself;
- a member of your family or your friend or any person with whom you have a close association or any person or body who employs or has appointed any of these or in whom they have a beneficial interest in a class of securities exceeding the nominal value of £25,000, or any firm in which they are a partner, or any company of which they are a director
- any body of a type described in (a) above.

# Agenda

Introductions, if appropriate.

Item	Page
<b>1 Apologies for absence</b>	
<b>2 Declarations of interests</b>	
Members are invited to declare at this stage of the meeting, any relevant personal and prejudicial interests and disclosable pecuniary interests in any matter to be considered at this meeting.	
<b>3 Minutes of the previous meeting</b>	1 - 2
To approve the attached minutes from the previous meeting on 28 November 2016 as a correct record.	
<b>4 Matters arising</b>	
<b>5 Review of Member Development Programme and Members Expenses</b>	3 - 10
The purpose of this report is to provide members of the Standards Committee with a summary of the Member Development Programme and information regarding the Members' Expenses Scheme. This report outlines the member learning and development sessions delivered for members since May 2016, and also the upcoming quarter of the member learning and development programme (June to December 2017).The report also provides an outline of the Member induction programme to be delivered after the May 2018 Local Elections.	
<b>6 Standards Committee Report - General update</b>	11 - 18
This report brings to Members' attention recent national standards news items for information.	
<b>7 Date of Next Meeting</b>	
The next meeting of the committee is scheduled to take place on 28 <sup>th</sup> September 2017.	
<b>8 Any other urgent business</b>	
Notice of items to be raised under this heading must be given in writing to	

the Head of Executive and Member Services or his representative before the meeting in accordance with Standing Order 64.



Please remember to switch your mobile phone to silent during the meeting.

- The meeting room is accessible by lift and seats will be provided for members of the public.



## LONDON BOROUGH OF BRENT

### MINUTES OF THE STANDARDS COMMITTEE Held on Monday 28 November 2016 at 7.07pm

#### **PRESENT:**

Councillor Allie (Chair) and Councillors Kabir (Vice-Chair) and Krupa Sheth.

#### **ALSO PRESENT:**

Dr Robert Cawley (Independent Member) and Ms Sheila Darr (Co-opted Member)

Apologies for absence were received from Councillor Warren and from Margaret Bruce and Karen McCarthy (Independent Members).

#### **1. Declarations of Interests**

There were no declarations made by Members at this stage (see Minute No.3 below).

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

The minutes of the previous meeting, held on Monday 22 September 2016, were approved as a correct record, subject to Sheila Darr (Co-opted Member) being recorded as in attendance.

#### **3. Matters Arising (if any)**

##### Minute No.5: Members' Code of Conduct Complaint

The Chief Executive made reference to the above matter and to the accompanying correspondence, which was considered by the Committee at its last meeting held on 22 September 2016.

The Chief Executive advised the Committee that a statement made and published within Section 3.8 to the report had been redacted and removed from the Council's Website.

The statement, which was directed at Councillor Kabir, had subsequently been found to be untrue and that the Councillor in question, having realised the mistake he had made had since apologised unreservedly to Councillor Kabir, which she had accepted.

Given the foregoing, Councillor Kabir declared a personal interest in respect of this matter and took no part in the discussion that had taken place.

4. **Annual Report to the Standards Committee 2016**

The Council's Senior Solicitor (Governance) introduced the annual report of the Council's former Chief Legal Officer and Monitoring Officer to the Standards Committee for 2016, and provided an update on Member conduct issues and the work of the Standards Committee and the Monitoring Officer during this year.

In response to a question on the invitation extended to Co-opted Members for mandatory training held in July 2016, Ms Darr said that she had not received any such invitation. In response, the Council's Senior Solicitor (Governance) advised that the training was targeted at new Co-opted Members, however if any Member (co-opted or otherwise) felt that they would benefit from a further session, they should contact the Council in order that an invitation could be sent out at that time.

**RESOLVED, that the Annual Report to the Standards Committee 2016, be noted.**

5. **Date of Next Meeting**


It was noted that the next meeting of the Committee was scheduled to be held on Wednesday 22 March 2017.

6. **Any other Urgent Business**

There was no other urgent business.

The meeting was declared closed at 7.16pm.

COUNCILLOR J ALLIE  
Chair

 <b>Brent</b>	<b>Standards Committee</b> 29 June 2017  <b>Report from the Director, Performance Policy &amp; Partnerships</b>
For Information <span style="float: right;">Wards Affected: ALL</span>	
<b>Review of the Member Development Programme and Members' Expenses</b>	

## **1.0 Summary**

- 1.1 The purpose of this report is to provide members of the Standards Committee with a summary of the Member Development Programme and information regarding the Members' Expenses Scheme.
- 1.2 This report outlines the member learning and development sessions delivered for members since May 2016, and also the upcoming quarter of the member learning and development programme (June to December 2017).
- 1.3 The report also provides an outline of the Member induction programme to be delivered after the May 2018 Local Elections.

## **2.0 Recommendations**

- 2.1 Members are asked to note the content of this report.

## **3.0 Detail – Member Development**

- 3.1 The Member Development Programme was last reviewed by Members of this Committee on 7 January 2016; that review covered the period January 2015 to March 2016. In addition to annual review by members of the Standards Committee, the member learning and development programme is monitored quarterly by the Member Learning and Development Steering Group on a quarterly basis. The Steering Group is chaired by the Leader of the Council.
- 3.2 The Member Learning and Development Steering Group provides invaluable member and Chief Officer input into the future programme. The scope of that Group is to consider the type of training provided and review attendance at the sessions, and consider any requests and

suggestions for training from Members.

**Member Learning and Development Sessions delivered May 2016 – May 2017:**

- 3.3 A significant number of member development sessions have been held during the course of this municipal year.
- 3.4 These have been delivered mostly by internal officers and partners, with some external facilitators:
- Alcohol & Entertainment Licensing Committee Training - 23 May 2016
  - Effective Scrutiny - 26 May 2016
  - Viability, Section 106 and CIL: Councillor Involvement in pre-applications - 28 May 2016
  - Ensuring Effective Meetings - 09 June 2016
  - Personal Health & Safety Training for Councillors - 30 June 2016
  
  - Standards and the Code of Conduct - 26 July 2016
  - Influencing Workshop - 28 July 2016
  - Mandatory Training for Planning Committee Members & Substitutes - 30 August 2016
  - Managing Conflict as a Councillor - 08 September 2016
  - Housing Strategy & Development Seminar - 15 September 2016
  
  - Sustainability and Transformation Plan Session (STP) - 4 October 2016
  - Scrutiny Training (Modern.gov) - 11 October 2016
  - Housing management Options for Council Tenants and Leaseholders - 17 October 2016
  - Customer Promise - 25 October 2016
  - Social Media - 'Getting the most out of social media' - 10 November 2016
  - Private Rented Sector Licensing - 22 November 2016
  - Alcohol and Entertainment Licensing Committee Mandatory training - 1 December 2016
  - Corporate Parents and safeguarding children and young people - 13 December 2016
  - FIDA - In Depth Ideology Training for Councillors - 12 January 2017
  
  - High Streets Strategy - 19 January 2017
  - Safeguarding Adults Board - 25 January 2017
  - Group's first session: Social Value Advisory Group - 31 January 2017
  
  - Member Informal briefing session on Virtual Permit Demo. - 06 February
  - Working effectively with officers to deliver services for residents (LGA) - 9 February 2017



- Controlled Drinking Zone and Licensing Policy - 21 February 2017
- Brent's Local Plan Visioning Exercise - 7 March 2017
- Social media training for Cabinet Members - 9 March 2017
- Development Management Policies - 20 March 2017
- Health and Wellbeing Board - Prevention Matters Seminar - 25 March 2017
- Highways Maintenance - 29 March 2017
- The Brent Air Quality Action Plan: 2017 – 2022 - 19 April 2017
- Planning Committee Training - Mandatory - 23 May 2017
- Alcohol and Entertainment Licensing training for Committee Members - Mandatory - 24 May 2017
- Scrutiny Induction - 25 May 2017
- Planning and Affordable Housing - 13 June 2017

**Further scheduled sessions:**

- Audit Committee and the Audit Advisory Committee - Mandatory training – 19 June 2017
- Spending the Neighbourhood Portion of the Community Infrastructure Levy (CIL) - 13 July 2017
- Town Centres Member Briefing – 25 June 2017
- Safeguarding Children and Young People – 7 December 2017

**Attendance at internal training events**

- 3.5 Member attendance at internal learning and development sessions has varied for each session during the current municipal year.
- 3.6 Overall, member attendance has been encouraging. Of the **34** sessions delivered during the May 2016 to May 2017 period, **8** sessions were attended by **15** members or more; **12** sessions were attended by 10 members or more.
- 3.7 The most attended sessions were the 'Effective Scrutiny' and the 'Virtual Permit Demo' sessions. Encouragingly, the LGA 'Working Effectively with Officers to Deliver Services for Residents, which was not mandatory, was attended by 20 members.
- 3.8 The first trial of a 'Saturday' session, held from 9:15am to 3:30pm, was well received by members as feedback demonstrated. 17 members attended this session.
- 3.9 Understandably, sessions with the lowest attendance tended to be those aimed at specific committee membership.
- 3.10 There do not appear to be any other particular trends relating to subject matter or the timing of the courses which would assist in identifying further why some members choose not to attend training sessions.

- 3.11 Currently the Member Development Programme is advertised to all members via the weekly Members' Information Bulletin. Reminders are issued on a weekly basis, also via the Members' Information Bulletin, text message and email. A system of sending reminders to the sessions via text message was launched in February 2017 and feedback has been very positive.

#### **Attendance at external events May 2016 – May 2017:**

- 3.12 Since May 2016, Members have attended a number of external events delivered by organisations including the Local Government Association (LGA), London Councils, and the Local Government Information Unit (LGIU).
- 3.13 Programme content has included the CfPS Annual Conference, BAME Councillors Development Weekender, Devolution and Economic Growth in London Seminar and Leadership Essentials - Counter Extremism. The Member Learning and Development working group considers all attendance at external sessions.

#### **Mentoring**

- 3.14 The LGA has been providing mentors with relevant skills and experience to deliver 1:1 mentoring support to a number of members during this period.  
12 elected Members have now taken advantage of this opportunity. The individual mentoring sessions have been well received.

#### **Development support for the 'Top Team'**

- 3.15 The LGA has delivered two sessions to support the council's 'Top Team' (i.e. Cabinet and Corporate Management Team) to develop their effectiveness in their strategic leadership of the council to deliver its vision and strategic priorities.
- 3.16 The sessions were delivered in July and September 2016 by LGA Associate Mhairi Cameron and Cllr Sir Steve Houghton, Leader of Barnsley MBC.

#### **Public Speaking**

- 3.17 In response to requests from a number of Councillors, the Member Learning and Development Working Group agreed to offer an LGA run Councillor Public Speaking Course in March 2017. This was offered to all Members.

The purpose of the course was to improve Members' ability to present and communicate more effectively and dynamically.

The course comprised different exercises for Members to discover more about what works and what could be improved in their ability to present.

14 Members signed up for the public speaking course. This course was delivered over two days, followed by a 1-1 session for each Member with the trainer. The feedback received from Members after the course was positive.

### **Feedback from members regarding the member development programme**

- 3.18 Feedback is sought from members following each training event attended; however the use of an electronic link intended to allow members to provide information without the use of paper has not proven as successful as hoped.
- 3.19 Levels of feedback submitted dropped dramatically, and as a result, paper copies of feedback forms have now been re-introduced.

### **Organisational and political support**

- 3.20 The Member Learning and Development Steering Group has consistently provided constructive input and evaluation during previous terms of office and it is anticipated this support will continue given the Chair of the group is now the Leader of the Council and the Chief Executive attends. A strong political lead on member development from all groups is essential to ensure member ownership of the programme.

### **Member Development Charter Award**

- 3.21 The Council received a Charter Plus Assessment Interim visit on 18 October 2016. The assessor confirmed that Brent Council continues to meet the standard of the London Charter Plus for Elected Member Development.
- 3.22 The assessor confirmed that the Council continues to have a strong strategic commitment to member development that the Council has responded to the recommendations following the September 2015 assessment and has also moved forward with a comprehensive member development programme.
- 3.23 The assessment noted that :
- The Council has a comprehensive member development programme that consists of high quality external facilitators and a particular focus on community leadership and neighbourhood engagement;
  - The Council has positively embraced and taken forward the recommendations highlighted in the Members Needs Analysis Report 2014;
  - Members have embraced the opportunity provided through the mentoring programme and many external Member mentors are in place to support Lead Members and Committee Chairs.

3.24 The assessor suggested several areas for improvement:

- The council should have a process in place to review PDPs mid-term and to set new individual development priorities for councillors.
- The development of Community Action Groups.
- Continues to support and build on, leadership development both for Cabinet members and for all councillors as community leaders.
- Continue to seek opportunities to learn from good practice from other authorities and external organisations.

### **Member Needs Analysis Development Programme**

3.25 Brent Council provided all Members with the opportunity to undertake a refresh of the Member Needs Analysis Development Plan that was initially undertaken in September- October 2014. In addition to the refresh, Councillors who had been able to engage in the programme were invited to participate.

The approach undertaken was based on a structured one to one discussion and the completion of a Member Needs Analysis Development Plan, the purpose being to support each Councillor to identify what information and development they required to effectively continue to fulfil their role as a Brent Councillor.

The one to one discussion and questionnaire was confidential and informed the key findings and recommendations within this summary report.

### **Induction Programme 2018**

4.1 A cross party prospective candidate event will take place in October 2017 for prospective candidates in the May 2018 Local Elections. This session will focus on the practicalities of being a councillor at Brent. Candidates will hear about what it's like to be an Elected Member and what support mechanisms are in place once elected.

4.2 Sessions will cover:

- An overview and an introduction to the Local Government landscape including: About Brent Council, Local Government including structure and responsibilities, budget, composition of the council, cabinet, scrutiny;
- The role of a Councillor - introduction to the role and duties of all members, specific member roles, code of conduct;
- Council elections 2018 - Election timescales, induction, further information.

4.3 A brief introductory pack will be sent to all prospective councillors in early 2018. This pack will include the outline draft induction programme and a link to the 'Be a Councillor' page from the LGA website.

- 4.4 We are planning to launch the comprehensive induction for new and returning Members on Monday, 21 May 2018. In addition to the comprehensive mandatory training programme, role specific training and I.T induction will take place soon after the local elections in May and during June 2018.
- 4.5 Following the success of the 2014 programme, we will be following the same model. The Member Learning and Development working group will steer the induction programme, designing it for Members.

## **5.0 Detail – Members’ Expenses**

Our Members’ Allowance scheme, as detailed in Part 8 of the council's constitution, makes provision for the payment of certain expenses, in accordance with stipulated conditions.

Two Councillors claimed for travel during 2016/2017.

All expenses claims are published on <https://www.brent.gov.uk/your-council/elected-representatives/councillors-interests-and-expenses/>

In addition to travel, 3 Councillors claimed for hotel accommodation to attend the LGA conference in Bournemouth.

## **6.0 Financial Implications**

The costs of the member learning and development programme are met from a budget of £17,352. Some funding has been identified and placed in reserve to fund the 2018 May induction programme.

## **7.0 Legal Implications**

None for the Member Development Programme.

The Local Authorities (Members’ Allowances) (England) Regulations 2003 requires the council to keep a record of the payments made by it in accordance with its Members’ Allowance Scheme. The record has to be made available for public inspection and copies can be supplied too on request and on payment of a reasonable fee.

After the end of each year, the total amount paid in that year to each member has to be published in the council’s area.

## **8.0 Diversity Implications**

This report contains no specific diversity implications

**For further information please contact:**

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thomas.cattermole@brent.gov.uk , 020 8937 5446

**Peter Gadsdon**  
**Director Performance Policy & Partnerships**

 <b>Brent</b>	<b>Standards Committee</b> 29 June 2017  <b>Report from the Chief Legal Officer</b>
Wards affected: ALL	
<b>Update on Standards Matters</b>	

## 1.0 SUMMARY

- 1.1 This report brings to Members' attention recent national standards news items for information.

## 2.0 RECOMMENDATIONS

- 2.1 To note the content of this report.

## 3.0 DETAILS

### 3.1 Release of reports into code of conduct matters

Assessing whether to publish information related to code of conduct matters can be difficult as it requires balancing data protection legislation and the Freedom of Information Act ('the Act') against the public interest. Two recent tribunal rulings provide further guidance on this issue.

*Michael Thompson v The Information Commissioner and Cheshire East Council (Freedom of Information Act 2000)*

- 3.2 Michael Thompson had been a councillor at Cheshire East Council when he submitted a complaint against a fellow councillor. The complaint was considered and no further action taken. Mr Thompson sought under Freedom of Information legislation the release of the response of the councillor to the complaint and any documents provided in the councillor's defence.
- 3.3 The Council declined to release the information on the grounds the councillor's response was not disclosable as it had been provided in confidence, thereby meeting an exemption under Section 41 of the Act. When an appeal was made to

the Information Commissioner, the Council argued that the documents the councillor had used to support his defence, for example council minutes, were publicly available and thereby exempted under Section 21 (information accessible by other means) of the Act and that his personal response contained personal information making it exempt under Section 40(2) of the Act. The Information Commissioner upheld Cheshire East's decision, leading to an appeal to the First-Tier Tribunal.

- 3.4 In their decision, the Tribunal ruled in favour of the Council and Information Commissioner. They found that the councillor's response was personal information and could not be redacted to prevent identification. Although the information related to the councillor in his formal capacity, because it pertained to an alleged conduct breach, "the information is clearly of personal in nature, in the same way that an individual's annual appraisal report can be considered to be personal data."
- 3.5 Having concluded it was personal data, the Tribunal then assessed whether the appellant had a legitimate interest and disclosure was necessary to meet that legitimate interest. They concluded that it was reasonable for the appellant to want to see the councillor's response in the interests of assessing how the complaint had been dealt with, but also generally in respect of accountability of elected councillors.
- 3.6 However this legitimate interest was found to be outweighed by the councillor's interests, rights and freedoms, rendering disclosure unwarranted when the Council had found the complaint to lack merit. The tribunal noted:
- Information relating to complaints "carries a very strong expectation of privacy," because of the distress and reputational damage arising from complaints. This extends to an unfounded complaint because the existence of a complaint can itself be damaging;
  - There was a legitimate expectation of privacy on the councillor's part because of the personal nature of complaints investigations;
  - The code of conduct complaints process should remain confidential as otherwise "all confidence in the process would be lost" and result in a lack of candour on the part of relevant parties in the complaints process;
  - That the appellant and councillor were no longer in office was irrelevant because they might seek to be again; and
  - A councillor has a legitimate interest in having their personal data withheld from the public sphere.

*Janet Dedman v The Information Commissioner*

- 3.7 In a separate case the Information Rights Tribunal overturned a decision of the Information Commissioner regarding the release of a draft report on an investigation into a complaint against a councillor.
- 3.8 The complaint concerned the Chair of Hickling Parish Council ('the Chair'), who was accused of making deliberately misleading comment to a local paper regarding a local charity and its protection of a local asset. North Norfolk District Council (NNDC), who as the principal authority were responsible for investigating, appointed an external solicitor to investigate, whose report was submitted after the Chair had lost her seat. As she had lost her seat the NNDC monitoring officer



decided there was no public benefit in pursuing the matter further. It is worth noting that NNDC's complaints procedure sets out that if an investigator concludes there was no breach of the code, then if the monitoring officer agrees, no further action will be taken. It can therefore be inferred that the investigator found there to be a breach in this case, otherwise the monitoring officer would have discontinued the matter on other grounds.

- 3.9 Janet Dedman, a local resident, subsequently requested a copy of the draft investigation report only for NNDC to refuse to release it on the grounds that it contained personal data and was therefore exempt under Section 40(2) of the Act. The Information Commissioner was then engaged, upholding the initial decision, so Mrs Dedman appealed.
- 3.10 In its decision, the Tribunal found that the report contained personal data and there was no feasible way to redact it. The Tribunal then had to consider whether disclosure was reasonable balancing the public interest in disclosure against the rights, freedoms and legitimate interests of nondisclosure of the Chair, with reference to her reasonable expectations in the handling of her personal data.
- 3.11 The Tribunal concluded that there was a strong legitimate interest in the disclosure of the report as it concerned a councillor acting in her formal capacity, with respect to a controversial issue, where she had been accused of misleading many people through the medium of the press. It found that:
- Withholding a draft report prior to its consideration by a standards committee is a legitimate expectation, as public discussion may influence that hearing. Once the monitoring officer had decided to cease the proceedings, that expectation was no longer justified;
  - A councillor would expect a report on their conduct to be released subsequent to a determination by a standards committee;
  - The report being a final draft, subject only to adoption by the Committee, with no qualified opinions or suggestions of further investigation needed was a relevant consideration. In this state it was difficult to see how the Committee could significantly amend the report had it gone to a hearing;
  - In considering the public interest in continuing conduct proceedings once a councillor has ceased to hold office, "The public is entitled to know whether a serious complaint as to the conduct of an elected representative was found to be justified, regardless of her status when the report is disclosed. Such transparency is essential to the maintenance of proper standards in public life, whether or not the subject of the complaint remains in office;"
  - Ruling that loss of office was a major consideration would in effect allow a councillor to resign before disclosure thereby protecting themselves. The public interest was not served by this; and
  - Even though the councillor had lost office that they might seek it again in future was a relevant consideration. They should not be "prejudiced by unjustified suspicions as to [their] past conduct nor, as the case may be, protected from disclosure of a past breach or breaches of the Code of Conduct."
- 3.12 While these two cases have differing conclusions, they are not contradictory because of the very different circumstances of both cases, and they clearly

demonstrate the difficulty in balancing the public interests against a councillor's personal rights.

3.13 The position under Brent's complaints procedure is as follows:

- At Initial Assessment stage, if the Monitoring Officer decides that the complaint is not to progress further, the Monitoring Officer will notify the complainant in writing of that fact and with the reasons. The complainant has a right to seek a review of that decision. The decision in respect of the review is also shared with the complainant and the member concerned.
- If a formal investigation takes place, both the complainant and the member concerned will be given the opportunity to comment on the Investigating Officer's draft report. Subsequently, the Standards Committee will consider the Investigating Officer's final investigation report and a copy of the report will be given to the complainant and the member concerned. Members of the Standards Committee will be advised that the report relates to an individual and will reveal their identity.
- If there is a hearing, the meeting of the Standards Committee will be open to the press and public unless confidential or exempt information under Part VA Local Government Act 1972 is likely to be disclosed.

### 3.14 **Standards Cases**

#### Rotherham Borough Council

3.17. A councillor at Rotherham Borough Council has resigned after he was convicted of sexual assault. Councillor Andrew Roddison was found to have inappropriately touched a woman at a council event and having been urged to resign by the Leader of the Council, he duly did so after being sentenced. The judge had issued a six-month community order including a curfew from 7pm to 7am and electronic tagging, as well as an indefinite restraining order.

3.18. It is worth noting that because the sentence was less than a three-month custodial sentence, the councillor was not automatically disqualified. If the matter had been considered by the Standards committee rather than the councillor choosing to resign, the sanctions that could be imposed by Brent's Standards Committee would only, in so far as these might have been appropriate:

- Censure or reprimand the member
- Publish in a local newspaper its findings in respect of the member's conduct
- Report its findings to Council for information
- Recommend that the member apologises
- Recommend that the member undertakes training
- Recommend to the member's Group Leader (or in the case of ungrouped members recommend to Council or to committees) that the member be removed from any or all committees of the council
- Recommend to the Leader that the member be removed from the Cabinet or removed from particular portfolio responsibilities
- Recommend to Council that the member be replaced in any Council appointed

roles

- Instruct the Monitoring Officer to arrange training for the member
- Recommend to Council removal from all outside appointments to which the member has been appointed or nominated by the authority
- Withdraw facilities provided to the member by the Council
- Exclude the member from the Council's offices or other premises with the exception of meeting rooms as necessary for attending council and committee meetings.

#### East Riding of Yorkshire

- 3.19. The Committee may be aware of the case of Councillor Dominic Peacock, a councillor at both East Riding of Yorkshire Council and Beverley Town Council, who was suspended by his party after making offensive comments online regarding the late Jo Cox MP. A standards committee hearing at East Riding was held in December 2016 into his conduct.
- 3.20. The standards hearing unsurprisingly found Councillor Peacock, who failed to attend the hearing or comment on the investigation report, to have breached his local code of conduct by failing to treat others with respect and bringing his office or the Council into disrepute. Censure was recommended to both councils as well as a recommendation that both call upon Councillor Peacock to resign. Both councils agreed these recommendations, although a small minority of councillors in East Riding voted against.
- 3.21. This case exemplifies the limited sanctions available to standards committees. Suspended by his party indefinitely, this councillor has already received a far more severe sanction than censure, the highest penalty available. Beverley Town Council decided following this case that all their Members would undergo social media training, their Mayor remarking that this was needed to show that the Council took the issue seriously.
- 3.22. It is worth noting that the investigation report concluded that "the comment was posted on a site campaigning in the EU Referendum and therefore it is considered that the comment made by Councillor Peacock was made in his official capacity as a Councillor campaigning for a particular outcome in the EU Referendum he was campaigning in his official capacity as a councillor and therefore subject to the Code." This point is somewhat arguable, suggesting that councillors cannot campaign on political issues in a personal capacity. Potentially therefore the council could have determined that he was not covered by his local code in this case.

#### Newcastle City Council

- 3.23. A councillor has been found guilty of breaching his local code of conduct by tweeting confidential information. Councillor Greg Stone tweeted the outcome of a contract tender, which he disagreed with, despite it being made clear that the decision remained confidential. Councillor Stone had deleted the tweet upon him being asked to do so by his group leader, but it was revealed that he had also sent someone involved with the losing contractor a private Facebook message detailing the private contract award.

- 3.24. In mitigation Councillor Stone argued that it was in the public interest to release the information, that no commercially sensitive material had been revealed, and that the issuing of a decision notice, albeit privately, had concluded the tendering process and any need for privacy. The investigator's report carefully considered whether the tweet met any of the exemptions from the local code in respect of the release of confidential information.
- 3.25. In coming to its decision, it was agreed that the tweet concerned council business and the councillor would only have known the information due to his role; therefore the local code of conduct was engaged. This was despite his Twitter account not including his title and stating that tweets were in a personal capacity. The standards committee agreed with the investigator's recommendations that the councillor had breached his local code by bringing his office and the Council into disrepute and by disclosing confidential information. A formal censure was issued and the committee asked the monitoring officer to look into training.
- 3.26. As the Committee is aware social media usage is one of the key areas in which conduct cases are currently arising. The key thing to recognise from this case is that tweeting about council business, and particularly tweeting information which could only have come into your possession through being a councillor is likely to mean the Code applies despite any disclaimers about your social media account being personal.
- 3.27. Social media is a valuable tool but its use carries risks. In Brent members were provided with training in respect of 'Getting the most out of social media' on 10 November 2016 and Social media training was provided specifically for Cabinet Members - 9 March 2017. In addition, a Monitoring Officer Advice Note circulated to members in April this year included a section on **"hidden dangers of the use of social media."**
- 3.28. Brent's Code also sets out that the release of confidential information is not allowed bar in some exceptional circumstances, which are:
- 1) you have the consent of a person authorised to give it; or
  - 2) you are required by law to do so; or
  - 3) the disclosure is made to a third party for the purpose of obtaining professional advice provided that the third party agrees not to disclose the information to any other person; or
  - 4) the disclosure is reasonable in all the circumstances, in the public interest and made in good faith and in compliance with the reasonable requirements of the Council.
- 3.29. Should councillors have any concerns about information being maintained as confidential then they should contact the Chief Legal Officer for advice.

#### **4. FINANCIAL IMPLICATIONS**

- 4.1 There are no financial implications arising from this report.

#### **5. LEGAL IMPLICATIONS**

5.1 These are contained in the body of the report.

## **6. EQUALITY IMPLICATIONS**

6.1 There are no equality implications arising from this report.

## **7. STAFFING IMPLICATIONS**

7.1 There are no staffing implications arising from this report.

## **8.0 BACKGROUND INFORMATION**

8.1 None.

### **Contact Officers**

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