

# Standards Advisory Committee

**Thursday, 21 September 2023 at 6.30 p.m.  
Committee Room - Tower Hamlets Town Hall,  
160 Whitechapel Road, London E1 1BJ**

## Supplemental Agenda

**3.3 Guidance for Members and Officers on Outside Organisations (Pages 3 - 14)**

Revised Appendix 1

**5. ANY OTHER BUSINESS WHICH THE CHAIR CONSIDERS URGENT**

To consider any other unrestricted business that the Chair considers to be urgent.

**5.1 Complaint monitoring (Pages 15 - 26)**

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## GUIDANCE FOR MEMBERS AND OFFICERS ON OUTSIDE ORGANISATIONS

### 1. Introduction

1.1 This guidance is designed to assist councillors and officers appointed or nominated by the Council to serve on outside organisations, whether as company director, trustee of a charity or a representative on a management committee. It outlines some of the most important responsibilities, but you should contact the Monitoring Officer for advice if you are unclear about any of your obligations.

1.2 Outside organisations include Trusts, Companies, Charities, School Governing Bodies, **Community Benefit Societies** and Community associations. You may be involved as a director, trustee, governor or member (with or without voting powers).

1.3 In performing your role, you may be acting in various capacities for example as an individual, as a representative of the Council or as director/trustee.

1.4 This can give rise to conflicts of interest, particularly where the organisation is seeking or receiving funding from the Council. You will always need to be clear about your role and alert to potential conflicts of interest [so that they can be avoided in order to ensure transparency](#).

### 2. General

2.1 Authority to nominate or appoint councillors and officers to serve on outside organisations rests with the Mayor in respect of Executive functions and the General Purposes Committee in respect of non-Executive functions. All nominations to outside organisations are published on the Council's website.

2.2 If you serve on an outside organisation it is your responsibility to commit to the task, attend meetings and support the work of the organisation. Some organisations have rules about attendance (e.g. missing a number of consecutive meetings may lead to loss of the place on the body). It is therefore for you to understand the extent of the commitment before seeking or agreeing to an appointment to an outside organisation.

2.3 Service on an outside organisation requires you to:

- act according to the rules, constitution and framework of the organisation;
- make independent and personal judgements in line with the duty of care to the organisation;
- report back to the Council and lead member or relevant committee as requested or in accordance with any reporting requirements;
- behave ethically, and follow the Council's Member or Officer Codes of Conduct, as appropriate;
- take an active and informed role in the management of the organisation's affairs;

- ensure the Council's Register of Interests is updated to include reference to your role on the organisation.

### **3. Your Duties and Responsibilities (council role)**

**3.12.4** Service on an outside organisation may give rise to a conflict with your role as councillor or officer. This is because as a trustee or a company director you have a legal responsibility to act in the interests of the outside organisation only, as opposed to the interests of the Council or any other body.

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**3.22.5** When a conflict of interest arises with your role as councillor/officer on a matter in the Council that relates to the outside organisation to which you have been nominated/appointed, you should seek advice. ~~it may need to be declared and recorded in your Register of Interests.~~ You should note that the Members' Code of Conduct requires you to avoid conflicts of interest. Accordingly, if a conflict cannot be avoided you may be unable to participate in the decision/discussion that gives rise to the conflict e.g if you are a cabinet member discussing the terms of a loan or other support to the outside body on which you sit. follow the Members Code of Conduct on declarations of Interest/any Guidance issued by the council, and seek advice if necessary. Officers should seek advice from their Corporate Director as to how best to deal with conflicts and must have regard to the Officers' Code of Conduct.

**3.32.6** Independent or co-opted persons serving on Council Committees are also expected to comply with the Members' Code of Conduct and therefore, should any of those persons also be nominated or appointed by the Council to an outside organisation, the same principles on managing conflicts shall apply to them as to elected councillors.

**3.4** Subject to any other duties and responsibilities you owe in respect of your service to the outside organisation (for example the duty of confidentiality), you should:

(i) provide an annual (or other agreed frequency) update on the work of the organisation, and

(ii) provide to the General Purposes Committee, any information relevant to any application from the organisation for funding from the Council

### **Your Duties and Responsibilities (outside organisation) 2.7**

Paragraph 2.2 and 2.3 above sets out your responsibilities in respect of the organisation to which you have been appointed. You should familiarise yourself with the organisation's rules including on what to do when you have a conflict on a matter that relates to the Council e.g involvement in a transaction such as the purchase of land by the organization from the council. It is important that you comply

Conversely, when any matter arises within the outside organisation to which you have been nominated/appointed that relates to the Council, a conflict of interest may also arise and should be managed in accordance with that organisation's rules and processes for dealing with conflicts of interest.

~~2.8 Subject to any other duties and responsibilities you owe in respect of your service to the outside organisation (for example the duty of confidentiality), you should:~~

~~(i) provide an annual (or other agreed frequency) update on the work of the organisation, and~~

~~(ii) provide to the General Purposes Committee, any information relevant to any application from the organisation for funding from the Council~~

### **43. Legal Advice**

43.1 A guide to the law as it affects councillors and officers serving on outside organisations is attached as **Appendix A**. The guide covers the range of different outside organisations and, therefore, those seeking guidance can refer to the relevant section.

4.3.2 A guide to the eligibility criteria for serving on outside organisations is attached as **Appendix B**.

For further Guidance follow links below to the Charity Commission and Company House websites <https://www.gov.uk/guidance/charity-commission-guidance>  
<https://www.gov.uk/government/organisations/companies-house>

## APPENDIX A

### SERVICE ON OUTSIDE ORGANISATIONS A GUIDE TO THE LAW

This advice is for councillors and officers who are appointed or nominated by the Council to outside organisations whether as a company director, trustee of a charity or representative on a management committee. It sets out some of the most important responsibilities and requirements relating to service on the outside organisation. More than one set of provisions may apply (for example, if a company limited by guarantee is also a charity). It is not meant to be a comprehensive guide. If you have queries then you should consult the Monitoring Officer.

For the purposes of this Guide, all references to a “Councillor” includes all elected Councillors, and any other individual nominated or appointed by the Council to an outside body.

#### General

1. There are some general provisions which apply to Councillors and Officers who act in the role of company director, charity trustee, or on the committee of management of an unincorporated voluntary organisation.
2. Councillors are under a duty to exercise independent judgement in the interest of the organisation in which they are involved. Whilst it is recognised that Councillors and Officers may have a commitment to representing the Council on an outside body, they must be aware that it is their responsibility to decide what view to take on any question before that organisation. Where a Councillor or Officer is participating in an outside organisation in a representative capacity, s/he must declare that fact to the organisation. There may be a fine line to tread between his/her duty to the organisation and to the Council.
3. The Councillor or Officer in acting as a director/trustee or member of a management committee of an outside organisation must act in the interests of that organisation. A mandate from the Council to vote one way or the other would put the Councillor or Officer in breach of the duty to that organisation. It is permissible to take account of the Council's wishes, but not to vote simply in accordance with them.  
**The overriding duty when considering an item before the outside organisation is to act in accordance with the interests of that organisation.**
4. Councillors and Officers must ensure that the organisation is properly managed in accordance with the law and the organisation's own governing document. They must also ensure that avoidable loss is not incurred in managing the organisation. They cannot avoid these responsibilities by not reading the papers or failing to ask for appropriate reports. They will be expected to seek professional advice where appropriate.
5. An individual may not be appointed or nominated as a charity trustee or director if s/he is disqualified from taking up this position. Eligibility requirements are set out in Appendix B.

#### COMPANIES

## **General**

6. On incorporation, a company becomes a separate legal entity which can hold property in its own right, enter into contracts and sue and be sued in its own name. The company is distinct from its members and officers. In the case of a limited liability company, the liability of members of the company is limited to the amount they paid or agreed to pay when they joined the company.

7. Companies limited by shares are those that have a share capital. Each member holds shares and receives a share in the profits made by the company according to the value of the shares held. Shares can be sold. Companies limited by guarantee are those where there is no shareholding. Instead each member agrees that in the event of the company being wound up they will pay a certain amount. This may be as little as £1. This form of company is the most usual in the public and voluntary sector particularly where charitable status is sought.

8. The management of a company is generally the responsibility of a board of directors. The powers of the directors are usually set out in the company's Articles of Association (the rules each company has to govern its internal management). Sometimes, even though a company has been incorporated, the directors may be referred to as members of the committee of management, governors or even trustees. However, this does not change their status as directors. Conversely, sometimes officials are called directors but they are not members of the board. Again, their status will not be affected. Directors are those who are appointed by the company to act in that capacity.

## **Directors' Duties**

9. A director is an agent of the company. His/her prime duties are as follows:

### ***(1) Duty to act within powers***

Directors are required to act in accordance with the company's constitution and only exercise powers for the purposes for which they are conferred. This means they must stay within the constraints of the objects clause, if there is one, and must observe the other terms of the Articles of Association.

### ***(2) Duty to promote the success of the company***

A director must act in a way that s/he considers, in good faith, would be most likely to promote the success of the company for the benefit of the company's members as a whole. Where the purposes of the company include things other than the benefit of the members, for example where the company is a charity, working to achieve these things will amount to working for the success of the company.

### ***(3) Duty exercise independent judgement***

A director is under a duty to exercise independent judgement. This means that they must not be unduly influenced by the wishes or instructions of others, though it is permissible for them to take account of the interests of the third party which they represent. In such a case the director must disclose that position and tread a fine line between the interests of the company and the party represented (in this case the

Council). The director cannot vote and speak simply in accordance with the Council mandate. To do so would be a breach of duty.

***(4) Duty to exercise reasonable care, skill and diligence***

A director must exercise the care, skill and diligence which would be exercised by a reasonably diligent person with both the general knowledge, skill and experience that the director actually has, and that to be expected of a person carrying out his/her functions in relation to the company. In effect a director must meet the higher of the two requirements. A director is not deemed to be an expert, but is expected to obtain expert advice if necessary.

***(5) Duty to avoid conflicts of interest***

A director must avoid a situation where s/he will have, or may have, an interest that conflicts with the interests of the company. There may be actual or potential conflicts between the interests of the Council and the interests of the company. In such circumstances the Councillor or Officer should notify the Council and the company and, if appropriate, take no further part in the determination of the matter giving rise to the interest. For example, this could occur where the Council is considering making a grant to the company, or determining a permission, licence or consent in relation to the company. In extreme cases, if such conflicts regularly arise, it may be necessary for the Councillor or Officer to resign either from the company or from the Council.

***(6) Duty not to accept benefits from third parties***

A director must not accept a benefit from a third party conferred by reason of his being a director or his doing (or not doing) anything as a director. However, the duty is not infringed if the acceptance of the benefit cannot reasonably be regarded as likely to give rise to a conflict of interest. Acceptance of a benefit may also be authorised by the members or, in some cases, by the board.

***(7) Duty to declare interest in proposed transaction or arrangement***

A director must declare a direct or indirect interest in a proposed transaction or arrangement with the company that s/he is (or should be) aware of. No disclosure is necessary if the other directors are (or should be) aware of the interest, or if it cannot reasonably be regarded as likely to give rise to a conflict of interest. The interest of a person connected to the director, for example a family member, must be disclosed. Whether the director is then allowed to vote will depend on the Articles of Association.

***(8) Duty to ensure compliance with the Companies Acts***

Directors are under an obligation to see that various information is filed at Companies House. They also have a duty to prepare and file the company's accounts, and to maintain certain statutory books and registers. Failure to do so may incur fines and persistent default can lead to disqualification as a director.

**Directors' Liabilities**



10. Directors may be liable in the following circumstances:

(1) The remedies available against a director for a breach of the duties set out at paragraphs 9(1-3) and 9(5-7) above include damages, accounting for profits made, restitution of property and injunctive relief. In practice damages are by far the most common remedy. Damages are the only remedy for a breach of the duty set out at paragraph 9(4).

(2) The company's name must clearly be shown on its business stationery. The company number, place of registration and registered office address must be shown on business letters, order forms (including equivalent emails) and any company website. If any of the directors' names are shown then they must all appear. Non-compliance is an offence and the directors and company officers can be fined.

(3) If a director knows or ought to know that there is no reasonable prospect of the company avoiding liquidation, a Court may require that director to contribute to the company's assets on liquidation if the company continues to trade. This is known as wrongful trading. No such order will be made if the Court is satisfied that the director took all reasonable steps to minimise the loss to the creditors. However, liability can be incurred through failing to act. If a director has concerns about the company's financial position he/she would be well advised to inform the other directors and seek advice from the company auditors. He/she should try to ensure that further debts are not incurred.

(4) A director will also be liable if to his/her knowledge the company carries on business with intent to defraud creditors or any other person, or for any other fraudulent purpose. Fraudulent trading can lead to disqualification from acting as a director. It is also a criminal offence and can lead to a fine or imprisonment.

(5) All cheques and similar documents which purport to be signed on behalf of the company must bear the company name. Where they do not, the director signing on behalf of the company may be liable to a fine and may also be liable to the payee if the company fails to honour the cheque. It is, therefore, wise for directors to make sure that all documents they sign on behalf of the company state very clearly that they act as agent for the company, (e.g. Director, for and on behalf of).

(6) A third party who enters into a contract on the assumption that a director has power to bind the company, may be able to claim damages against the director if it subsequently transpires that the director had no such power. Directors would be well advised to ensure that contracts are approved by the board and that the authority to enter into any contract has been properly delegated before signing it.

(7) Though company liability ceases on dissolution, the liability of the directors (if any) may still be enforced after dissolution.

#### **Indemnities and Insurance**

11. The following arrangements apply:

(1) Directors cannot be indemnified by the company against liability arising out of negligence, default, breach of duty or breach of trust in relation to the company.

However, the company's Articles of Association may allow for directors to be indemnified by the company against liability to a third party, although this must not extend to payment of a criminal fine, a financial penalty payable to a regulatory authority, or liabilities incurred in certain legal proceedings where the director is unsuccessful. Please note that it is lawful for companies to purchase insurance to protect their directors against claims of negligence, breach of duty, breach of trust and default. Directors may, therefore, wish to consider maintaining such insurance. For professional directors (accountants, solicitors, etc.) providing specialist knowledge and expertise, professional indemnity insurance may be available at a cost.

(2) The first recourse would be to ensure that the company provides insurance. The Council may provide indemnities for Councillors or Officers when appointing them to act as directors, and has insurance to cover any losses which they may suffer through acting conscientiously as a director.

#### **Local Authorities (Companies) Order 1995**

12. This Order sets out rules concerning local authorities' involvement in "regulated companies" which are subject to extensive controls. "Regulated companies" are so defined if they are controlled or influenced by the local authority. These are at present relatively rare, but one such example is London Councils Limited. Members and Officers can obtain further information on the additional rules affecting such companies from the Monitoring Officer.

#### **CHARITIES**

##### **General**

13. To be a charity an organisation must operate for one of the following charitable purposes and be able to demonstrate that its aims are for the public benefit:

- the prevention or relief of poverty;
- the advancement of education;
- the advancement of religion;
- the advancement of health or the saving of lives;
- the advancement of citizenship or community development;
- the advancement of the arts, culture, heritage or science;
- the advancement of amateur sport;
- the advancement of human rights, conflict resolution or reconciliation or the promotion of religious or racial harmony or equality and diversity;
- the advancement of environmental protection or improvement;
- the relief of those in need, by reason of youth, age, ill-health, disability, financial hardship or other disadvantages;
- the advancement of animal welfare;
- the promotion of the efficiency of the armed forces of the Crown or of the police, fire and rescue services or ambulance services;
- other purposes recognised as charitable under existing law and any new purposes which are similar to another prescribed purpose.

14. A charitable organisation must operate for the public benefit and have exclusively charitable purposes. An organisation that operates for political purposes does not qualify for charitable status. To register as a charity the organisation must submit its governing document (constitution or rules, trust deed, or Memorandum and Articles of Association – depending on whether it is an unincorporated association, trust or limited company) plus any other required documents to the Charity Commissioners for approval. If they are satisfied that the organisation is charitable it will be registered as such.

15. Those who are responsible for the control and administration of a charity are referred to as charity trustees, and will have those obligations even where the charity has the legal form of a company limited by guarantee. Trustees of a charity retain personal liability, and can only delegate to the extent that the governing document authorises them so to do.

16. Specific guidance for those serving on charitable organisations is available from the Charity Commission.

#### **Trustees' Duties**

17. Trustees have the following duties:

(1) Trustees must take care to act in accordance with the governing document and to protect the charity's assets. They are also responsible for compliance with the Charities Acts, (and as relevant the Trustee Acts) and should note the particular requirements of the applicable Acts in respect of land transactions.

(2) Trustees must ensure the charity is carrying out its purposes for the public benefit, must always act in the charity's best interests and act with reasonable care and skill.

(3) Generally speaking, trustees must not profit from their position. They cannot receive remuneration or any other personal benefit without the sanction of the Charity Commission. They must also perform their duty with the standard of care which an ordinary, prudent business person would show. Higher standards are required of professionals, and in relation to investment matters.

(4) Trustees must ensure that the information relating to the charity and trustees is registered with the Charity Commissioners and that annual accounts, reports and returns are completed and sent where this is required.

(5) If charitable income exceeds £10,000, the letters, advertisements, cheques etc. must bear a statement that the organisation is a registered charity.

(6) Trustees are under a duty to ensure compliance with all relevant legislation and other regulators (if any) which govern the activities of the charity.

(7) Trustees have a duty of care to their charity if they work with vulnerable groups including children and will need to take the necessary steps to safeguard and take responsibility for them.

#### **Trustees' Personal Liability**

18. If in doubt, always consult the Charity Commission. A trustee who does so can avoid personal liability for breach of trust if he/she acts in accordance with the advice given.

19. Liabilities may arise in the following ways:

(1) Generally, a trustee incurs personal liability if s/he:

- acts outside the scope of the governing document
- falls below the required standard of care
- acts otherwise than in the best interests of the charity, in a way which causes loss to the charity
- makes a personal profit from the charity's assets.

(2) In such circumstances the trustee will incur personal liability for losses incurred and/or for personal gain.

(3) Trustees can be personally liable to third parties because, unlike a company, a trust or unincorporated association has no separate identity from the trustees. The governing document will normally provide for trustees to be given an indemnity from the charity's assets, provided they act properly in incurring the liability. Trustees remain personally liable for their own acts and defaults once they have retired. If they have entered into any ongoing contracts on behalf of the charity they should seek an indemnity from their successors. If the charity is a company, the trustees will be protected from liabilities incurred in the day-to-day running of the charity in the normal course, but will be personally liable if they commit a breach of trust (see (1) above).

(4) Trustees may be liable to fines if they do not comply with the duty to make returns etc.

### **Indemnities**

20. An indemnity can be given from the charity's assets provided the trustee has acted properly and within his/her powers. Trustees may take out insurance to protect themselves against personal liability but not for criminal acts, fraud etc. The premiums can be paid out of the charitable funds so long as there is no express prohibition in the governing document, the trustees observe their duty of care, the insurance is in the best interests of the charity and the cost is reasonable.

## **COMMITTEES OF MANAGEMENT**

### **Unincorporated Associations**

21. Groups which are not trusts or limited companies are "unincorporated associations". The rules governing the association's members' duties and liabilities will be set out in a constitution, which is an agreement between the members as to how the organisation will operate. Usually the constitution will provide for a

management committee to be responsible for the everyday running of the organisation. An unincorporated association may be charitable and may register as a charity.

22. Property will have to be held by individuals, and contracts entered into 'on behalf of' unincorporated associations, as they have no separate legal identity from their members.

### **Duties**

23. Broadly, those who are elected or appointed to the association's Management Committee must act within the constitution, and must take reasonable care in exercising their powers and will have the responsibility for holding property and entering into contracts for the association.

### **Liabilities**

24. The following liabilities may arise:

(1) Generally, the Management Committee members are liable for the acts of the organisation, but are entitled to an indemnity from the funds of the organisation if they have acted properly. If there are not enough funds, the Committee members are personally liable for the shortfall.

(2) If one person is appointed by the constitution to act as the agent of the organisation for certain purposes, then that person acts as the agent of all the members, who have joint and several liability for the agent's actions.

(3) Members of the committee of management will have personal liability if they act outside the authority given to them or if they do not comply with statute e.g. the payment of employees' tax etc.

### **Indemnities**

25. Members will be entitled to an indemnity if they act in accordance with the constitution and are not at fault. It is possible to obtain insurance but if the organisation is to pay the premium it must be permitted by the constitution.

## **APPENDIX B**

### **Eligibility to serve on Outside Organisations**

#### **Trustee**

Prospective Trustees must meet the following eligibility requirements before any appointments can be made. They must:


- Be at least **18 years old** or at least 16 years old if the charity is also a Company or Charitable Incorporated Organisation (CIO).
- Have no unspent conviction for an offence involving dishonesty or deception.
- Not be declared bankrupt or be subject to bankruptcy restrictions, an interim order or have an individual voluntary agreement (IVA) with creditors.
- Not be disqualified from being a company director.
- Not been removed as a trustee by either the charity commission, the Scottish charity regulator or the High Court due to misconduct or mismanagement.
- Not be disqualified from being a trustee by an order of the Charity Commission under section 181A of the Charities Act 2011

### **Director**

Prospective Directors must meet the following eligibility requirements before any appointments can be made. They must:

- Be at least **16 years old** for the appointment to the Outside organisation to take effect (section 157 Companies Act 2006).
- Not be subject to a bankruptcy restrictions order or undertaking, or a debt relief restrictions order or undertaking.
- Not be subject to an order made under section 429(2)(b) of the Insolvency Act 1986 (disabilities on revocation of administration order against an individual).
- Not be convicted of an indictable offence (whether on indictment or summarily) in connection with the promotion, formation, management, liquidation or striking off of a company, with the receivership of a company's property or with them being an administrative receiver of a company (section 2, Company Directors Disqualification Act 1986).

For further Guidance follow links below to the Charity Commission and Company House websites <https://www.gov.uk/guidance/charity-commission-guidance>  
<https://www.gov.uk/government/organisations/companies-house>

Non-Executive Report of the:  <b>Standards Advisory Committee</b>  Thursday, 21 September 2023	 <b>TOWER HAMLETS</b>
<b>Report of:</b> Corporate Director, Governance and Monitoring Officer Director of Legal and Monitoring officer	<b>Classification:</b> Open (Unrestricted)
<b>Code of Conduct for Members - Complaint Monitoring</b>	
<b>Originating Officer(s)</b>	Janet Fasan – Director of Legal & Monitoring Officer
<b>Wards affected</b>	(All Wards)

### Reasons for Urgency

This report was not available within the 5 working day statutory deadline due to administrative oversight. If the Advisory Committee does not review the information at this meeting it will impact on its ability to effectively monitor and challenge on code of conduct and related matters.

### Executive Summary

This report updates the Advisory Committee on the quarterly monitoring information for complaints and investigations relating to alleged breaches Council’s Code of Conduct for Members.

### Recommendations:

The Standards (Advisory) Committee is recommended to:

1. Note the content of this report and the information contained in Appendix 1.

### 1. REASONS FOR THE DECISIONS

- 1.1 The Council’s ‘Arrangements for dealing with complaints of breach of the Code of Conduct for Members’ (paragraph 11), set out at Appendix A of the Code of Conduct for Members, provide for the Monitoring Officer to report quarterly (or less frequently if there are no complaints to report) to the Advisory Committee on the number and nature of complaints received and action taken as a result.

### 2. ALTERNATIVE OPTIONS

- 2.1 Not applicable.

### **3. DETAILS OF REPORT**

- 3.1 The provision of quarterly reports relating to the number and nature of complaints assists the Advisory Committee in exercising its oversight role in terms of promoting and maintaining high standards of conduct.
- 3.2 The Advisory Committee last considered a monitoring report at its meeting on 18 April 2023. Since that report there have been 4 new complaints of alleged breach of the Code of Conduct, of which none have been closed. Two complaints from the municipal year 2022-23 are still live. A breakdown of the complaints is contained in Appendix 1. One complaint which was with an external agency is awaiting a response from the Councillor, and will be discussed between the Monitoring Officer and Independent Person.

### **4.0 EQUALITIES IMPLICATIONS**

- 4.1 There are no specific equalities implications arising from this report.

### **5. OTHER STATUTORY IMPLICATIONS**

- 5.1 This section of the report is used to highlight further specific statutory implications that are either not covered in the main body of the report or are required to be highlighted to ensure decision makers give them proper consideration. Examples of other implications may be:
- Best Value Implications,
  - Consultations,
  - Environmental (including air quality),
  - Risk Management,
  - Crime Reduction,
  - Safeguarding.
- 5.2 The Council's arrangements for dealing with complaints of breach of the Code of Conduct for Members were revised in December 2016 to improve the transparency and efficiency of the process.

### **6. COMMENTS OF THE CHIEF FINANCE OFFICER**

- 6.1 This report details the framework used by the Monitoring Officer to provide quarterly reporting of Members complaints via the Advisory Committee and the number and nature of complaints, as per para 1.1
- 6.2 There are no financial implications arising from this report. However in the event that the Council agrees further action in response to this report, then approval for any further resources will need to be approved using existing financial regulatory rules prior to the making of any financial commitment.

### **7. LEGAL COMMENTS**



- 7.1 The principal statutory provisions relating to standards of conduct are contained in the Localism Act 2011. Section 27(1) of the 2011 Act provides that the Council must promote and maintain high standards of conduct by Members and Co-opted Members of the authority.
- 7.2 Sections 27 and 28 of the Localism Act require the Council to adopt a Code of Conduct consistent with the Nolan principles of good governance and to appoint at least one Independent Person whose views must be sought and taken into account before the Council makes any decision about an alleged breach of the Code that has been investigated.
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## **Linked Reports, Appendices and Background Documents**

### **Linked Report**

NONE.

### **Appendices**

Appendix 1 Complaints and investigation monitoring information

### **Local Government Act, 1972 Section 100D (As amended)**

### **List of “Background Papers” used in the preparation of this report**

NONE

### **Officer contact details for documents:**

N/A

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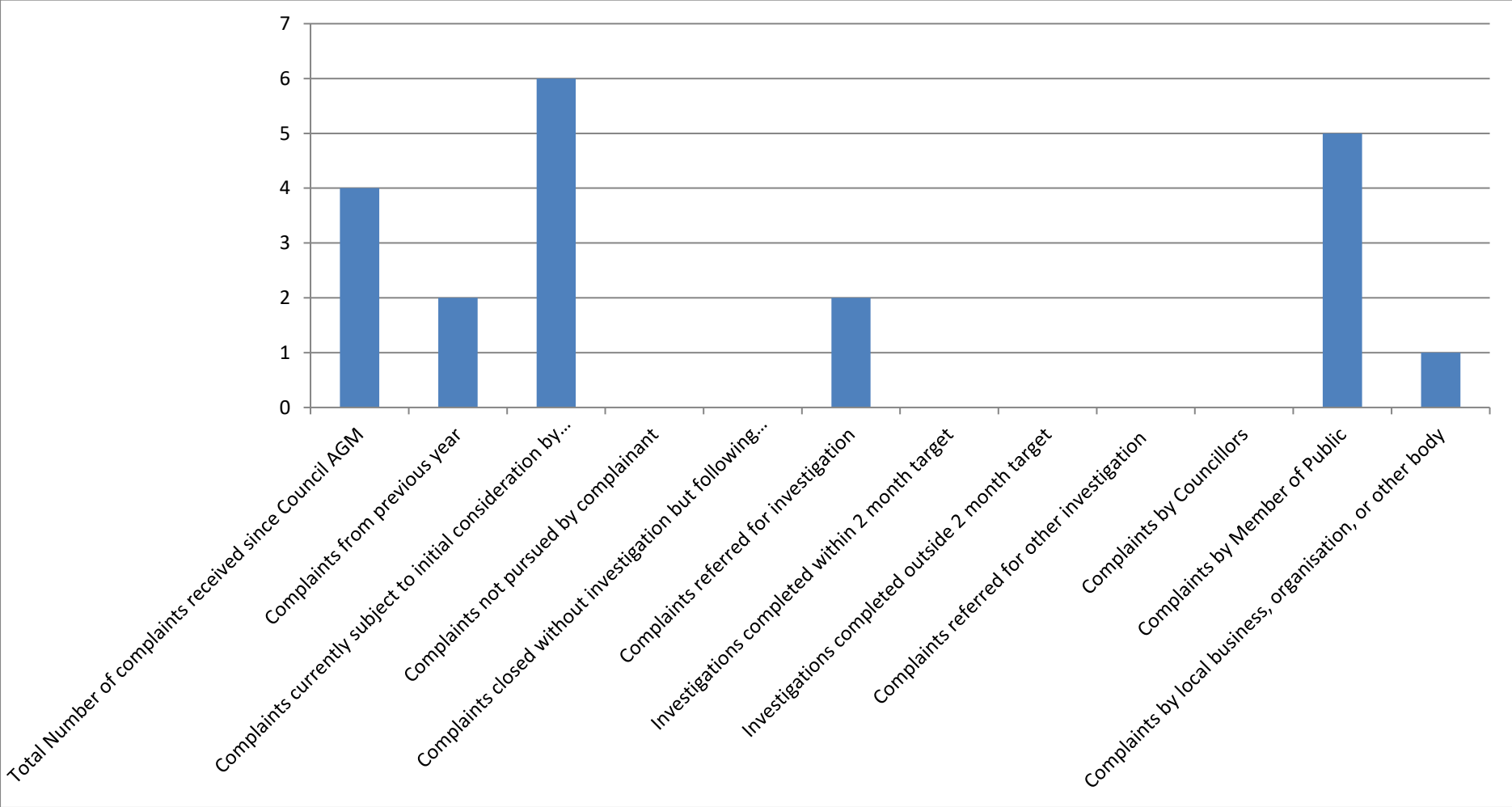
**Code of Conduct for Members - complaints and investigation monitoring information – municipal year 2023**

Complaints since May 2023:	04
Complaints from previous year:	02
Complaints currently subject to initial consideration by MO and IP:	06
Complaints not pursued by complainant:	00
Complaints closed without investigation but following consultation with IP:	00
Complaints referred for investigation as potential breach of the Code:	02
Investigations completed within 2 month target:	00
Investigations completed outside 2 month target:	00
Complaints referred for other investigation (police, audit etc.)	00

**Complainants**

Councillors:	00
Member of Public:	05
Local business, organisation, or other body:	01

### Code of Conduct Complaints 2023/2024



Reference number	Date received by Monitoring Officer	Complainant	Elected/Co-opted Member(s)	Nature of Complaint and potential breach(es) of the Code of Conduct	Date and outcome of consultation with IP	Date investigation commenced and investigation status	Hearing and outcome	Current status	Follow up
008/2022	03/02/2023	Member of the Public	Elected member	<p>Alleged complaint – Bribery, misconduct in a public office and malfeasance of a public official.</p> <p>Original complaint sent to Democratic Services</p>	<p>Target Date: 17/02/2023</p> <p>09/02/2023 - Acknowledgement email sent to complainant.</p> <p>21/02/2023 – Email sent to Cllr to confirm a complaint has been received however due to it being investigated by the Police a decision on how to proceed will follow after the Police investigation has concluded.</p> <p>22/02/2023 – IP has been made aware of the current status</p> <p>13/07/2023 – Investigation outcome provided by the Police to the frauds team.</p> <p>19/07/2023 – Update provided to complainant. Police found insufficient evidence for a prosecution. DMO to meet IP and advice on next steps.</p> <p>21/07/2023 – DMO consulted with IP. Although there is evidence of wrongdoing at this stage unable to proceed as there is a lack of evidence to link it to the Cllr. DMO to draft an email to Cllr to ask for initial response of the complaint.</p> <p>24/08/2023 – Email sent to Cllr to provide initial response.</p> <p>30/08/2023 – Cllr acknowledged the email, advised away on leave and will respond upon their return (week commencing 4 Sep 2023).</p>	N/A	N/A	Open	N/A

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011/2022	02/03/2023	Member of the public	Elected Member	Alleged complaint – mishandling of consultation paper/surveys. Cllr seen to be carrying/picking up from public.	<p>Target Date: 16/03/2023</p> <p>08/03/23 – Acknowledgement email sent to complainant.</p> <p>08/03/23 – Email sent to Cllr to provide initial response.</p> <p>20/03/2023 – Chaser sent to Cllr to provide initial response.</p> <p>12/04/2023 – Chaser sent to Cllr to provide initial response.</p> <p>14/04/2023 – Initial response received from Cllr.</p> <p>27/04/2023 – Consulted IP – Outcome: - proceed with full investigation.</p> <p>12/05/2023 – Meeting with complainant. Additional information provided along with contact details of witnesses.</p> <p>09/06/2023 – meeting with further witness</p> <p>21/06/2023 – Seeking to consult with members of the consultation team.</p> <p>08/09/2023 - DMO is awaiting statement from consultation lead. DMO to chase.</p>	<b>27/04/2023 - Full Investigation</b>		<b>Open</b>	

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001/2023	25/05/2023	Member of the public (via advocate)	Elected Member	Alleged complaint – Cllr's failure to acknowledge, update and lack of compassion shown with the matter raised by the complainant regarding a request made to the housing association and local council for a personalised disabled parking bay.	<p>Target date: 08/06/2023</p> <p>08/06/2023 – Acknowledgment email/letter sent to advocate to confirm complainant has requested the advocate to make the complaint on their behalf.</p> <p>16/06/2023 – Reminder email sent to advocate to respond.</p> <p>19/06/2023 – Response received from advocate that they have contacted the complainant to confirm/respond.</p> <p>03/07/2023 – Chaser email sent to advocate for an update.</p> <p>15/07/2023 – Chaser/update email sent to the advocate to confirm if they have received confirmation from the complainant.</p> <p>26/07/2023 – Confirmation received from advocate from the complainant that the advocate can act on their behalf.</p> <p>07/09/2023 – Email sent to Cllr to provide initial response.</p> <p>07/09/2023 – Cllr requesting details of complainant to refer to correspondences relating to the matter.</p> <p>08/09/2023 – Email sent to advocate seeking consent to share details of both advocate and complainant to the Cllr so that the Cllr can refer to correspondences relating to the matter.</p> <p>08/09/2023 – Email sent to Cllr to about DMO is seeking consent from advocate and complainant.</p>	N/A	N/A	Open	N/A

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002/2023	13/06/2023	LA - Officer	Elected Member	Alleged complaint – Cllr's behaviour during a recent HR committee meeting was hostile and intimidating. The way the Cllr behaved fell below the standards expected of members when conducting themselves with officers.	<p>Target date: 27/06/2023</p> <p>16/06/2023 – Acknowledgment email sent to complainant.</p> <p>16/06/2023 - Email sent to Cllr to provide initial response.</p> <p>23/06/2023 – Cllr requesting further information from DMO.</p> <p>03/07/2023 – DMO provided information as requested by the Cllr.</p> <p>04/07/2023 – Initial response including supporting correspondence provided by Cllr.</p> <p>21/07/2023 – DMO consulted IP.</p> <p>26/07/2023 – Complainant notified the matter will proceed to a full investigation.</p> <p>14/08/2023 – Meeting with complainant.</p> <p>08/09/2023 - DMO has received 1 witness statement and a statement from the complainant. DMO Awaiting a further witness statement before arranging a meeting with the Cllr.</p>	26/07/2023		Open	N/A



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003/2023	20/06/2023	Member of the public	Elected Member	Alleged complaint – Breach of the Islamophobia Definition adopted by Tower Hamlets Council. During a recent committee meeting, Cllr showed microaggression towards Muslim members of the committee, and made unfounded accusations. Which complainant believes is in breach of the APPG Islamophobia definition.	<p>Target date: 04/07/2023</p> <p>27/06/2023 – Acknowledgment email sent to complainant.</p> <p>27/06/2023 – Email sent to Cllr to provide initial response.</p> <p>04/07/2023 – Cllr acknowledged the email and asked if any evidence of the allegation has been provided.</p> <p>05/07/2023 – DMO seeking further clarifications from the complainant.</p> <p>24/07/2023 – Chaser email sent to complainant.</p> <p>05/09/2023 – Chaser email sent to complainant seeking clarification of the complaint (SMSO to chase Cllr on 12 September).</p> <p>08/09/2023 – Email sent to Cllr with current updates.</p>	N/A	N/A	Open	N/A

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004/2023	06/07/2023	Member of the public	Elected Member	<p>Alleged complaint – Complainant believes Cllr is not following the Equality Act 2010 or the Care Act 2014.</p> <p>Mistreatment and discriminating behaviour towards complainant because of disability.</p>	<p>Target date: 20 July 2023</p> <p>(Originally complainant complained on 6 June 2023 however on the same they wished to withdraw the complaint. Complainant sent an email to the mayors Team and cc'd in MO inbox and after emailing for confirmation if they wish to proceed, complainant asked to go ahead with the original complaint)</p> <p>24/07/2023 - Acknowledgment email sent to complainant.</p> <p>24/07/2023 – Email sent to Cllr to provide initial response.</p> <p>14/08/2023 – Chaser email sent to Cllr.</p> <p>07/09/2023 – Chaser email sent to Cllr.</p> <p>08/09/2023 – DMO seeking advice from Director of Legal &amp; Monitoring Officer on next steps on Cllr's failure to respond.</p>	N/A	N/A	Open	N/A