

Minutes of Council

**23rd March 2021 at 6:00 pm
Online Virtual Meeting**

Present: Her Worship The Mayor Councillor Dr Jaron (in the Chair);

Councillors Ahmed, Akhtar, Akhter, Allcock, Allen, Ashman, Bawa, Carmichael, Cherrington, Chidley, Costigan, Crompton, Y Davies, S Davies, Dhallu, Eaves, Edwards, Gavan, E M Giles, E A Giles, L Giles, G Gill, M Gill, Hackett, Hadley, Hartwell, Horton, P M Hughes, P Hughes, M Hussain, M Y Hussain, Z Hussain, Jarvis, I Jones, O Jones, R Jones, S Jones, Kausar, Mabena, McVittie, Melia, Millar, Millard, Padda, Phillips, Piper, Preece, Rollins, Rouf, Shackleton, Shaeen, Simms, Singh, Taylor, Webb and White.

Also present: David Stevens – Chief Executive; Surjit Tour – Director of Law and Governance and Monitoring Officer; Elaine Newsome – Service Manager - Democracy; Suky Suthi-Nagra – Democratic Services Manager; Stephnie Hancock – Senior Democratic Services Officer and Trisha Newton – Senior Democratic Services Officer.

30/21 **Minute Silence**

The Council observed a minute silence to mark the passing of Councillor Sandra Hevican.

Councillor Hevican was elected in May 2014 and served the Tividale Ward. Councillor Hevican's most current positions within the Council included Vice Chair of the Planning Committee and member of the Ethical Standards and Member Development and Audit and Risk Assurance Committees.

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Councillor Hevican also served on various other Committees and Panels during her term of office including Vice Chair of Safer Neighbourhoods and Active Communities Scrutiny Board, Housing, Jobs and Economy Scrutiny Board, Rowley Regis Town Improvement Board and Children's Services and Education Scrutiny Board.

Members paid tribute to Councillor Hevican and joined the Mayor in extending their condolences to her family.

31/21 **Apologies for Absence**

Apologies for absence were received from Councillors Ali, Bostan, Downing, Khatun, Moore, Tagger and Worsey.

32/21 **Declarations of Interest**

Councillor R Jones declared a personal interest in Minute No. 42/21 – Nomination for the Office of Deputy Mayor.

33/21 **Minutes**

Resolved that the minutes of the meeting of Council held on 2nd March 2021 be agreed as a correct record and signed by the Chair.

34/21 **Mayor's Announcements**

The Mayor announced that the meeting was the last of the current Municipal year and the final Council meeting for Councillors Horton, Bawa and P M Hughes who would be retiring from the Council at the end of the Municipal year.

The Mayor stated that a minute silence had been observed on 23rd March 2021 and at 8.00pm that day a nationwide 'Beacon of Remembrance' would be observed by people on their doorsteps. As proposed and developed by Marie Curie Care, this formed part of a Day of Reflection, which marked the anniversary of the start of the UK's first Covid-19 lockdown, to remember those that had lost their lives during the pandemic.

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The Mayor asked Members to join her to observe a minute silence in remembrance of all those who lost their lives over the past year.

35/21

Urgent Item - Proposed Departure from the Local Development Plan in respect of Land Adjacent West Bromwich Crematorium, Newton Road, West Bromwich

At the Planning Committee held on 10th February 2021, consideration was given to planning application DC/20/65053 - proposed change of use to cemetery with parking, lighting, and associated works, on land adjacent to West Bromwich Crematorium, Newton Road, West Bromwich.

Due to the sites' intrusion into the Green Belt, the proposal was a departure from the Local Development Plan. However, Section 145 of the National Planning Policy Framework provided that developments such as cemeteries were considered acceptable in the Green Belt.

The Green Belt was considered an appropriate site for the development as it would increase Sandwell's burial provision. Furthermore, the original planning application had attracted no objections.

Planning Committee approved the planning application with conditions subject to the application being referred to Full Council as a departure from the Local Development Plan.

Resolved that an exception to the Local Development Plan be allowed in respect of planning application DC/20/65053 - proposed change of use to cemetery with parking, lighting, and associated works at land adjacent to West Bromwich Crematorium, Newton Road, West Bromwich.

36/21

Petitions Under Standing Order No. 5

No petitions were received under Standing Order No. 5.

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37/21 Questions under Standing Order No. 6

No questions were received under Standing Order No. 6.

38/21 Pay Policy 2021 and Gender Pay Gap Reporting

The Council considered the Pay Policy Statement and Gender Pay Gap data.

The Council was required by the Localism Act 2011 to annually prepare and publish a Pay Policy Statement setting out its policies relating to the remuneration of their chief officers and employees.

The Council was required by the Equality Act (Specific Duties and Public Authorities) Regulations 2017, to prepare and publish its Gender Pay Gap data on an annual basis. This formed part of an equality measure and transparency obligation placed upon local authorities to illustrate the difference in average earnings between men and women.

The work undertaken in Sandwell to reduce the gender pay gap was highlighted and included the implementation of the revised National Joint Council for Local Government Services (NJC) pay spine from 1st April 2019 which incorporated a starting rate of £9.00 per hour.

The new NJC pay spine also introduced equal steps of 2% between spinal points 1 to 22. This consistent and fair approach applied to all employees on Bands A to E.

To support employees at the lower end of the pay scale, the Council had started to pay the Living Wage, as a minimum, to all its internal employees from 1st April 2018.

Over the last two years, the number of females employed in senior roles had increased.

Resolved:

- (1) that the Pay Policy Statement 2021 be approved and be published prior to 31 March 2021;

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- (2) that the Gender Pay Gap data be approved and published prior to 30 March 2021.

39/21 **Air Quality Action Plan**

The Council considered the Air Quality Action Plan (AQAP).

The AQAP had been produced to fulfil the Council's statutory duty to make progress regarding the Air Quality Strategy (AQS) objectives, as set out by The Environment Act 1995 (Part IV) and to satisfy the requirements of the Local Air Quality Management (LAQM) statutory process.

The Council acknowledged the significant impact that air pollution had on the health and wellbeing of Sandwell residents. Air pollution particularly affected vulnerable individuals, such as children and older people and those with heart and lung conditions. There was also a strong correlation with equality issues, as areas with poor air quality were often the less affluent areas.

The AQAP underwent a local consultation for six weeks from 20th January to 15th March 2020. A second period of consultation, for statutory consultees, was conducted between 7th July and 1st September 2020.

Nitrogen Dioxide (NO₂) levels were measured across Sandwell continuously. Currently, seven locations in Sandwell exceeded the annual objectives for NO₂ concentrations.

Approval of Sandwell's AQAP 2020-2025 would address the concerns associated with air pollution in Sandwell.

In response to a question regarding the impact of exposure on school crossing operatives, the Cabinet Member undertook to investigate the matters and report back directly.

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Resolved:-

- (1) that Sandwell's Air Quality Action Plan (AQAP) 2020-2025 be approved;
- (2) that the Director of Public Health be authorised to address air quality according to the actions outlined in the Air Quality Action Plan.

40/21

Amendments to the Council's Procurement and Contract Procedure Rules

The Council considered amendments to the Council's Procurement and Contract Procedure Rules. The revised Rules had also been considered by the Audit and Risk Assurance Committee on 18th March 2021.

The first amendment was in response to advice from the Cabinet Office regarding reservation of contracts below the financial thresholds, as set out in Public Contracts Regulations 2015. The Council would have the ability to reserve contracts that were below the threshold based on either or both geographic location or sector. This placed a greater freedom to reserve contracts to voluntary and community sector organisations and small and medium sized enterprises. Furthermore, this would help achieve best value for money and aligned with the requirements of the Council Constitution and the Inclusive Economic Strategy.

Secondly, in response to advice from the Cabinet Office concerning pressures faced by all contracting authorities resulting from the response of the impact of Covid-19, advice issued in March 2020 and January 2021 outlined that unavailability of resources to undertake tender processes had resulted from the impact of Covid-19. This constituted grounds for modifying existing contracts, or negotiation of contracts, without prior issue of contract notice. It was proposed that rule 13 of the council's current contract procedure rules should be suspended and the Chief Executive and Section 151 Officer be authorised to approve the extension of existing contracts due to expire in 2021.

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Furthermore, it was proposed that approval should be given for direct award of contracts below the thresholds set out in the Public Contracts Regulations 2015, in circumstances where the response to Covid-19 had resulted in lack of resources to undertake procurement processes.

Every six months, the Audit and Risk Assurance Committee would consider reports of each individual contract extension or direct award.

Amendments were a temporary measure and would be reviewed later in the year upon completion of a full review of the Council's Contract Procedure Rules.

Resolved:-

- (1) that the revised Procurement and Contract Procedure Rules be approved, as follows:
 - a) suspension of rule 13 regarding contract extension to permit extension of contracts in circumstances where response to impact of Covid 19 has resulted in lack of resources to undertake procurement processes;
 - b) approval to make direct award of contracts below the thresholds set out in the Public Contracts Regulations 2015 in circumstances where response to impact of Covid 19 has resulted in lack of resources to undertake procurement processes;
 - c) incorporation of Cabinet Office advice regarding reserving contracts below the thresholds set out in the Public Contracts Regulations 2015 by geographical location or specified sectors;
 - d) the Chief Executive and the Section 151 Officer be authorised to approve the extension of existing contracts due to expire in 2021.

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41/21 **Review of Member Code of Conduct, Arrangements for Dealing with Complaints under the Code and Member Social Media Policy**

Over the 2020/21 municipal year, the Ethical Standards and Member Development Committee had engaged in a full-scale review of the Code of Conduct and arrangements.

The Committee on Standards in Public Life had published its final report in January 2019, which included a recommendation that the Local Government Association should draft a Model Code of Conduct.

The Model Code of Conduct was drafted in consultation with representative bodies of Councillors and officers of the local government. In August 2020, a formal consultation was conducted by the Committee.

The Ethical Standards Working Group was established to work alongside the Monitoring Officer and his team to support and guide the improvement in the Ethical Framework. This included extensive engagement with the members to gain an in depth understanding of members' thoughts, views and recommendations on the Code of Conduct and Arrangements.

In December 2020, five engagement sessions were held. Each session was run three times to allow for maximum attendance. The sessions were based on a separate subject matter and facilitated a discussion regarding the Code and arrangements:

- Review of the Member Code of Conduct
- Spotlight on Social Media
- Spotlight on Members Interests
- Review of the Arrangements for Dealing with Complaints under the Code
- Duty to Promote and Maintain High Standards of Conduct

For those members who were not able to attend, a questionnaire was also circulated.

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The Vice Chair placed on record his thanks to all members for their attendance, participation and feedback. The engagement had helped inform the review of the Review of Member Code of Conduct, the Arrangements for Dealing with Complaints under the Code and associated member policy/protocols.

A Protocol had also been developed for meetings between Senior Officers, Group Leaders and Chief Whips to discuss Standards Issues (as recommended by the Committee on Standards in Public Life) and there would be a review carried out regarding the recruitment of Independent Persons.

The Vice Chair also placed on record his gratitude to the Monitoring Officer, Surjit Tour and his Team for their efforts and support throughout the review.

In response to questions from members, the Vice-Chair of the Ethical Standards and Member Development Committee confirmed:-

- that members were recommended to have separate personal and professional social media accounts;
- all Members would receive training on the revised Member Code of Conduct in the upcoming Municipal year.

Resolved:-

- (1) that the revised Member Code of Conduct, as set out in Appendix A, be approved, with effect from the 2021-22 municipal year;
- (2) that the revised Arrangements for Dealing with Complaints under the Code, as set out in Appendix B, be approved, with effect from the 2021-22 municipal year;
- (3) that the revised Social Media Policy and Incident Reporting Form, as set out in Appendix C, be approved, with effect from the 2021-22 municipal year;

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- (4) that the Director of Law and Governance and Monitoring Officer be authorised to make any revisions/updates to the guidance which accompanies the social media policy, in consultation with the Chair of the Ethical Standards and Member Development Committee;
- (5) that the revised Gifts and Hospitality Guidance, as set out in Appendix D, be approved, with effect from the 2021-22 municipal year;
- (6) that the protocol for meetings to take place on a regular basis between senior officers, group leaders and chief whips to talk about standards issues, as set out in Appendix E, be approved;
- (7) that, in connection with (1), (2), (3) and (5) above, the Director of Law and Governance and Monitoring Officer be authorised to update the Council's Constitution accordingly.

42/21

Nomination to the Office of Civic Deputy Mayor

The Council considered the recommendation of the General Purposes and Arbitration Committee in respect of the nomination for the Office of Deputy Civic Mayor of the Borough of Sandwell for the 2021/22 Municipal Year.

Resolved that Councillor Richard Jones be nominated to the office of Deputy Civic Mayor of the Borough of Sandwell for the 2021/22 Municipal Year.

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43/21 West Midlands Fire and Rescue Update

Council received an update on the work of the Fire Authority from Councillor Edwards, the member nominated pursuant to Section 41 of the Local Government Act 1985 to report on the activities of the West Midlands Fire and Rescue Authority.

44/21 Transport for West Midlands Update

Council received an update on the work of the Transport Authority from Councillor Akhter, the member nominated pursuant to Section 41 of the Local Government Act 1985 to report on the activities of Transport for West Midlands.

In response to questions regarding:-

- Tipton Railway Station still awaiting competition of its car park;
- consideration of the road layout adjacent to the Metro to mitigate and address congestion issues;

the lead member confirmed she would refer the matters back to Transport for West Midlands for comment and respond directly to members.

45/21 West Midlands Police and Crime Panel Update

Council received an update on the work undertaken by the West Midlands Police and Crime Panel from Councillor R Jones, the Council's representative on the Panel.

46/21 West Midlands Combined Authority

Council received an update on the work undertaken by the West Midlands Combined Authority from the Deputy Leader of the Council.

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47/21 **Annual Report of the Planning Committee 2019-2020**

On behalf of the Chair, Councillor Allen presented the Annual Report of the Planning Committee 2019-20.

The report highlighted the work of the committee over a two year period.

The large percentage of applications approved in part reflected the openness of the service in encouraging developers and prospective applicants to engage in pre-application discussions which were currently provided free at Sandwell. This approach had been worked up into a more formal 'Development Agency' approach in order to send the message that the Council, despite the existing economic difficulties, was very much open for business and ready to facilitate development opportunities.

The positive outcome of the vast majority of planning applications submitted at Sandwell was also in part a reflection of where there were problems with a proposed scheme, officers would endeavour to negotiate workable solutions within the prescribed time scales.

On behalf of the Chair, Councillor Allen expressed his thanks to the Committee and staff within Planning for their continued support and efforts.

48/21 **Annual Report of the Ethical Standards and Member Development Committee 2019-2021**

Council received the Ethical Standards and Member Development Committee Annual Report 2019-2021.

During 2019-20, the Committee had reviewed the approach to member development. The revised Member Development Programme sought to encourage and assist members to lead their own development and ensure that they secured the necessary skills and experience to succeed within their role as elected members.

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The Committee had reviewed the personal safety of elected Members, as part of the Member Development Programme. As requested by Members, this included training, support and well-being interventions. This programme would continue to develop over the year and would incorporate the new 'My Councillor' Portal. The portal sought to assist Members with casework management, general enquiries and signposting to latest information at ward level.

The Vice Chair acknowledged the work and efforts of the former Chair, Councillor Geoff Lewis, who had passed away in April 2020.

The Vice Chair reminded members of the importance of attending the Code of Conduct training that was offered every year to enhance understanding and provided an opportunity for Members to discuss ethical issues. Additionally, once the new Member Code of Conduct was adopted, training would be provided to all members.

The Vice Chair expressed his gratitude to the members of the Committee, the Independent Persons and the Monitoring Officer for their support and work over the past year.

The Vice Chair also echoed the earlier comments in respect of Councillor Hevican who had been a member of the Committee.

49/21 **Cabinet**

The minutes of the meeting of the Cabinet held on 24th February 2021 were received.

50/21 **Budget and Corporate Scrutiny Management Board**

The minutes of the meeting of the Budget and Corporate Scrutiny Management Board held on 24th February 2021 were received.

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51/21 **Audit and Risk Assurance Committee**

The minutes of the meeting of the Audit and Risk Assurance Committee held on 11th February 2021 were received.

52/21 **Thanks to Retiring Members**

The Mayor was joined by members in thanking all those members who were retiring for their service.

Meeting ended at 8:19pm.

The meeting was broadcast live and is available to view [Full Council – 23rd March 2021](#)

Contact: democratic_services@sandwell.gov.uk



Sandwell Metropolitan Borough Council

Members' Code of Conduct

Member's Code of Conduct

Introduction

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

The Local Government Association (LGA) has developed a 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.

During the 2020/21 municipal year the Council's Member Development and Ethical Standards Committee undertook a comprehensive review of the Council's ethical framework and following consultation with elected members recommended this code to full council.

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 subcommittee 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.

For the purpose of registration of your interest (Part C of the Registration of Interest Form), "potential conflicts of interests" includes relationships of the member, the member's spouse or the member's civil partner or any person with whom you are living as husband and wife or as if you were civil partners: a son/daughter (including a biological son/daughter, stepson/daughter, adopted son/daughter or male/female child for which the person has custodial responsibilities), mother, father, brother or sister, a niece, nephew, aunt, uncle, grandchild, grandparent, or a person with whom you have a close association (meaning someone that you are in either regular contact with over a period of time or a significant contact who is more than an acquaintance or can be considered to be a friend, a colleague, a business associate or someone whom you know through general social contacts) in relation to a council decision or contract.

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 you or your local authority's ability to discharge your/it's 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

8. As a councillor:

8.1 I do not misuse council resources.

8.2 I will, when using the resources of the local 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.

9. Complying with the Code of Conduct

As a Councillor:

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

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

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

9.4 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

10. Interests

As a councillor:

10.1 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.

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 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, close associate; or
 - c. a body included in those you need to disclose under Other Registrable 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 **affects** your 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 a personal interest in any business of your authority and you have made an executive decision in relation to that business, you must make sure that any written statement of that decision records the existence and nature of your interest.

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](#).

Subject	Description
Employment, office, trade, profession or vocation	Any employment, office, trade, profession or vocation carried on for profit or gain. [Any unpaid directorship.]
Sponsorship	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.
Contracts	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 — (a) under which goods or services are to be provided or works are to be executed; and (b) which has not been fully discharged.
Land and Property	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.
Licenses	Any licence (alone or jointly with others) to occupy land in the area of the council for a month or longer

Corporate tenancies	Any tenancy where (to the councillor's knowledge)— (a) the landlord is the council; and 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.
Securities	Any beneficial interest in securities* of a body where— (a) that body (to the councillor's knowledge) has a place of business or land in the area of the council; and (b) either— (i)) the total nominal value of the securities* exceeds £25,000 or one hundredth of the total issued share capital of that body; or 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 spouses/civil partners has a beneficial interest exceeds one hundredth of the total issued share capital of that class.

* '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 have a personal interest in any business of your authority where it relates to or is likely to affect:

- a) any body of which you are in general control or management and to which you are nominated or appointed by your authority
- b) any body
 - (i) exercising functions of a public nature
 - (ii) any body 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)

You have a personal interest if your family member or close associate(s) either works for the Council or has a contractual relationship with the Council. Named individuals will need to provide written approval for their personal data to be used or the member will need to sign a statement that they have obtained permission. Any such names will be redacted from the public register.

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.

Sandwell Metropolitan Borough Council

REGISTER OF MEMBERS INTERESTS

(Pursuant to Sandwell Metropolitan Borough Council's Code of Conduct for Members and Part 1, Chapter 7 of the Localism Act 2011).

Please refer to the Code of Conduct and the accompanying Notes of Guidance before completing this form.

I,

an **Elected/Co-opted/Appointed** (*delete as appropriate*) member of Sandwell Metropolitan Borough Council give notice that I have set out below my interests and in so far as I am aware of the existence of the interests of my spouse or civil partner or any person with whom I am living as husband and wife or as if we were civil partners (relevant persons).

I have also set out in so far as I am aware of the existence of the names of any members of my family or close associates who either work for the Council or have a contractual relationship with the Council and the nature of that interest.

I have put 'None' where I/we have no such interest under any heading.

PART A
DISCLOSABLE PECUNIARY INTERESTS

1. Any employment, office, trade, profession or vocation carried on for profit or gain (Including employment outside of the Borough of Sandwell). Please give details of (i) every employment, job, trade, business or vocation you and/or your partner have, for which you and/or your partner receive any benefit or gain (i.e. profit, salary or benefit in kind) including a short description of the activity e.g. accountant or plumber and (ii) the name of any employer or body, firm or company which you and/or your partner own or in whose securities you and/or your partner have any beneficial interest. This must include remuneration as a director.

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2. **Sponsorships** - any payment or provision of any other financial benefit (other than from the Council) made or provided within the relevant period in respect of any expenses incurred in carrying out duties as a member, or towards the 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.

3. **Contracts** - any contract which is made between you and/or your partner (or a body in which you and/or your partner have a beneficial interest) and the Council (a) under which goods or services are to be provided or works are to be executed; and (b) which has not been fully discharged.

4. **Land** - any beneficial interest in land which is within the area of the Borough of Sandwell. Please give the address or other description (sufficient to identify the location) of any land or property in the area of the Borough of Sandwell in which you and/or your partner have a beneficial interest, indicating whether you and/or your partner are the owner or lessee or a tenant. Include any house you rent from Sandwell Borough Council.

-
5. **Licences** - any licence (alone or jointly with others) to occupy land in the area of the Borough of Sandwell for a month or longer. Please give the address or other description (sufficient to identify the location) of any land or property in the area of the Borough of Sandwell in which you and/or your partner licence.

6. **Corporate tenancies** - any tenancy where (to your knowledge) (a) the landlord is the Council; and (b) the tenant is a body in which you and/or your partner have a beneficial interest. Please give the address or other description (sufficient to identify the location) of any land leased or licensed from the Council by you and/ or your partner or any body, firm or company by which you are employed or which you own or in which you have a beneficial interest

7. **Securities** - any beneficial interest in securities of a body where (a) that body (to your knowledge) has a place of business or land in the area of the Borough of Sandwell ; and (b) either (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 relevant person has a beneficial interest exceeds one hundredth of the total issued share capital of that class. Note it is not necessary to declare the nature or size of the holding, simply the name of the company or other body.



PART B
OTHER REGISTERABLE INTERESTS

8. Any body of which you and/ or your partner are a member or in a position of general control or management and to which you and/ or your partner are appointed or nominated by the Council.

9. Any body of which you and/ or your partner are a member or in a position of general control or management and which

(a) exercises functions of a public nature;

(b) is directed to charitable purposes; or

(c) is a body which includes as one of its principal purposes influencing public opinion or policy (this includes any political parties or trade union).

10. Any person from whom you and/or your partner have received a gift, or hospitality with an estimated value of at least £50 (you must register any gifts and hospitality worth over £50 that you receive personally in connection with official duties).

PART C
MEMBERS OF YOUR FAMILY AND CLOSE ASSOCIATES

11. The names of any members of your family or close associates who either work for the Council or have a contractual relationship with the Council and the nature of that interest.

Voluntary Registration of Other Interests

Please list below any other interests that you wish to declare in accordance with the General Principles of Conduct as set out in the Code of Conduct or which you think may lead to a conflict of interests between your personal interests and the public interest.

Confirmation

I understand that:-

- (a) I may be committing a criminal offence if I:-
- (i) fail to register or declare disclosable pecuniary interests as required, without reasonable excuse;
 - (ii) participate or vote or take steps in Council business at meetings or when acting alone when prevented from doing so;
 - (iii) knowingly or recklessly provide information that is false or misleading;

I understand that I must, within 28 days of becoming aware of any new or change in the above interests, provide written notification to the Monitoring Officer.

- (b) I will be in breach of Sandwell Metropolitan Borough Council's Code of Conduct for Members if I:-
- (i) fail to meet the requirements in relation to disclosable pecuniary interests;
 - (ii) fail to register or declare other interests as required;
 - (iii) take part in Council business at meetings or when acting alone when prevented from doing so;
 - (iv) provide information that is materially false or misleading;

I understand that I must, within 28 days of becoming aware of any new or change in the above interests provide written notification to the Monitoring Officer.

Signed:

Dated:

Please sign and return this Notice to the Democratic Services Unit, Sandwell Council House, P.O. Box 2374, Oldbury, West Midlands, B69 3DE.

Date received by the Monitoring Officer:/...../.....

Notes of Guidance to Register of Interests

You should complete the register with sufficient detail to identify clearly what the interest is. Do not use abbreviations, initials or acronyms. You are personally responsible for the accuracy of the contents of the register.

Information on your register of interests will be published. Should you have any concerns regarding the information on your register of interests been publicly available please discuss these with the Monitoring Officer who will consider whether the information should be redacted and moved to the sensitive register.

PART A **DISCLOSABLE PECUNIARY INTERESTS**

Disclosable Pecuniary interests are prescribed by Regulation. Please refer to Part A of the Code of Conduct when completing questions 1 - 7.

PART B **OTHER REGISTERABLE INTERESTS**

8. List all the bodies that are not committees or sub committees of the Council to which you have been appointed by the Council. Give the full name of the body (not acronyms or initials). If in doubt, ask the Monitoring Officer or the Service Manager - Governance for the list of Outside Bodies. Appointments or nominations may include local committees and charities, partnerships and companies in which the Council is involved, and other related organisations. Include nominations to regional and national bodies such as local authority associations.
9. Include any public bodies of which you are a member (e.g. school governor, health authority, government agency, other non-profit organisation in the public sector, local committee). Include any charity of which you are a trustee or member and any non-profit making body such as a cultural, sporting, environmental or social association, club or organisation. Include the name of any political party of which you are a member, any national or local body operating as a pressure group and any trade union or trade association.
10. This requirement is not intended to cover gifts and hospitality received by you in your private capacity (i.e. when you are not acting as a Councillor). The requirement covers gifts and hospitality received by you as a Councillor. With some hospitality, for example, weddings and special events, you will need to consider in what capacity you are involved. You are advised to register all gifts that you accept, and all hospitality (other than incidental refreshment of a modest nature). You must register the nature and approximate value of the gift and hospitality, and the person or body giving it. You should register it as soon as possible after receiving it.

Make sure that you indicate the date when you register as this is important to determine how long you will need to disclose the receipt of the gift or hospitality in the event of any business of the authority relating to it (three years from the date of registration). Please see Guidance on Gifts and Hospitality.

PART C
MEMBERS OF YOUR FAMILY AND CLOSE ASSOCIATES

11. List the names of any members of your family or close associates who either work for the Council or have a contractual relationship with the Council. Named individuals will need to provide written approval for their personal data to be used or the member will need to sign a statement that they have obtained permission. Any such names will be redacted from the public register.

PLEASE NOTE

In the context of BOTH Disclosable Pecuniary Interests and Other Registerable Interests you are required to set out your own interests AND in so far as you are aware of their existence the interests of your spouse or civil partner or any person with whom you are living as husband and wife or as if you were civil partners.

In circumstances where the interest is not your own, you are not required to identify the interest as being your spouse or civil partner or any person with whom you are living as husband and wife or as if you were civil partners. However, you may wish to do so should you wish to provide further clarity where appropriate.

In this Code a 'member of your family' includes the following relationships of the member, the member's spouse or the member's civil partner or any person with whom you are living as husband and wife or as if you were civil partners: a son/daughter (including a biological son/daughter, stepson/daughter, adopted son/daughter or male/female child for which the person has custodial responsibilities), mother, father, brother or sister, a niece, nephew, aunt, uncle, grandchild, grandparent.

In this Code 'a person with whom you have a close association' means someone that you are in either regular contact with over a period of time or a significant contact who is more than an acquaintance or can be considered to be a friend, a colleague, a business associate or someone whom you know through general social contacts.

Guidance revised March 2021

Arrangements for dealing with standards allegations under the Localism Act 2011

1. Context

These “Arrangements” set out how to make a complaint that an elected or co-opted member of this authority has failed to comply with the authority’s Code of Conduct, and sets out how the authority will deal with allegations of a failure to comply with the authority’s Code of Conduct. There is a separate procedure for dealing with Whistleblowing complaints

Under the Localism Act 2011, the Council must have in place “arrangements” under which allegations that a member or co-opted member of the authority, or of a Committee or Sub-Committee of the authority, has failed to comply with that authority’s member Code of Conduct can be investigated and decisions made on such allegations.

Such arrangements must provide for the authority to appoint at least one Independent Person, whose views must be sought by the authority before it takes a decision on an allegation which it has decided shall be investigated, and whose views can be sought by the authority at any other stage, or by a member against whom an allegation has been made.

2. The Code of Conduct

The Council has adopted a Code of Conduct for members, which is available for inspection on the authority’s website and on request from the Sandwell Council House, Oldbury.

3. Making a complaint

To make a complaint, please write to or email –

Surjit Tour
Monitoring Officer
Director of Law and Governance
Sandwell Council House
Oldbury
B69 3DE

surjit_tour@sandwell.gov.uk

Or

Maria Price
Deputy Monitoring Officer
Service Manager - Legal

maria_price@sandwell.gov.uk

The Monitoring Officer is a senior officer of the authority who has statutory responsibility for maintaining the register of members' interests and who is responsible for administering the system in respect of complaints of member misconduct.

In the event of there being a conflict of interest in relation to both the Monitoring Officer and Deputy Monitoring Officer, the Monitoring Officer will, in consultation with the Chief Executive, seek to appoint another Deputy Monitoring Officer, or alternatively, refer the matter to a Monitoring Officer from another Authority.

Complaints should be submitted using the Complaint Form for Allegation of Breach(es) of Code of Conduct for Members.

In order to ensure that all the information needed to be able to process a complaint is included, please complete and send the complaint form, which can be downloaded from the authority's website, next to the Code of Conduct, and is available on request from the Sandwell Council House, Oldbury.

The complainant should provide their name and a contact address or email address, so that the complaint can be acknowledged and they can be kept informed of its progress. If the complainant wants to keep their name and address confidential, they should indicate this in the space provided on the complaint form, in which case their name and address will not be disclosed to the member against whom the complaint is made without their prior consent. The authority does not normally investigate anonymous complaints, unless there is a clear public interest in doing so. The process for deciding how to deal with anonymous complaints is set out in the attached charts.

The Monitoring Officer will acknowledge receipt of your complaint within 5 working days of receiving it and will keep you informed of the progress of your complaint.

4. Confidential Informant Process

Any member of staff (including schools staff) within Sandwell Metropolitan Borough Council can report information anonymously to the Monitoring Officer who may authorise an investigation. The Informant may be interviewed as part of the investigation process, but will not need to reveal that they are the complainant. It will then be for the Investigator to confirm or otherwise the facts of the matter and come to a conclusion.

This process is only available to employees of Sandwell Metropolitan Borough Council. If the employee came under duress or other pressure from Councillors or Senior Officers to undertake improper behaviour the Monitoring Officer will expect them to be candid about that and it is unlikely any action will be taken against them. If the employee has colluded with the wrongdoing and benefitted from it then they cannot expect any sympathetic treatment.

5. Will your complaint be investigated?

Preliminary tests

The Monitoring Officer will review every complaint received and take a decision as to whether it merits formal investigation. This decision will normally be taken within 10 working days of receipt of your complaint.

The complaint will be assessed by the Monitoring Officer, or in their absence the Deputy Monitoring Officer, in consultation with the Independent Person (see paragraph 12 – ‘Who is the independent person?’ for further information) against the Stage One Legal Threshold set out in paragraph 5.1 and, if applicable, the Stage Two Initial Assessment test set out in paragraph 5.2 below.

5.1 Stage One - Legal Threshold:

- (a) Was the person complained of a member of the Council at the time of the alleged conduct?
- (b) Was the person complained of acting in an official capacity at the time of the alleged conduct?
- (c) If the facts could be established as a matter of evidence, could the alleged conduct be capable of a breach of the Code of Conduct in force at the material time?
- (d) The complaint is about dissatisfaction with the Council’s decisions, policies and priorities, etc.

If the complaint fails one or more of the 1st Stage Legal Threshold tests, no further action will be taken by the Monitoring Officer and the complaint will be rejected. The Complainant will be notified accordingly with reasons, normally within 10 working days of receipt of the complaint by the Monitoring Officer. There is no right of appeal against the Monitoring Officer’s decision.

5.2 Stage Two – Initial Assessment

If the complaint satisfies the Stage One Legal Threshold test, the Monitoring Officer will then apply the following Initial Assessment criteria test:

- (a) The complaint is a ‘repeat complaint’, unless supported by new or further evidence substantiating or indicating that the complaint is exceptionally serious or significant;
- (b) The complaint is anonymous (unless paragraph 4 applies);
- (c) No or insufficient information/evidence to substantiate the complaint has been submitted by the Complainant;
- (d) The complaint is malicious, trivial, politically motivated or ‘tit-for-tat’;
- (e) The Complainant is unreasonably persistent, malicious and/or vexatious;
- (f) The alleged misconduct happened more than 6 months ago;
- (g) The complaint is relatively minor and dealing with the complaint would have a disproportionate effect on both public money and officers’ and Members’ time and it is more appropriate for the matter to be discussed with the Group Leader and/or Chief Whip in accordance with paragraph xx;
- (h) The circumstances have changed so much that there would be little benefit arising from an investigation or other action;

- (i) The complaint has been the subject of an investigation or other action and there is nothing more to be gained by further action being taken;
- (j) The complaint is such that it is unlikely that an investigation will be able to come to a firm conclusion on the matter, e.g. where there is no firm evidence on the matter;
- (k) The complaint is about a deceased person;
- (l) The complaint is about a person who is no longer a Councillor.

If one or more of the Stage Two Initial Assessment test applies to the complaint, no further action will be taken by the Monitoring Officer and the complaint will be rejected. The Complainant will be notified accordingly with reasons, normally within 10 working days of receipt of the complaint by the Monitoring Officer. There is no right of appeal against the Monitoring Officer's decision.

If the complaint identifies criminal conduct or breach of other regulation by any person, the Monitoring Officer has the power to call in the Police and other regulatory agencies.

If none of the criteria in the Stage Two Initial Assessment apply, the Monitoring Officer will go on to apply the Public Interest Test at 5.3.

5.3 Stage 3 – Public Interest Test

Public interest is regarded as “something which is of serious concern and benefit to the public”. It has also been held that the public interest does not mean what is of interest to the public, but what is in the interest of the public.

The Council is of the view that it should not use its resources to investigate matters which are trivial or which have little or no impact upon the public. It is important that the Council focuses on investigations where matters are serious and capable of undermining the relationship between councillors and the public they serve such as; corruption, bullying, damaging the Council's public image, bringing the Council into disrepute, or the misuse of power in public office.

When applying the public interest test, the Monitoring Officer and Independent Person shall consider each of the following public interest factors set out below. These factors are not exhaustive, and not all may be relevant in every case.

The weight to be attached to each of these factors, and the factors identified, will also vary according to the facts and merits of each case.

- the seriousness of the breach, for example, has the Member brought the Council seriously into disrepute? The more serious the breach the more likely investigation and referral for further hearing is required;
- has the Member deliberately sought personal gain for himself or another person at the public expense? If there is evidence of this, it is likely that the complaint will be investigated and referred for further hearing;
- are the circumstances of the breach such that a Member has misused a position of trust or authority and caused harm to a person? If there is evidence of this it is likely that the complaint will be investigated and referred for further hearing;

- was the breach motivated by any form of discrimination against the victim's ethnic or national origin, gender, disability, age, religion or belief, sexual orientation or gender identity? If a member's conduct is motivated by any form of discrimination it is likely that the complaint will be investigated and referred for further hearing;
- is there evidence of previous similar behaviour on the part of the Member? If so and the matter complained about is serious enough it is likely that the complaint will be investigated and referred for further hearing;
- is the breach such that an investigation or referral to the Standards Committee is required to maintain public confidence in elected Members? If so it is likely that the complaint will be investigated and referred for further hearing; and is investigation or referral to the Standards Committee a proportionate response? namely, would the cost of an investigation or hearing by the Standards Committee be regarded as excessive when weighed against any likely sanction?

6. What happens once the Monitoring Officer has reached a decision?

Where the Monitoring Officer has taken a decision, they will inform the complainant of their decision and the reasons for that decision. The Monitoring Officer must consult with the Independent Person before deciding whether or not a formal investigation should be undertaken.

Where the Monitoring Officer requires additional information in order to come to a decision, they may request further information from the complainant, and may request information from the member against whom the complaint is directed.

The member against whom the complaint is directed, may seek the views of the Independent Person at any stage in the process. This could be to provide a view on the complaint itself, the process under which the complaint will be dealt with or to provide a view on any other query the member may have relating to the complaint. An Independent Person's role is not to act as an 'advisor' to the subject member.

Local Resolution

In appropriate cases, the Monitoring Officer may seek to resolve the complaint informally, without the need for a formal investigation. Such informal resolution may involve the member accepting that their conduct was unacceptable and offering an apology, or other remedial action by the authority. Where the member or the authority make a reasonable offer of local resolution, but the complainant does not agree with that offer, the Monitoring Officer will take account of those views in deciding whether the complaint merits formal investigation.

The Monitoring Officer will complete a decision notice, whether or not a matter is to be investigated, which will outline the reasons for the decision.

The Monitoring Officer will normally only decide to investigate a complaint about alleged conduct that happened within six months of the date of receipt of the complaint. If the Monitoring Officer is of the view that exceptional circumstances apply, then this time limit may be waived.

7. Referral for Investigation

If the Monitoring Officer decides that a complaint merits formal investigation, they will appoint an Investigating Officer/Officers, who may be another senior officer of the authority, an officer of another authority or an external investigator.

The Investigating Officer will decide whether they need to meet or speak to the complainant to understand the nature of the complaint and so the complainant can explain their understanding of events and suggest what documents the Investigating Officer needs to see, and who the Investigating Officer needs to interview.

The investigation will be completed in accordance with the Protocol for Dealing with Investigations into Standards Allegations under the Localism Act 2011, which is appended to these arrangements.

The Investigating Officer would normally write to the member against whom the complaint has been made and provide them with details of the complaint, within 5 working days of being appointed.

The Subject Member has the opportunity to provide an explanation of events, identify any documents they believe the Investigating Officer needs to see and who should be interviewed. This should be done within 5 working days of receiving the details of the complaint from the Investigating Officer.

In exceptional cases, where it is appropriate to keep the complainant's identity confidential or disclosure of details of the complaint to the member might prejudice the investigation, the Monitoring Officer can delete the complainant's name and address from the papers given to the member, or delay notifying the member until the investigation has progressed sufficiently.

The Investigating Officer may ask the subject member to attend an interview about the complaint. The interview may be tape recorded, unless the Investigating Officer considers there to be good reason not to.

The disclosure of any evidence to the Subject Member at any stage of the investigation is a matter for the Investigating Officer, having regard to the rules of natural justice and ensuring fairness to all parties concerned.

If at any point during the investigation, the Investigating Officer forms the opinion that the investigation should cease, they will consult with the Monitoring Officer, who may consult the Independent Person and take a decision to stop the investigation at any stage.

The Investigating Officer will endeavour to complete their investigation within 8 weeks (40 working days). However, **may**, if they consider it to be in the interests of natural justice and fairness, extend the timetable based upon factors such as:

- Medical reasons relating to the subject member (with evidence specifically addressing why the SM cannot engage in the investigation);
- To allow the subject member to seek legal advice and representation;
- In consideration of any personal or family circumstances of the subject member that impacts on their availability or ability to engage at the initial stage.
- Other exceptional circumstances determined on a case by case basis eg availability of a key or material witness.

Any extension will be determined by the Investigating Officer who will confirm the new timetable and notify the relevant parties.

The Investigating Officer reserves the right to proceed with the investigation in the absence of engagement of the subject member if they are satisfied that reasonable opportunity has been given to the subject member to engage in the process.

At the end of their investigation, the Investigating Officer will produce a draft report and will send a copy of that draft report, in confidence, to the Monitoring Officer. The Monitoring Officer, if satisfied with the report, will then send the draft report to the complainant and the subject member within 5 working days.

The evidence gathered during the course of the investigation is not disclosed to the complainant or the subject member at this stage.

The complainant and the subject member will be given a period of 10 working days to comment on the draft report. All comments should be directed to the Investigating Officer for consideration.

The Investigating Officer, having received and taken account of any comments made on the draft report and undertaking any further investigation they consider relevant and appropriate. The Investigating Officer will endeavour to send their final report to the Monitoring Officer, within 5 working days.

8. What happens if the Investigating Officer concludes that there is no evidence of a failure to comply with the Member Code of Conduct?

The Monitoring Officer will review the Investigating Officer's report and, if they are satisfied that the Investigating Officer's report is sufficient, the Monitoring Officer will write to the complainant and to the subject member, notifying them that they are satisfied that no further action is required, and give provide both with a copy of the Investigating Officer's final report. If the Monitoring Officer is not satisfied that the investigation has been conducted properly or has other concerns relating to the complaint or the investigation report, they may ask the Investigating Officer to reconsider their report. The Monitoring Officer may consult the Independent Person about this.

9. What happens if the Investigating Officer concludes that there is evidence of a failure to comply with the Member Code of Conduct?

The Monitoring Officer will review the Investigating Officer's report and will then either send the matter for local hearing before a Sub Committee of the Standards Committee or, after consulting the Independent Person, seek local resolution.

9.1 Local Resolution

The Monitoring Officer may consider that the matter can reasonably be resolved without the need for a hearing. In such a case, they will consult with the Independent Person and with the complainant. If the complainant does not agree with the suggested resolution, the Monitoring Officer will take account of their views in deciding whether to proceed with the local resolution or refer it for a local hearing. It is however, the Monitoring Officer's decision. The purpose of the local resolution is to ensure higher standards of conduct for the future. Such resolution may include the member accepting that their conduct was unacceptable and offering an apology, and/or other remedial action by the authority.

The range of resolutions that can be imposed is wide and each resolution will be tailored to fit the particular behaviour that has resulted in a breach of the Member Code of Conduct, for example, training on a specific issue. The Monitoring Officer will set a reasonable timescale for compliance with the local resolution.

If the member complies with the suggested resolution, within the timescale set by the Monitoring Officer, the Monitoring Officer will report the matter to the Standards Committee for information, but will take no further action. If the member fails to comply with the resolution within the timescale set, the matter will be referred to the Standards Committee and Full Council for information.

The breach of the Member Code of Conduct and the resolution imposed will be publicised on the member's profile on the Council's website for a period to be determined by the Monitoring Officer, which is to be no less than the time required for compliance with any sanction. If a member fails to comply with a sanction in the timescale set, the information will remain on the profile until compliance is achieved.

9.2 Local Hearing

If the Monitoring Officer considers that local resolution is not appropriate, or the member concerned is not prepared to undertake the suggested resolution, then the Monitoring Officer will report the Investigating Officer's report to a Sub-Committee of the Standards Committee which will conduct a local hearing before deciding whether the member has failed to comply with the Code of Conduct and, if so, whether to take any action in respect of the member. The local hearing will normally take place within six weeks (30 working days) of the decision to proceed to a local hearing being made.

Within 5 working days of the decision being made to proceed with a local hearing, the Monitoring Officer shall provide the complainant and the subject member with a copy of the bundle containing the supporting evidence.

The Monitoring Officer will conduct a “pre-hearing process”, requiring the member to give their response to the Investigating Officer’s report, in order to identify what is likely to be agreed and what is likely to be in contention at the hearing, and the Chair of the Sub-Committee of the Standards Committee may issue directions as to the manner in which the hearing will be conducted. If the matter to be heard is particularly complex, consideration may be given, by the Monitoring Officer and the Chair of the Committee, to have the hearing in front of the full Standards Committee rather than a sub-committee.

At the hearing, the Investigating Officer will present their report, call such witnesses as they consider necessary and make representations to substantiate their conclusion that the member has failed to comply with the Member Code of Conduct. For this purpose, the Investigating Officer may ask the complainant to attend and give evidence to the Sub Committee. The member will then have an opportunity to give their evidence, to call witnesses and to make representations to the Sub Committee as to why they consider that they did not fail to comply with the Member Code of Conduct.

If the Sub-Committee, with the benefit of any advice from the Independent Person, conclude that the member did not fail to comply with the Member Code of Conduct, they may dismiss the complaint. If the Sub-Committee concludes that the member did fail to comply with the Code of Conduct, the Chair will inform the member of this finding and the Sub-Committee will then consider what action, if any, the Sub-Committee should take as a result of the member’s failure to comply with the Code of Conduct.

In doing this, the Sub-Committee will give the member an opportunity to make representations to the Sub-Committee and will consult the Independent Person.

10. What action can the Sub Committee of the Standards Committee take where a member has failed to comply with the Member Code of Conduct?

The Council has delegated to the Standards Committee such of its powers to take action in respect of individual members as may be necessary to promote and maintain high standards of conduct. Accordingly a Sub-Committee, on behalf of the Standards Committee, will publish the breach of the code of conduct and the sanction imposed on the member’s profile on the Council’s website for a period of time to be determined by the Sub Committee, which is to be no less than the time required for compliance with any sanction. If a member fails to comply with a sanction in the timescale set, the information will remain on the profile until compliance is achieved. The Sub Committee will also report its findings to Council for information.

The Standards Committee may –

- 10.1 Recommend to the member's Group Leader (or in the case of ungrouped members, recommend to Council or to Committees) that the subject member be removed from any or all Committees or Sub Committees of the Council;
- 10.2 Recommend to the Leader of the Council that the member be removed from the Cabinet, or removed from particular Portfolio responsibilities;
- 10.3 Instruct the Monitoring Officer to arrange training for the member;
- 10.4 Recommend to Council to remove from all outside appointments to which the member has been appointed or nominated by the authority;
- 10.5 Withdraw facilities provided to the member by the Council, such as a computer, website and/or email and Internet access;
- 10.6 Exclude the member from the Council's offices or other premises, with the exception of meeting rooms as necessary for attending Council, Committee and Sub-Committee meetings.
- 10.7 Recommend to the Council that the Subject Member be issued with a formal censure (i.e. the issue of an unfavourable opinion or judgement or reprimand) by motion.
- 10.8 Instruct the Monitoring Officer to apply the informal resolution process.
- 10.9 Recommend the Council to issue a press release or other form of publicity.
- 10.10 Recommend that the subject member makes an apology at the next full Council meeting.
- 10.11 Take such steps as appropriate, reasonable and proportionate to the particular conduct that amounted to the breach of the code of conduct.

The Standards Committee has no power to suspend or disqualify the member or to withdraw members' or special responsibility allowances.

11. What happens at the end of the hearing?

At the end of the hearing, the Chair will state the decision of the Sub Committee as to whether the member failed to comply with the Member Code of Conduct and as to any actions which the Sub-Committee resolves to take.

As soon as reasonably practicable thereafter, and within 5 working days, the Monitoring Officer shall prepare a formal decision notice in consultation with the Chair of the Sub-Committee, and send a copy to you, to the member and make that decision notice available for public inspection and report the decision to the next convenient meeting of the Council.

If the member complies with the sanction imposed by the Standards Committee, within the timescale set, the Monitoring Officer will report the matter to the Standards Committee for information. If the member fails to comply with the sanction within the timescale set, the matter will be referred to the Standards Committee and Full Council for information.

12. Who are the Standards Committee?

The Standards Committee is appointed each year by the Council. Details of the current membership of the Committee can be found on the Council's web site on the Committee Management Information System.

The Independent Person(s) is/are invited to attend all meetings of the Standards Committee and their views are sought and taken into consideration before a Sub Committee of the Standards Committee takes any decision on consideration of an investigation report on whether the member's conduct constitutes a failure to comply with the Member Code of Conduct and as to any action to be taken following a finding of failure to comply with the Member Code of Conduct.

13. Who is the Independent Person?

The Independent Person is a person who has applied for the post following advertisement of a vacancy for the post, and is appointed by a positive vote from a majority of all the members of Council.

A person cannot be "independent" if he/she –

- 13.1 Is, or has been within the past 5 years, a member, co-opted member or officer of the authority;
- 13.2 Is a relative, or close friend, of a person within paragraph 13.1 above. For this purpose, "relative" means –
 - 13.2.1 Spouse or civil partner;
 - 13.2.2 Living with the other person as husband and wife or as if they were civil partners;
 - 13.2.3 Grandparent of the other person;
 - 13.2.4 A lineal descendent of a grandparent of the other person;
 - 13.2.5 A parent, sibling or child of a person within paragraphs 13.2.1 or 13.2.2;
 - 13.2.6 A spouse or civil partner of a person within paragraphs 13.2.3, 13.2.4 or 13.2.5; or
 - 13.2.7 Living with a person within paragraphs 13.2.3, 13.2.4 or 13.2.5 as husband and wife or as if they were civil partners.

14. Publication of Standards Investigations

The Council acknowledges that there is a need to balance the public interest in transparency of these types of matters with the requirement of fairness to a member who is subject to an allegation.

The contents of the initial assessment of a complaint and the investigation will remain confidential.

When a matter progresses to a local hearing before a Sub Committee of the Standards Committee, the hearing will be in public, unless there is a particular reason for the information that will be disclosed during it, to be exempt. The Monitoring Officer will make this decision prior to the hearing in consultation with the Independent Persons and the Chair of the Committee. Each case will be determined on its own merits.

In making this decision, particular consideration will be given to the necessity of transparency, the requirements of witnesses, any Data Protection issues that may become relevant and schedule 12A of the Local Government Act 1972 which outlines what exempt information is.

Consideration will also be given to the disclosure of the papers prior to and or after the hearing and whether any redactions of the papers need to be made.

15. Access to Information during an Investigation

During an investigation and any subsequent hearing, it is important to ensure that information and evidence that has been gathered, is kept confidential in order to protect the integrity of the process. With that in mind, the access to certain information will be restricted.

15.1 Subject Access Requests

The Data Protection Act 1998 entitles individuals (both members of the public and employees) to access personal data held about them by Sandwell Metropolitan Borough Council. These requests are referred to as Subject Access Requests.

There are certain circumstances where the Council can legitimately withhold personal information, if one of the exemptions within the Data Protection Act applies. Information which has been obtained during an investigation under these arrangements is likely to be exempt, under the Act, as it is likely that disclosure would prejudice the prevention and detection of crime and/or prejudice certain regulatory functions. Therefore, if a Subject Access Request is made during an investigation, relating to information relevant to the investigation, it is unlikely that it will be granted. The final decision will be made by the Monitoring Officer in consultation with the Information Management Unit of the Council.

15.2 Freedom of Information Requests

The Freedom of Information Act 2000 places a statutory requirement on Sandwell Metropolitan Borough Council to provide information to the public. Any individual has a right to request information held by the Council, regardless of where they reside. This right also extends to employees, pressure groups, businesses, politicians and members of the press. There are certain circumstances where information is exempt from disclosure. Information which has been obtained during an investigation under these arrangements is likely to be exempt as it is likely that the information is being held for the purposes of a criminal investigation; is or has been held for criminal proceedings conducted by a public authority; or was obtained or recorded for various investigative functions and relates to the obtaining of information from confidential sources.

The information described is exempt only where the public authority has a duty, or the power, to carry out investigations. The Council does have a duty and/or power to carry out an investigation in accordance with the Localism Act 2011, therefore, if a Freedom of Information Request is made during an investigation, relating to information relevant to the investigation, it is unlikely that it will be granted. The final decision will be made by the Monitoring Officer in consultation with the Information Management Unit of the Council.

16. Review Meetings

There will be quarterly meetings between the CEO, MO, group leader(s) and group whips, to consider themes across any standards complaints/investigations for the purpose of identifying training needs and member development opportunities (or any other improvements) in order to prevent recurrence of incidents.

17. Revision of these arrangements

The Council may by resolution agree to amend these arrangements, and has delegated to the Chair of the Standards Committee in consultation with the Monitoring Officer and/or Independent Person as appropriate the right to depart from these arrangements in exceptional circumstances (as far as they relate to the business of a Sub Committee of the Standards Committee for the administration of the fair hearing of a matter) where they consider that it is expedient to do so in order to secure the effective and fair consideration of any matter.

There shall be a desktop review of the Code of Conduct and these Arrangements undertaken by the Committee with the Monitoring Officer annually, and an in depth review undertaken every 2 years.

18. Appeals

There is no right of appeal against a decision of a Sub Committee of the Standards Committee.

If the complainant or subject member feels that the authority has failed to deal with the complaint properly, they may seek independent legal advice.

Glossary of Key Terms

Complainant(s)	The person/people making the complaint.
Preliminary tests and assessment stages.	The process undertaken by the Monitoring Officer to determine if a complaint merits formal investigation. There are three assessment stages; legal threshold, initial assessment and public interest.
Local Hearing	A meeting of a sub-committee of the Standards Committee at which they consider whether the "Subject Councillor" has breached the code of conduct.
Independent person	The Council must appoint at least one Independent Person and seek that person's views before it takes decision on a complaint that it has decided to investigate. The Independent Person's views can also be sought by the council on any other issue in the complaints handling process. The Independent Person will also provide, on request, procedural advice to a Subject Councillor.
Investigator	The person appointed by the Monitoring Officer to undertake a formal investigation. This may involve the appointment of an investigating officer, who may be another officer of the council, an officer of another council or an external investigator.
Legal advisor	The officer responsible for providing legal advice to the Sub-committee of the Standards Committee conducting the Local Hearing. This may be the Monitoring Officer, another legally qualified officer, or someone appointed for this purpose from outside the council.
Monitoring Officer	The Monitoring Officer is a senior officer of the council who has statutory responsibility for maintaining the register of councillors' interests and who is responsible for administering the system in respect of complaints of councillor misconduct.
Public Interest	Public interest considerations are part of the assessment of the complaint.
Subject Councillor	The councillor against whom an allegation has been made.

COMPLAINT FORM

Allegation of Breach(es) of Code of Conduct for Members

(Please read the 'INFORMATION FOR POTENTIAL COMPLAINANTS' before completing this Form).

Your details

- Please provide us with your name and contact details. Anonymous complaints may be investigated if they indicate a potentially exceptionally serious or significant matter and the complaint is accompanied by sufficient documentary or other supportive evidence.**

Title:	
First name:	
Last name:	
Address:	
Contact telephone:	
Email address:	
Signature:	
Date of complaint:	

Your address and contact details will not usually be released unless necessary or to deal with your complaint.

The following people will see this Form:

- Members of the Assessment Sub-Committee
- The Monitoring Officer of the authority and appropriate officers supporting the Monitoring Officer.
- The Independent Person
- Standards Panel and parties to any Hearing

A summary of your complaint will be shared with the subject member and their representative.

If you have serious concerns about your name and a summary, or details of your complaint being released, please complete **Section 6** of this Form and you may also discuss your reasons or concerns with the Council's Monitoring Officer.

Reference to member also includes a co-opted member of the Council.

2. Please tell us which complainant type best describes you:

- A member of the public
- An elected or co-opted Member of the Council
- An independent member of the Standards Committee
- A Member of Parliament
- Chief Executive or other Council employee, contractor or agent of the Council.
- A Monitoring Officer
- Other ()

3. Equality Monitoring Form - Please complete the Form attached at the back.

4. Please provide us with the name of the Member(s) you believe have breached the Code of Conduct for Members of the Council:

Title	First name	Last name

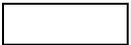
5. Please explain in this section (or on separate sheets) what the Member is alleged to have done that you believe breaches the Code of Conduct. If you are complaining about more than one Member you should clearly explain what each individual person has done that you believe breaches the Code of Conduct. You should also supply dates, documentary evidence and details of any witnesses that you believe would substantiate the alleged breach(es).

It is important that you provide all the information you wish to have taken into account by the Assessment Sub-Committee when it decides whether to take any action on your complaint. For example:

- You should be specific, wherever possible, about exactly what you are alleging the Member said or did. For instance, instead of writing that the member insulted you, you should state what it was they said or did to insult you.
- You should provide the dates of the alleged incidents wherever possible. If you cannot provide exact dates it is important to give a general timeframe.
- You should confirm whether there are any witnesses to the alleged conduct and provide their names and contact details if possible.
- You should provide any relevant background information or other relevant documentary evidence to support your allegation(s).
- If your allegation(s) relate to behaviour or conduct that occurred some time ago clearly explain why your complaint was not made earlier.

Please provide us with the details of your complaint.

Complete on separate sheet(s), as necessary



Please identify, if possible, which part of the Members Code of Conduct you consider has not been complied with.

Only complete this next section if you are requesting that your identity is kept confidential

6. In the interests of fairness and natural justice, we believe Members who are complained about have a right to know who has made the complaint. We also believe they have a right to be provided with a summary of the complaint. We are unlikely to withhold your identity or the details of your complaint unless there are exceptional circumstances that indicate that this should be done (please see Information for Potential Complainants).

Please note that requests for confidentiality or requests for suppression of complaint details will not automatically be granted. . The Monitoring Officer will then contact you with the decision. If your request for confidentiality is not granted, we will usually allow you the option of withdrawing your complaint.

However, it is important to understand that in certain exceptional circumstances where the matter complained about is very serious, we can proceed with an investigation or other action and disclose your personal and complaint details even if you have expressly asked us not to.

Please be aware that there is a Confidential Informant Process for Sandwell Metropolitan Borough Council employees; any member of staff within Sandwell Metropolitan Borough Council can report information anonymously to the Monitoring Officer who may authorise an investigation. The Informant may be interviewed as part of the investigation process, but will not need to reveal that they are the complainant. It will then be for the Investigator to confirm or otherwise the facts of the matter and come to a conclusion. Please see a copy of the Council's 'arrangements for dealing with standards allegations under the Localism Act 2011' or speak to the Monitoring Officer for full details.

Please provide us with details of why you believe we should withhold your name and/or the details of your complaint:

- 7. Please indicate the remedy or remedies you are looking for or hoping to achieve by submitting this complaint.**

(Continue on separate sheet(s), as necessary)

- 8. Please indicate whether you have raised your complaint directly with the member concerned and if so what response you received.**

(Continue on separate sheet(s), as necessary)

Additional Information

9. Complaints must be submitted in writing. This includes electronic submissions. Please use this Form to submit your complaint.
10. In line with the requirements of the Equality Act 2010, we can make reasonable adjustments to assist you if you have a disability that prevents you from making your complaint in writing. We can also help if English is not your first language.
11. If you need any support in completing this form, please contact the Monitoring Officer as soon as possible.
12. Once a valid complaint relating to an alleged breach of the Code of Conduct for Members has been received by the Monitoring Officer, it will be considered in accordance with these Arrangements. You will be notified of the decision and any further stages in the process.

**Sandwell Metropolitan Borough Council
Equality Monitoring Form
Information for Monitoring Purposes Only**

Ethnic Classification Categories to be used by Sandwell Metropolitan Borough:-

1. White

- British
- Irish
- Any other White background (please write in)

2. Mixed

- White and Black Caribbean
- White and Black African
- White and Asian
- Any other mixed background (please write in)

3. Asian or Asian British

- Indian
- Sikh
- Pakistani
- Bangladeshi
- Any other Asian background (please write in)

4. Black or Black British

- Caribbean
- African
- Any other Black background (please write in)

5. Other ethnic group

- Chinese
- Yemeni
- Any other (please write in)

Protocol for Dealing with Investigations into Standards Allegations under the Localism Act 2011

1 Context

This protocol is to be used when conducting investigations into standards allegations under the Localism Act 2011. It should be read in conjunction with the 'arrangements' made under the Localism Act 2011.

2 Steps of the investigation Initial Decision

The Monitoring Officer will review every complaint received and take a decision as to whether it merits formal investigation. This decision will normally be taken within 10 working days of receipt of the complaint. The Monitoring Officer must consult with the Independent Person before deciding whether a formal investigation should be undertaken.

The Monitoring Officer will complete a decision notice, which can be found at appendix 1, whether or not a matter is to be investigated, which will outline the reasons for the decision. This will be sent to the:

- Complainant
- Member against whom the complaint was made
- Investigator

If the Monitoring Officer decides that the complaint merits investigation, investigators will be appointed.

Investigation Procedure

At the beginning of the investigation an investigation plan will be completed by the investigators overseen by the Monitoring Officer, which can be found at appendix 2. The plan will identify key dates, behaviour alleged, the relevant parts of the code of conduct, issues for determination, evidence required/obtained and the witnesses to be interviewed.

When witnesses are interviewed, a statement will be taken from them which they will be able to check and sign. The format for such a statement can be found at appendix 3.

It is likely that the subject member will be interviewed at the end of the investigation; however this will be decided on a case by case basis. The interview may be tape recorded, unless the member objects to this. This ensures that there is no ambiguity as to the matters discussed in interview. A template interview plan can be found at appendix 4

The investigation will be reviewed on a fortnightly basis by the investigators, in consultation with the monitoring officer. The investigation review sheet will be completed on each occasion, which can be found at appendix 5.

If at any point during the investigation, the Investigating Officer forms the opinion that the investigation should cease, they will consult with the Monitoring Officer, who may consult the Independent Person and take a decision to stop the investigation at any stage. The Monitoring Officer will complete a Decision Notice to Cease an Investigation, which can be found at appendix 6.

Completion of Investigation

At the end of their investigation, the Investigating Officer will produce a draft report and will send a copy of that draft report, in confidence, to the Monitoring Officer. The Monitoring Officer, if satisfied with the report, will then send the draft report to the complainant and the subject member within 5 working days. At this stage the complainant and the subject member can identify any matter in that draft report which they disagree with or which they consider requires more consideration and will be given a period of 10 working days to comment on the draft report.

Having received any comments, the Investigating Officer will assess them and complete a Comments Assessment Form which can be found at appendix 7. Once the Investigating Officer has completed this analysis and made any necessary amendments to the report, the Investigating Officer will send their final report to the Monitoring Officer.

Decision Notice of The Monitoring Officer for Dealing with Standards Allegations Under the Localism Act 2011

Reference:

Complainants:

Subject Member:

Person Conducting the Assessment :

Date of Assessment:

Complaint

On [insert date], the Monitoring Officer considered a complaint from [insert name of complainant] concerning the alleged conduct of [insert name of councillor], a member of [insert authority name]. A general summary of the complaint is set out below.

Complaint summary

[Summarise complaint in numbered paragraphs]

Consultation with Independent Person

[Summarise the Independent Person's views in numbered paragraphs]

Stage One - Legal Threshold

The Monitoring Officer shall determine whether any of the Stage One – Legal Threshold criteria test are met as set out in paragraph 5.1 of the Arrangements.

Stage Two Initial Assessment

The Monitoring Officer shall determine whether any of the Stage Two – Initial Assessment criteria test are met as set out in paragraph 5.2 of the Arrangements.

Public Interest Test

The Monitoring Officer shall apply the Public Interest Test in accordance with paragraph 5.3 of the Arrangements.

Decision

Having consulted and considered the views of the Independent Person, the Monitoring Officer decided to [refer the complaint for investigation] [offer a local resolution] [take no further action].

At this stage, the Monitoring Officer is not required to decide if the Members Code of Conduct has been breached. They are only considering if there is enough information which shows a potential breach of the Code of Conduct that warrants referral for investigation.

If referring for Investigation

The Monitoring Officer considers that the alleged conduct, if proven, may amount to a breach of the following paragraphs of the Code of Conduct. The Monitoring Officer has appointed [insert name] as the Investigating Officer.

Please note that it will be for the Investigating Officer to determine which paragraphs are relevant, during the course of the investigation.

Parameters of Investigation

[Include brief instruction to investigators on the scope of the investigation; possible witnesses, relevant documents, issues to focus on and timescales]

If referring for Local Resolution:

The terms of the local resolution are as follows [insert terms that subject member must comply with]

Compliance with these terms is required within [insert weeks] of this decision notice.

If the subject member fails to comply with the local resolution, the matter will be referred to a sub-committee of the standards committee for hearing.

If No further action

The Monitoring Officer has decided that no further action will be taken in relation to this complaint and therefore the matter is concluded.

Notification of decision

This decision notice is sent to the:

- Complainant
- Member against whom the complaint was made
- Investigator

Appeal

There is no right of appeal against the Monitoring Officer's decision.

Signed:

Date:

Print name:

Monitoring Officer of Sandwell Metropolitan Borough Council.

The Monitoring Officer

Law and Governance
Sandwell Metropolitan Borough Council
Oldbury Council House
Freeth Street
Oldbury
B69 3DE

Investigation Plan For Dealing with Standards Allegations Under the Localism Act 2011

Case No:

Date received by monitoring officer:	
Date referred to investigator:	

Subject member:		Complainant:	
Authority:		Investigator:	

Target for monitoring officer's receipt of draft report

Date due:	
Explanation:	

Target for issue of draft report

Date due:	
Explanation:	

Target for issue of final report

Date due:	
Explanation:	

Case analysis

Behaviour alleged	
Relevant Code paragraphs	
Issues for determination	
Evidence required	
Evidence obtained	

Possible witnesses

Name of Witness	
Issue they may address	
Date of interview	

Possible witnesses

Name of Witness	
Issue they may address	
Date of interview	

Possible witnesses

Name of Witness	
Issue they may address	
Date of interview	

Other Matters

Identify any thoughts/lines of inquiry not outlined in the table and also highlight any problems in the referral process.

Completed by:

Date:

**Interview Plan For Dealing with Standards Allegations Under the
Localism Act 2011**

Case No:

Interviewee:	
---------------------	--

Subject member:		Interviewer:	
Authority:		Date:	

Nature of complaint

Purpose of interview

Facts already established (which relate to purpose of interview)

--

Facts to be established (which relate to purpose of interview)

--

Record of disclosure to witness before interview

--

Planned disclosure to witness during interview

--

Areas to be covered in interview	Key questions

Investigation Plan Review Sheet For Dealing with Standards Allegations Under the Localism Act 2011

Case No:

Date:	
Investigator:	

Subject member:		Complainant:	
------------------------	--	---------------------	--

Reason for Review

<input type="checkbox"/>	New allegation
<input type="checkbox"/>	Additional witnesses / evidence required
<input type="checkbox"/>	Periodic Review

Details relating to above

Review of Targets

Revised draft report target:	
Revised date of final report target:	

Reasons for revisions



Completed by:

Date:

Decision Notice of The Monitoring Officer for Dealing with Standards Allegations Under the Localism Act 2011 to Cease an Investigation

Reference:

Complainants:

Subject Member:

Person Conducting the Assessment:

Date of Assessment:

Complaint

On [insert date], the Monitoring Officer considered a complaint from [insert name of complainant] concerning the alleged conduct of [insert name of councillor], a member of [insert authority name]. A general summary of the complaint is set out below.

Complaint summary

[Summarise complaint in numbered paragraphs]

Original Decision

Having consulted and taken into account the views of the Independent Person, the Monitoring Officer decided to refer the complaint for investigation on the [insert date].

Investigation Summary

The investigation began on the [insert date]. To date, the investigation has revealed that [insert brief description of what has happened in the investigation so far].

Decision to Cease Investigation

Having consulted and taken into account the views of the Independent Person, the Monitoring Officer decided to cease the investigation. The reasons for this decision are as follows [insert reasons].

Consultation with Independent Person

[Summarise the Independent Person's views in numbered paragraphs]

Notification of decision

This decision notice is sent to the:

- Complainant
- Member against whom the complaint was made
- Investigator

Appeal

There is no right of appeal against the Monitoring Officer's decision.

Signed:

Date:

Print name:

Monitoring Officer of Sandwell Metropolitan Borough Council.

The Monitoring Officer

Governance Services

Sandwell Metropolitan Borough Council

Oldbury Council House

Freeth Street

Oldbury

B69 3DE

APPENDIX 7

**Comments Assessment Matrix For Dealing with Standards Allegations
Under the Localism Act 2011**

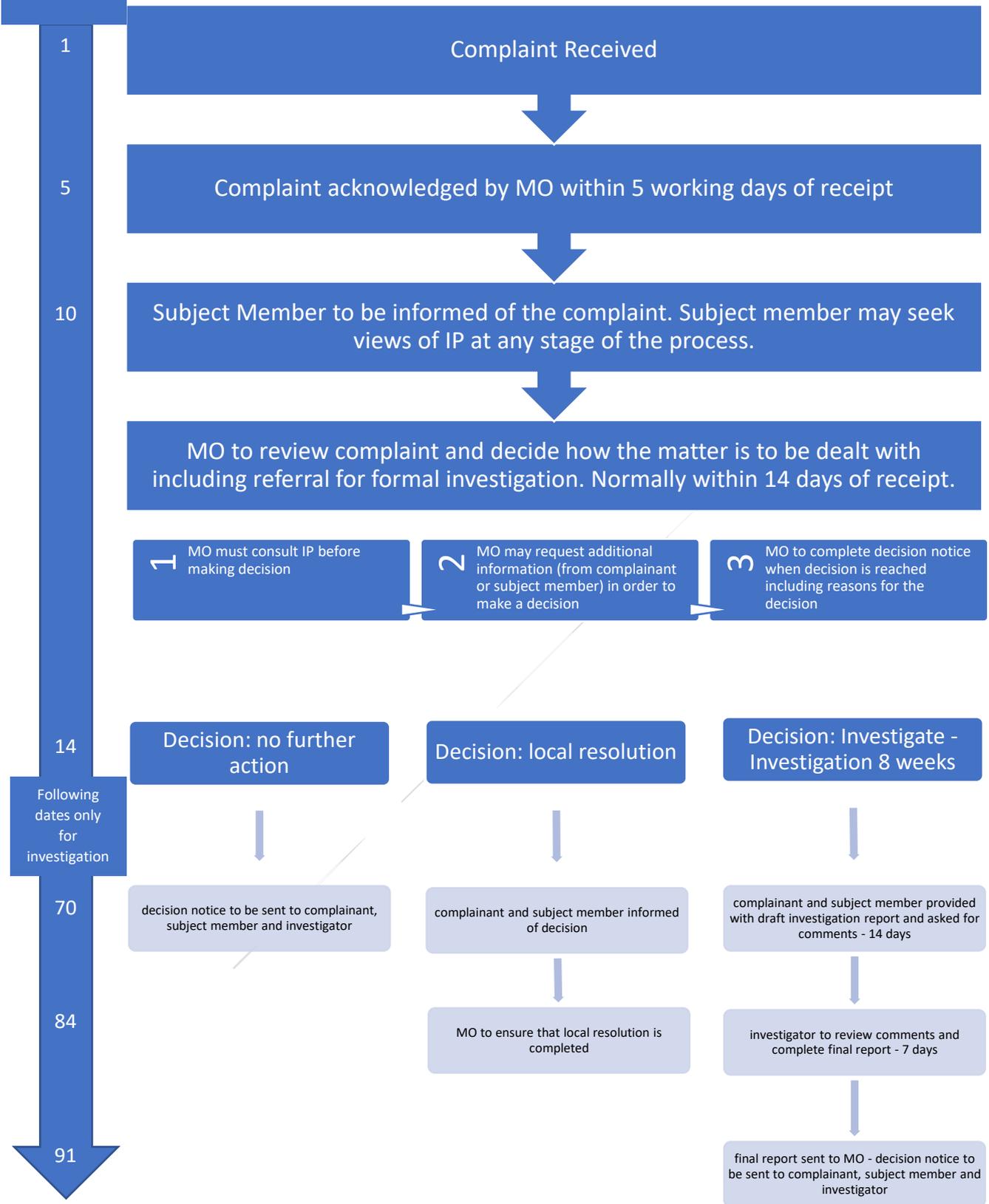
Case No:

Date:			
Investigator:			
Subject member:			Complainant:
Comments Made by:			
Date Received:			

Comment Received	Response	Amendment Necessary?

Indicative
Timeline
in days

Flow Chart Showing Summary Timeline from Receipt of Member Standards Complaint



This flowchart should be read in conjunction with the Council's Arrangements for dealing with member standards complaints. The timeline provided here is subject to change depending on the circumstances of the particular complaint.

SOCIAL MEDIA AND ELECTRONIC COMMUNICATIONS POLICY FOR ELECTED MEMBERS

1. Introduction

Social media and other electronic communications such as e-mail, WhatsApp, Facebook, Twitter, LinkedIn, YouTube, blogs, enable members to readily engage with citizens, partners and stakeholders. It enables people to get involved in local decision making, encourages better engagement and feedback, and helps the authority to improve the services it provides.

For the purposes of this policy, the term 'social media' covers sites and applications including but not restricted to Facebook, Twitter, LinkedIn, Flickr, YouTube, Zoom, WhatsApp, tiktok, blogs, discussion forums, wikis and any similar sites which may emerge after the creation of this policy.

Electronic communications includes the use of e-mail, private messaging on sites (in a councillor capacity) and forums such as WhatsApp.

This policy should be read in conjunction with the social media guidance for elected members, which is attached at appendix 1.

2. Aims of this policy

The Council acknowledges social media as a useful tool and supports members in the use of social media channels to communicate with the public, partners and stakeholders.

This policy is aimed at ensuring social media is used effectively and to ensure its use does not expose elected members or the Council to security risks, legal or reputational damage or breach of the GDPR (data protection Act 2018).

There are often risks associated with the use of social media, some have been identified below:

- Disclosure of confidential information
- Damage to the reputation of the Council
- Social engineering attacks (often conducted by individuals fraudulently claiming to be a business or client)
- Disclosing commercially sensitive information
- Civil or Criminal action relating to breaches of legislation
- Breach of safeguarding for vulnerable adults or children)
- Unwanted conduct from individuals misusing social media (often referred to as trolls)
- Virus or other malware (malicious software) infection from infected sites

In light of the risks, this policy aims to regulate the use of social media and provide guidance to members on how to successfully engage with social media.

3. Members' responsibilities

In their use of social media, members should ensure:

- They do not breach the Code of Conduct for Members.
- Council information remains secure and is not compromised through the use of social media.
- The Council's reputation is not damaged or adversely affected or left open to action under criminal (for example, harassment) or civil law (for example, libel).
- That they are aware of safeguarding issues and report any concerns immediately.
- That members fully understand the risk associated with using social media
- That social media is used in line with this policy

When using social media members should note that in the event of a complaint, the first consideration will be whether the member has been acting in his or her official capacity. Social media should not contain content that holds the member out to be acting in his/her official capacity or give that impression unless this is intended, or the site is specifically meant to be used in an official capacity. Depending on the circumstances such communication might be regarded as conducting the business of the office of a member. Examples may include:

- Communication with individual constituents regarding council matters
- Communications with constituents at large about local issues in your ward or matters of local political interest.
- Making reference to the Council in tweets, blogs, Facebook etc with your council accounts or private accounts where the audience believe you are doing so as a councillor identifying issues discussed by the Council or matters which are within your knowledge due to your position as a councillor.
- Referring to identifiable persons in the Council.
- The link between the Councillor's office and the conduct should have a degree of formality

The above list is not exhaustive and care should be taken in this area.

4. Advice for members using social media

Members should be aware that they are personally responsible for any content they publish on any form of social media.

The Council reserves the right to request the removal of any content that is deemed to be in breach of this policy.

Social media sites are in the public domain and comments/content remains available on the internet as a permanent record unless specifically removed. It is important to ensure that members are confident of the nature of the information they publish. Once published, content is almost impossible to control, it can be shared on other sites, and may be manipulated without their consent, used in different contexts, or further distributed.

Members SHOULD:

- When sharing information with constituents such as through a local Facebook or WhatsApp group ensure that only factual information is shared on the group
- Set up admin rights on local groups and only allow the posting of comments once the admin have reviewed them to ensure that inappropriate/offensive or confidential information is not inadvertently shared on local groups which you manage.
- Make use of privacy settings for personal accounts - particularly if they do not want their social media to be accessed by the press or public. Read the terms of service of any social media site accessed and make sure they understand their confidentiality/privacy settings. Facebook, for example, has a Data Use Policy that includes privacy settings on how information is shared and used.
- State, if appropriate, that their views are their own personal views and may not represent the views of the Council.
- Keep safeguarding in mind. Social media sites are often misused by offenders. Safeguarding is everyone's business – if members have any concerns about other site users, members have a responsibility to report these immediately to the Monitoring Officer, the LADO and or the Police depending upon the circumstances of the matter.
- Observe copyright laws. Using images or text from a copyrighted source (e.g. extracts from publications or photos) without permission is likely to breach copyright. Avoid publishing anything members are unsure about or seek permission from the copyright holder in advance.
- If you load any images of yourself or council pictures on local sites agree these with the press office and have a rider on the site which states "These images are owned by the council (you as an individual) and the council ("I") do not agree to the publication/ sharing/ retweeting of these images without our consent".

- Report any threats, abuse or harassment via their use of social media to their political group leader, the Monitoring Officer, Members' Services and/or the police. Any incidents should be recorded on an incident log sheet and if harassment is alleged they should be reported on the complaint form at appendix 2.

(hyperlinks to both forms – need logging on the system)

- If any information is shared with third parties that should not have been shared this may be considered as a data breach and should be reported to the Council's DPO.
- https://intranet.sandwell.gov.uk/downloads/file/11680/data_breach_form

Members should NOT:

- Disclose others' personal details such as home addresses and telephone numbers – even inadvertently. Members should ensure that they handle any personal or sensitive information in line with the Council's Data Protection Policy.
- Publish or report or share with third parties meetings or information which are private or internal council business (where no members of the public are present or where the information is of a confidential nature) or contain confidential information or matters which are exempt.
- Use the Council's logo on a personal social media account.
- Send or post inappropriate, abusive, bullying, racist or defamatory messages to members of the public, other councillors, any partnering organisations or officers either in or outside the work environment.

5. Principles when using social media

Members should follow the following five guiding principles for any social media activities:

- **Be respectful** – set the tone for online conversations by being polite, open and respectful. Use familiar language, be cordial, honest and professional at all times. Make sure that you respect people’s confidentiality – do not disclose non-public information or the personal information of others.
- **Be credible and consistent** – be accurate, fair, thorough and transparent. Encourage constructive criticism and deliberation. Make sure that what you say online is consistent with your other communications.
- **Be honest about who you are** – it is important that any accounts or profiles that you set up are clearly and easily identifiable. Be clear about your own personal role, in particular a clear distinction should be drawn between use of an account in your personal capacity and use in your capacity as a councillor. Note that merely stating you are acting in your private capacity may not be sufficient.
- **Be responsive** – make an effort to share what you know. Offer insights where appropriate and put people in touch with someone who can help if you cannot. Respond to questions and comments in a timely manner.
- **Think twice** – think carefully about all your social media posts. Once published it will be too late to change your mind. Following these rules and seek further guidance if you need it.

6. Further information

If members have any queries about this policy, please contact the Monitoring Officer or, in their absence, the Deputy Monitoring Officer. Incidents should be recorded on an incident log sheet and when formalising a complaint collated into the complaint form at Appendix 2. Upon receipt of a complaint the Monitoring Officer will consider the complaint, provide advice and guidance and update the Member of the potential options available including an investigation where appropriate.

Hyperlink to forms once loaded

[http//](http://)

Social Media and Electric Communications Guidance for Councillors

1. Introduction

- 1.1 The Council welcomes and wishes to encourage Councillors' use of new technology, including social media. It is not a requirement for Councillors to have a Facebook or Twitter account or use other forms of social media. If Councillors are already using or planning to use social media in connection with their work as a councillor, they should ensure that they are familiar with the guidance set out below and that their use of social media does not use Council resources for party political purposes or put the organisation's information and security systems at risk.
- 1.2 Most people are familiar with doing things online and residents will increasingly expect the Council to provide its services online, with the same level of interactivity that they find everywhere else. However, there are challenges that may discourage Councillors and the Council from using social media. For example, inappropriate use (which may occur inadvertently) can cause significant damage to a Councillor's (or the Council's) reputation and can lead to legal claims. In addition, technology is changing fast. This can mean that it is hard to keep up and maintain useful interaction with residents.
- 1.3 There are also some pitfalls to be aware of, and this Guidance is produced to help Councillors avoid these. This Guidance does not tell Councillors what social media is, or which blogs or networks might be used effectively. It assumes that Councillors are aware of those. It deals with the pitfalls that specifically apply to the role of local Councillors.

2. Legal Considerations

- 2.1 Three of the important Nolan Principles applying to those in public life are “Openness”, “Accountability” and “Leadership”. That means Councillors should be as open as possible about the actions and decisions they take, submit to an appropriate level of public scrutiny, and lead by example. Social media can be a vital tool for public debate and its use by Councillors is encouraged.
- 2.2 In the same way as anyone else publishing material, Councillors will need to be aware of the laws that apply to published material. Some of the main ones are these:
- a. **Defamation:** if you publish an untrue statement about a person that is damaging to their reputation you may be liable to pay damages;
 - b. **Copyright:** publishing information that is not yours, without permission, may also result in an award of damages against you;
 - c. **Harassment:** it is an offence to repeatedly pursue a campaign against a person that is likely to cause alarm, harassment or distress;
 - d. **Data protection:** do not publish personal data of other people, including photographs, without their express permission to do so;
 - e. **Incitement:** it is an offence to incite any criminal act;
 - f. **Discrimination and ‘protected characteristics’:** it is an offence to discriminate against anyone based on protected characteristics (as defined in the Equality Act 2010);
 - g. **Malicious and obscene communications:** it is an offence to send malicious or obscene communications

- 2.3 Likewise, inappropriate and offensive material should not be published. This includes revealing confidential or commercially sensitive information belonging to the Council, personal or confidential information about an individual, publishing something that could reasonably be considered insulting or threatening and something that promotes illegal activity or is intended to deceive.
- 2.4 Additional considerations apply to Councillors.

Bias and pre-determination

- Members sitting on regulatory committees such as planning or licensing should be aware that they are allowed to have a view but must not have gone so far as to have predetermined their position on a matter. Any views aired on social media could be used as evidence of making a decision in advance of hearing all relevant information. The Council's decision is then open to challenge and could be invalidated, and the 'disrepute' provisions of the Code of Conduct for Members could be engaged.

Equality and discrimination

- The Council is a public authority required to comply with the Equalities Act 2010. As noted above it is an offence to discriminate against anyone based on their protected characteristics. The Council must also have 'due regard' to the Public Sector Equality Duty (which consists of eliminating unlawful discrimination, advancing equality of opportunity and fostering good relations) and that applies to Councillors when appearing to act in their official capacity.

Electioneering

- Council resources, including any the use of social media on Council mobile devices or IT equipment, should not be used for political/campaign purposes. Particular care should also be taken when using social media during the pre- election period. The Electoral Commission has further guidance including on the requirements to provide a return of expenditure on election advertising which includes web advertising.

Human Rights

- Article 8 of the European Convention provides that public authorities should not interfere with the right of individuals to a private and family life without lawful authority to do so, and where it is necessary, proportionate, and in pursuit of one of the aims set out in Article 8(2). (These are national security, public safety, economic well-being, health or morals, prevention of crime or disorder, or protecting others' rights).

Code of Conduct

- Councillors may use social media in both an official and personal capacity but they must be aware that the public may perceive them as acting in either capacity when that is not their intention. Any social media account which could be potentially linked to a councillor would need to meet the standards of the code of conduct.

3. Responsibilities of Councillors

- 3.1 Councillors will need to monitor and, where appropriate, censor or remove the contributions made by others to their sites. Allowing defamatory or offensive statements to remain on a site can become the Councillor's own legal problem as the 'publisher' of the material and could also give rise to Code issues where allowing comments to remain could be seen as condoning or endorsing them.
- 3.2 Similarly, 'liking', 'sharing' or 're-tweeting' posts could be seen as an endorsement of them and legally this can be a separate instance of publication, by the Councillor, to which all the legal and Code considerations would apply.
- 3.3 Beyond that it is generally best to allow disagreement rather than to seek to censor it. However, there is no need to respond to everything and unhelpful online arguments should be avoided. Be professional, respectful and polite, even (or especially) when corresponding with those who do not return the courtesy.
- 3.4 Careful use of language is required. Sarcasm, irony and ambiguous comments should be avoided.

- 3.5 Promptly admit to mistakes.
- 3.6 Avoid using social media when you are tired, angry, upset or your judgment may be impaired as something permanently published can't be easily taken back
- 3.7 Think carefully about who to 'follow' or 'befriend' online. Online 'friendships' with council officers should be avoided as they may compromise the appearance of impartial advice. It is inadvisable to 'follow' anyone without a good reason – some constituents may find it uncomfortable (and see the Human Rights comments above). Many Councillors wait to be 'followed' before returning the compliment.
- 3.8 Always ensure the security of your devices to prevent unauthorised access by third parties who may make inappropriate use of the device.

4. Principles for using Social Media

You should follow these five guiding principles for any social media activities:

- **Be respectful** – set the tone for online conversations by being polite, open and respectful. Use familiar language, be cordial, honest and professional at all times. Make sure that you respect people's confidentiality – do not disclose non-public information or the personal information of others.
- **Be credible and consistent** – be accurate, fair, thorough and transparent. Encourage constructive criticism and deliberation. Make sure that what you say online is consistent with your other communications.
- **Be honest about who you are** – it is important that any accounts or profiles that you set up are clearly and easily identifiable. Be clear about your own personal role, in particular a clear distinction should be drawn between use of an account in your personal capacity and use in your capacity as a councillor. Note that merely stating you are acting in your private capacity may not be sufficient.

- **Be responsive** – make an effort to share what you know. Offer insights where appropriate and put people in touch with someone who can help if you cannot. Respond to questions and comments in a timely manner.
- **Think twice** – think carefully about all your social media posts. Once published it will be too late to change your mind. Following these rules and seek further guidance if you need it.

5. Use of Social Media during Committee Meetings

- 5.1 Use mobile devices sparingly, discreetly and with common sense at meetings, considering the impression they are giving to others. Councillors should be mindful that regulatory committees such as planning or licensing require the Councillor to alert officers to any lobbying material they have received. This would be difficult if it arrives on Twitter and is read by the Councillor during the course of a meeting.
- 5.2 Mobile devices enable councillors to manage their busy lives when time is at a premium. There may be occasions when texting or e-mailing between Councillors during meetings on matters relevant to the debate at hand may be valuable (on the same basis as circulating paper notes) However it is important for Councillors not to give the impression that insufficient attention is being given to the discussion at the meeting. That could lead to the relevant decision coming under challenge if Councillors are perceived to have made a decision without having properly listened to the debate. It could also result in Code complaints of a failure to treat others with respect or of bringing the Council into disrepute.

6. Inappropriate use of Social Media by Others

- 6.1 Anyone receiving threats, abuse or harassment via their use of social media should report it to the police and the Monitoring Officer. Member are asked to complete an incident log sheet for each incident and then to collate all of these into the complaint form at appendix 2.

- 6.2 Other inappropriate content can be reported to the social media site directly to ask for it to be removed. You may wish to save a screenshot in the circumstances.

7. Further Reading Materials

- 7.1 Connected Councillors – A guide to using social media to support local leadership. Local Government Association.
https://hedonblog.files.wordpress.com/2010/04/connected_councillors.pdf
- 7.2 The Local Government Association’s webpage on social media
<https://www.local.gov.uk/our-support/guidance-and-resources/comms-hub-communications-support/digital-communications/social-1>

8. Complaints

- 8.1 These guidelines do not form part of the Code of Conduct for Members but there may be instances where councillors’ use of social media amounts to a breach of the Member’s Code of Conduct and the Monitoring Officer may take these guidelines into account when considering whether such a breach has taken place.

9. Contact details

For further information please contact:

Surjit Tour, Monitoring Officer on 0121 569 3172

Email: Surjit_Tour@Sandwell.gov.uk

Maria Price, Deputy Monitoring Officer and DPO on 0121 569 3175.

Email: Maria_Price@Sandwell.gov.uk

Social Media Incident Report Form

Reporting incidents of abusive/harassing behaviour
You should report and incidents of harassing behaviour
directly to the police.

Unfortunately, there are rare circumstances where individuals abuse social media. We recognise that this can have an unpleasant and profound effect on you and your emotional wellbeing. The Council can support and assist you and in certain circumstances can take action on your behalf to manage such behaviours. In order to assist you we require you to provide some information.

Please refer to the Social media and policy guidance for members. This form should not be used to report incidents/allegations of breach of the social media policy by other elected members. In such circumstances the members code of conduct/arrangements should be referred to.

Your details

1. Please provide us with your name and contact details.

Title:	
First name:	
Last name:	
Address:	
Contact telephone:	
Email address:	
Signature:	
Date of complaint:	

Your address and contact details will not usually be released unless necessary or to deal with your complaint.

The following people will see this Form:

- The Monitoring Officer of the authority and appropriate officers supporting the Monitoring Officer.

2. Please provide us with the name of the Individuals(s) you believe have harassed/abused you on social media:

Title	First name	Last name

3. Please explain in this section (or on separate sheets) exactly what has occurred, when it occurred, why you feel it is harassing and or abusive and what action you have taken to ask the individual(s) to stop the behaviour. In order to progress this matter you will need to provide screen shots of all of the messages/tweets/ re-tweets and or blogs. You should also supply dates, documentary evidence and details of any witnesses that you believe would substantiate the allegations.

Please include the following,

- If you asked for the conduct to stop and when
- Details of any reports you have made to the Police about this allegation and when
- All correspondence that you have had with this individual (s)
- Details of if you reported to the incident to a host site, when and what action was taken such as taking posts down.
- You should be specific, wherever possible, about exactly what you are alleging and what it was they said or did to insult you.
- You should provide the dates of the alleged incidents wherever possible. If you cannot provide exact dates it is important to give a general timeframe.
- Details of any incidents that have occurred of a harassing/abusive nature in addition to those on social media
- You should confirm whether there are any witnesses to the alleged conduct and provide their names and contact details if possible.
- You should provide any relevant background information or other relevant documentary evidence to support your allegation(s).

- If your allegation(s) relate to behaviour or conduct that occurred some time ago clearly explain why your complaint was not made earlier.

Please provide us with the details of your complaint.

Please provide the relevant screen captures at the back of this form

Only complete this next section if you are requesting that your identity is kept confidential

4. Please indicate the remedy or remedies you are looking for or hoping to achieve. i.e. taking offensive posts down, apology, other action

5. Please indicate whether you have raised your complaint directly with the individual(s) concerned and if so what response you received.

(Continue on separate sheet(s), as necessary)

Additional Information

6. Your concerns need to be submitted in writing along with supporting evidence in order of the Monitoring Office to properly consider the options available to you and the council. Please use this Form to submit your complaint.
7. In line with the requirements of the Disability Discrimination Act 2000, we can make reasonable adjustments to assist you if you have a disability that prevents you raising your concerns. We can also help if English is not your first language.
8. If you need any support in completing this form, please contact the Monitoring Officer as soon as possible.

PLEASE RETURN YOUR COMPLETED FORM TO:

Surjit Tour

Director of Law and Governance
& Monitoring Officer

Sandwell Metropolitan Borough Council
Law and Governance
Sandwell Council House
PO Box 2374
Oldbury
West Midlands
B69 3DE

T: 0121 569 3264

E: surjit_tour@sandwell.gov.uk

W: www.sandwell.gov.uk

PROTOCOL FOR MEMBERS ON GIFTS AND HOSPITALITY

1. Introduction

This Protocol applies to members of the Authority and co-opted members (voting and non-voting).

2. General Caution

Treat with extreme caution any offer or gift, favour or hospitality that is made to you personally.

Your personal reputation and that of the Authority can be seriously jeopardised by the inappropriate acceptance by you of a gift or hospitality.

The acceptance of gifts and hospitality is not always unlawful or inappropriate. The decision for you in every case is whether or not it is appropriate to accept any gift or hospitality that might be offered to you, having regard to how it might be perceived.

No hard and fast rules can be laid down to cover every circumstance as to what is appropriate or inappropriate. This guidance is intended to enable you to make your own decision.

3. Criminal Law

It is a criminal offence corruptly to solicit or receive any gift, reward or advantage as an inducement to do or forbear to do anything in respect of any transaction involving the Authority.

The onus would be on you to disprove corruption in relation to a gift from a person holding or seeking to obtain a contract from the Authority.

4. Limits of Guidance

This guidance does not apply to:

- Gifts and hospitality you may receive from family and friends (as birthday or other festival presents) that are not related to your position as a member. You should however question any such gift or hospitality offered from an unusual source.
- The acceptance of facilities or hospitality provided to you by the Authority.
- Gifts given to the Authority that you accept formally on the Authority's behalf and are retained by the Authority and not by you personally.

5. Meaning of Gifts and Hospitality

The expressions 'gifts' and 'hospitality' have wide meanings and no conclusive definition is possible. Gifts and hospitality include:

- The free gift of any goods or services.
- The opportunity to acquire any goods or services at a discount or at terms not available to the general public.
- The opportunity to obtain goods or services not available to the general public.
- The offer of food, drink, accommodation or entertainment or the opportunity to attend any cultural or sporting event (including tickets to events).

Common gifts include pens, diaries, calendars and other business stationery, articles of clothing, books, chocolates, flowers and bouquets. Members should however be cautious when purchasing anything, when additional services, privileges or advantages are offered, which might be related to their position as a member.

6. Appropriate Gifts and Hospitality

There are some circumstances where you may accept gifts and hospitality as being in the normal course of your duties as a member.

- Civic hospitality provided by another public authority.
- Normal and modest refreshment in connection with any meeting in the course of your work as a member (e.g. tea, coffee and other normal beverages and refreshments).
- Tickets for sporting, cultural and entertainment events which are sponsored or promoted by the Authority or bodies to which you have been appointed by the Authority, and the tickets are offered in relation to that sponsorship or promotion.
- Small gifts of token value, ie estimated to be below £50:
 - (a) given by way of trade advertisement to a wide range of people, eg pens, calendars, diaries and key-rings; or
 - (b) given on the occasion of a courtesy visit, eg to a factory or other business premises; or
 - (c) received from a recipient of a Council service, where it would give offence to reject it.
- Drinks or other modest refreshment in the normal course of socialising arising consequentially from Authority business (e.g. inclusion in a round of drinks after a meeting).
- Modest meals provided as a matter of courtesy in the office or meeting place of a person with whom the Authority has a business connection.
- Souvenirs and gifts from other public bodies intended as personal gifts (e.g. arising from twin-town and other civic events).

- Invitations to attend functions where you represent the Council (eg dinners where you are invited to speak, opening ceremonies and trade shows) or to functions when you attend by virtue of your position on the Council.
- Hospitality provided at public events, where a formal invitation has been received at Council offices and the attendance is in a civic capacity.

7. Inappropriate Gifts and Hospitality

- Free or subsidised holidays or travel.
- Personal invitations to the theatre, cabaret, light entertainment or sporting events.
- Personal invitations to socialise with representatives from a company or organisation that has business or other dealings with the Council.
- Offers of any free or subsidised accommodation (ie hotel, flat, villa or holiday home).
- Any offer whatsoever of free services.
- Any other hospitality offered by a company or organisation that has business or other dealings with the Council, which is not linked to its normal course of business with the Council (ie not part of business meetings or offered to officers representing the Council at events).

In exceptional circumstances, it may be permissible to accept travel, accommodation and hospitality from a company or organisation, which has or may have business with the Council, when the assessment and evaluation of bids or tenders necessitates visiting reference sites, provided that this facility is also offered/applied to other tenderers. In such a situation, you must be accompanied by an officer of the Council, whose attendance has been approved by his Director/Service Manager or in appropriate cases the Chief Executive.

8. Principles to Apply in Relation to Gifts and Hospitality

In deciding whether it is appropriate to accept any gift or hospitality you must apply the following principles:

- Do not accept a gift or hospitality as an inducement or reward for anything you do as a member. If you have any suspicion that the motive behind the gift or hospitality is an inducement or reward you must decline it. “Reward” includes remuneration, reimbursement and fee.
- Do not accept a gift or hospitality whose value is excessive in the circumstances.
- Do not accept a gift or hospitality if acceptance might be open to misinterpretation. Such circumstances will include gifts and hospitality:
 - a) From parties involved with the Authority in a competitive tendering or other procurement process except in the limited circumstances referred to in paragraph 7 above.
 - b) From applicants for planning permission and other applications for licences, consents and approvals.
 - c) From applicants for grants, including voluntary bodies and other organisations applying for public funding.
 - d) From applicants for benefits, claims and dispensations.
 - e) From parties in legal proceedings with the Authority.
- Do not accept a gift or hospitality if you believe it will put you under any obligation to the provider as a consequence.
- Do not solicit any gift or hospitality and avoid giving any perception of so doing.

9. Gifts Received and Donated to the Mayor’s Charities or Appeals

Some members receiving gifts of value may prefer not to retain these personally but to pass them to the Mayor’s Office for use in relation to the Mayor’s Charities or Appeals.

Members should indicate this intention to the provider and make this clear on the register of interests.

10. Registration of Gifts and Hospitality

The Code of Conduct for Members and Co-opted Members states that ‘You have a personal interest in any business of your authority where it relates to or is likely to affect the interests of any person from whom you have received a gift or hospitality with an estimated value of at least £50.00.’

This interest (gifts or hospitality worth £50.00 or over that you receive in connection with your official duties as a member and its source) must be registered in the register of members’ interests within 28 days of receiving it. You should register the interest as soon as possible after acceptance of the gift or hospitality. The registration should include the source and nature of the gift or hospitality.

You should also register any such gift or hospitality, which you decide to refuse or decline.

You do not need to register gifts and hospitality which are not related to your role as a member, such as Christmas gifts from your friends and family, or gifts which you do not accept. However, you should always register a gift or hospitality if it could be perceived as something given to you because of your position or if your authority requires you to.

You should ask yourself, would I have been given this if I was not on the Council? If you are in doubt as to the motive behind a gift or hospitality it is recommended that you register it or at least seek advice from the Monitoring Officer.

If you have not registered your gift or hospitality in accordance with the requirements set out in your Code of Conduct then you must declare or disclose the existence and nature of the interest arising from a gift or hospitality at a meeting of the authority at which business is considered to which the interest relates. (i.e. business relating to the interests of the person or body giving the gift or hospitality).

Whilst the registration requirement in the Code is limited to gifts or hospitality over the value of £50.00, members are encouraged to register any significant gift or hospitality they receive below this value. There is no obligation to make a declaration or disclosure in relation to gifts and hospitality on the register which are below £50.00 in value.

The general rule is, if in doubt as to the value of a gift or hospitality, you should register it, as a matter of good practice and in accordance with the principles of openness and accountability in public life.

You may have to estimate how much a gift or hospitality is worth. Also, an accumulation of small gifts you receive from the same source over a short period that add up to £50.00 or over should be registered.

11. Reporting of Inappropriate Gifts and Hospitality offered

It is a criminal offence for a person corruptly to give or offer any gift, reward or advantage as an inducement or reward to you for doing or forbearing to do anything as a member of the Authority.

You must immediately report to the Monitoring Officer any circumstances where an inappropriate gift or hospitality has been offered to you.

You may thereafter be required to assist the Police in providing evidence.

12. Gifts to Mayor and Deputy Mayor

As part of their civic duties the Mayor and/or Deputy Mayor will receive a number of gifts and offers of hospitality.

The provisions of this protocol applicable to all members of the Authority apply equally to the Mayor and Deputy Mayor, insofar as they are not inconsistent with the following provisions.

As a general principle all gifts made to the Mayor and/or Deputy Mayor during the exercise of their civic duties belong to the Council and must be passed to the Mayor's Secretary as soon as possible. However, small token gifts, e.g. estimated to be below £50.00, received by the Mayor/Deputy Mayor in their civic capacity which are personalised, e.g. a cup with their names on it, flowers, etc may be retained by the Mayor/Deputy Mayor.

The Mayor's Secretary keeps a Declaration of Gifts log book. It is the responsibility of the Mayor/ Deputy Mayor to ensure that gifts received are declared to the Mayor's Secretary and recorded in the log book.

Offers of hospitality to the Mayor/ Deputy Mayor in their civic capacity will normally be made through the Mayor's office. In those cases, details of the hospitality received will be recorded and retained by the Mayor's Secretary.

In the event of gifts or hospitality being offered to the Mayor/ Deputy Mayor other than in their civic capacity, ie as members of the Council or as private individuals, the Mayor/ Deputy Mayor must deal with such offers in the same way as any other member of the Council.

13. Enforcement

Allegations of any failure to meet the Protocol must be made in writing to the Monitoring Officer. The Monitoring Officer has responsibility for overseeing compliance with this Protocol.

SANDWELL METROPOLITAN BOROUGH COUNCIL

REGISTRATION OF GIFTS AND HOSPITALITY

Please read the rules and guidance on Gifts and Hospitality before completing this form. The form should be returned to Sandwell Council House, Oldbury, Sandwell, West Midlands, B69 3DE.

Nature of gift/hospitality.

Estimated value of the gift/hospitality.

Name of individual or organisation arranging/ providing gift/hospitality.

Relationship with the individual/organisation.

Is the individual/ organisation dealing with you or the Council in relation to any legal, statutory or enforcement matters, such as planning applications? If so, please give details.

Is the individual/ organisation seeking grants/benefits/ dispensations from the Council? If so, please give details,

Is the individual/organisation providing goods/services to the Council or hoping to do so in future? If so, please give details.

Was the gift/hospitality accepted or refused?

When was the gift/hospitality received/refused?

Name of Member

Signature of Member

Date

Protocol for Meetings between Senior Officers and Chief Whips

Introduction

The Committee on Standards in Public Life, in addition to publishing its report on local authority ethical standards, published a list of Best Practice Recommendations. Best Practice Recommendation 15 states that senior officers should meet regularly with political group leaders and group whips to discuss standards issues. One of the outcomes of the Member Engagement Sessions was that a Protocol for these meetings should be drafted.

The purpose of this Protocol is to guide Officers and Members of the Council when meeting to discuss Standards Issues. The Council has adopted a Protocol for Member/Employee Relations and it is expected that the respective parties conduct themselves in accordance with this Protocol when attending these meetings, as well as adhering to their own Codes of Conduct.

Meetings

Attendees

Chair: Monitoring Officer

Chief Whip(s)

Leader(s) of Political Groups

Chair of the Ethical Standards and Member Development Committee

Deputy Monitoring Officer(s)

Chief Executive of the Council

Section 151 Officer

Frequency

Meetings will take place on a quarterly basis, or more frequently if required by the Monitoring Officer and/or the Chief Whip(s), Leader(s) of Political Groups.

Agenda

An agenda will be agreed between the Monitoring Officer and the Chair of the Ethical Standards Committee. The agenda will be circulated three working days before the meeting, together with any relevant documentation. Meetings will be confidential.

Terms of Reference

The purpose of the meetings is to discuss common issues that have arisen as a result of standards matters and strategies to deal with these. This will assist the political parties in the resolution of matters and locally and deal with common issues that affect members generally. **These meetings will not discuss individual matters or the statutory functions of the Monitoring Officer and the way that he manages the arrangements.** Area for discussion may include:

- Common or reoccurring Code of Conduct complaint themes
- Identifying trends
- Discussions about particular difficulties encountered with progressing complaints
- Statistical data
- Exploring outcomes available for complaints
- Promoting the Duty to Promote and Maintain High Standards

Confidentiality

All discussions at these meetings will remain confidential and the parties agree that they will not be shared with any third parties.