

Standards Advisory Committee



Thursday, 15 October 2020 at 2.00 p.m.

Online 'Virtual' Meeting - <https://towerhamlets.public-i.tv/core/portal/home>

Agenda

Chair: To be elected

Members

Vice-Chair: To be elected

John Pulford MBE, Fiona Browne, Nafisa Adam, Mike Houston, 1 Vacancy, Councillor Rajib Ahmed, Councillor Mufeedah Bustin, Councillor Rabina Khan, Councillor Leema Qureshi and Councillor Abdal Ullah

Observers (Independent Persons):

Elizabeth Marshall (Independent Person) and Rachael Tiffen (Independent Person)

Substitutes:

Councillor Marc Francis, Councillor Denise Jones and Councillor Puru Miah

[The quorum for Standards Advisory Committee is 3 Members including one Councillor and one Co-optee]

Further Information

Reports for consideration, meeting contact details, public participation and more information is available on the following pages.



Public Information

Viewing or Participating in Committee Meetings

The public are welcome to view this meeting through the Council's webcast system.

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Meeting Webcast

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<http://towerhamlets.public-i.tv/core/portal/home>

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Web:<http://www.towerhamlets.gov.uk/committee>

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Standards Advisory Committee

Thursday, 15 October 2020

2.00 p.m.

PAGE
NUMBER(S)

1. **ELECT A CHAIR OF THE STANDARDS ADVISORY COMMITTEE**

To elect a Chair of the Committee for the 2020/21 Municipal year from amongst the co-opted Members.

2. **ELECT A VICE-CHAIR OF THE STANDARDS ADVISORY COMMITTEE**

To elect a Vice-Chair of the Committee for the 2020/21 Municipal Year from amongst the co-opted Members of the Committee.

3. **APOLOGIES FOR ABSENCE**

4. **DECLARATIONS OF INTEREST**

7 - 8

Members are reminded to consider the categories of interest in the Code of Conduct for Members to determine whether they have an interest in any agenda item and any action they should take. For further details, please see the attached note from the Monitoring Officer.

Members are reminded to declare the nature of the interest and the agenda item it relates to. Please note that ultimately it's the Members' responsibility to declare any interests and to update their register of interest form as required by the Code.

If in doubt as to the nature of your interest, you are advised to seek advice prior to the meeting by contacting the Monitoring Officer or Democratic Services

5. **MINUTES OF THE PREVIOUS MEETING(S)**

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To confirm as a correct record the minutes of the meeting of the Standards Advisory Committee held on Thursday 30 July 2020.

6. REPORTS FOR CONSIDERATION

- | | | |
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| 6 .1 | Standards Advisory Committee - Terms of Reference, Membership, Establishment of Sub-Committees and Dates of Meetings | 19 - 26 |
| 6 .2 | Implementation of Best Practice Recommendations by CSPL | To Follow |
| 6 .3 | Members Rights to Access to Information | 27 - 64 |
| 6 .4 | Member Learning and Development Update | To Follow |
| 6 .5 | Register of Gifts and Hospitality - Quarterly Update | 65 - 70 |
| 6 .6 | Register of Interests - Member Addresses | 71 - 76 |

7. WORK PLAN

77 - 84

To noted and comment on the Committee's work plan.

8. ANY OTHER BUSINESS WHICH THE CHAIR CONSIDERS URGENT

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

9. EXCLUSION OF THE PRESS AND PUBLIC

In view of the contents of the remaining items on the agenda the Committee is recommended to adopt the following motion:

“That, under the provisions of Section 100A of the Local Government Act 1972, as amended by the Local Government (Access to Information) Act 1985, the press and public be excluded from the remainder of the meeting for the consideration of the Section Two business on the grounds that it contains information defined as Exempt in Part 1 of Schedule 12A to the Local Government Act, 1972.”

NOTE: EXEMPT/CONFIDENTIAL SECTION (Pink Papers)

The exempt committee papers in the agenda will contain information, which is commercially, legally or personally sensitive and should not be divulged to third parties. If you do not wish to retain these papers after the meeting, please hand them to the Committee Officer present.

10. ANY OTHER EXEMPT/CONFIDENTIAL BUSINESS THAT THE CHAIR CONSIDERS URGENT

To consider any other exempt/ confidential business that the Chair considers to be urgent.

Next Meeting of the Committee:

Thursday, 4 February 2021 at 6.00 p.m. to be held in the Online 'Virtual' Meeting -
<https://towerhamlets.public-i.tv/core/portal/home>

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Agenda Item 4

DECLARATIONS OF INTERESTS AT MEETINGS– NOTE FROM THE MONITORING OFFICER

This note is for guidance only. For further details please consult the Code of Conduct for Members at Part C, Section 31 of the Council's Constitution

(i) Disclosable Pecuniary Interests (DPI)

You have a DPI in any item of business on the agenda where it relates to the categories listed in **Appendix A** to this guidance. Please note that a DPI includes: (i) Your own relevant interests; (ii) Those of your spouse or civil partner; (iii) A person with whom the Member is living as husband/wife/civil partners. Other individuals, e.g. Children, siblings and flatmates do not need to be considered. Failure to disclose or register a DPI (within 28 days) is a criminal offence.

Members with a DPI, (unless granted a dispensation) must not seek to improperly influence the decision, must declare the nature of the interest and leave the meeting room (including the public gallery) during the consideration and decision on the item – unless exercising their right to address the Committee.

DPI Dispensations and Sensitive Interests. In certain circumstances, Members may make a request to the Monitoring Officer for a dispensation or for an interest to be treated as sensitive.

(ii) Non - DPI Interests that the Council has decided should be registered – (Non - DPIs)

You will have 'Non DPI Interest' in any item on the agenda, where it relates to (i) the offer of gifts or hospitality, (with an estimated value of at least £25) (ii) Council Appointments or nominations to bodies (iii) Membership of any body exercising a function of a public nature, a charitable purpose or aimed at influencing public opinion.

Members must declare the nature of the interest, but may stay in the meeting room and participate in the consideration of the matter and vote on it **unless:**

- A reasonable person would think that your interest is so significant that it would be likely to impair your judgement of the public interest. **If so, you must withdraw and take no part in the consideration or discussion of the matter.**

(iii) Declarations of Interests not included in the Register of Members' Interest.

Occasions may arise where a matter under consideration would, or would be likely to, **affect the wellbeing of you, your family, or close associate(s) more than it would anyone else living in the local area** but which is not required to be included in the Register of Members' Interests. In such matters, Members must consider the information set out in paragraph (ii) above regarding Non DPI - interests and apply the test, set out in this paragraph.

Guidance on Predetermination and Bias

Member's attention is drawn to the guidance on predetermination and bias, particularly the need to consider the merits of the case with an open mind, as set out in the Planning and Licensing Codes of Conduct, (Part C, Section 34 and 35 of the Constitution). For further advice on the possibility of bias or predetermination, you are advised to seek advice prior to the meeting.

Section 106 of the Local Government Finance Act, 1992 - Declarations which restrict Members in Council Tax arrears, for at least a two months from voting

In such circumstances the member may not vote on any reports and motions with respect to the matter.

Further Advice contact: Asmat Hussain, Corporate Director, Governance and Monitoring Officer,
Tel: 0207 364 4800.

APPENDIX A: Definition of a Disclosable Pecuniary Interest

(Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012, Reg 2 and Schedule)

Subject	Prescribed description
Employment, office, trade, profession or vacation	Any employment, office, trade, profession or vocation carried on for profit or gain.
Sponsorship	Any payment or provision of any other financial benefit (other than from the relevant authority) made or provided within the relevant period in respect of any expenses incurred by the Member in carrying out duties as a member, or towards the election expenses of the Member. 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	Any contract which is made between the relevant person (or a body in which the relevant person has a beneficial interest) and the relevant authority— (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	Any beneficial interest in land which is within the area of the relevant authority.
Licences	Any licence (alone or jointly with others) to occupy land in the area of the relevant authority for a month or longer.
Corporate tenancies	Any tenancy where (to the Member's knowledge)— (a) the landlord is the relevant authority; and (b) the tenant is a body in which the relevant person has a beneficial interest.
Securities	Any beneficial interest in securities of a body where— (a) that body (to the Member's knowledge) has a place of business or land in the area of the relevant authority; 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.

LONDON BOROUGH OF TOWER HAMLETS

MINUTES OF THE STANDARDS ADVISORY COMMITTEE

HELD AT 2.00 P.M. ON THURSDAY, 30 JULY 2020

ONLINE 'VIRTUAL' MEETING - [HTTPS://TOWERHAMLETS.PUBLIC-I.TV/CORE/PORTAL/HOME](https://towerhamlets.public-i.tv/core/portal/home)

Members Present:

John Pulford MBE (Chair)
Nafisa Adam
Fiona Browne
Councillor Mufeedah Bustin
Councillor Rabina Khan
Councillor Abdal Ullah

Observers:

Elizabeth Marshall – Independent Person
Rachael Tiffen – Independent Person

Apologies:

Mike Houston (Co-Optee)
Councillor James King (Member)

Officers Present:

Janet Fasan – (Divisional Director, Legal, Governance)
Asmat Hussain – (Corporate Director, Governance and Monitoring Officer)
Matthew Mannion – (Head of Democratic Services, Governance)
Rachel Mckoy – (Head of Commercial & Contracts, Legal Services Governance)

1. DECLARATIONS OF DISCLOSABLE PECUNIARY INTERESTS AND OTHER INTERESTS

There were no declarations of interest.

2. MINUTES OF THE PREVIOUS MEETING(S)

RESOLVED:

That the minutes of the meeting held on 30 January 2020 be approved as a correct record of proceedings.

3. REPORTS FOR CONSIDERATION

3.1 Consultation on Draft Model Member Code of Conduct

Janet Fasan, Divisional Director Legal Services and Deputy Monitoring Officer, introduced the report that sought comments by way of response to the LGAs consultation on the Draft model Code of conduct for members. The consultation commenced on 8th June and concludes on the 17th of August 2020. Ms Fasan had provided the consultation link previously to all members of the Advisory Committee.

Asmat Hussain, Corporate Director of Governance and Monitoring Officer, shared some key points from a recent LGA meeting, which included MOs, legal and democratic services reps from other councils. The conference had included constructive debates on:

- Social media: challenge of distinguishing whether posts are published in a personal or professional capacity; balance of individuals' freedom of speech and the role of Councils to police proper conduct of their members.
- Intimidation of councillors. LGA to provide further guidance and support.
- New phrase of 'civility' in the draft code, seemingly replacing 'respect'. Concern that 'civility' as a phrase may not encompass desired behaviours sufficiently.
- Recommendations for annual training to promote requirements of codes of conduct.
- Clarity of sanctions: could they be made clearer?
- Relative merits of the personal tense (I will) and passive tense (Councillors should) when used within the new code
- That Councillors need to sign the Code of Conduct upon taking office.
- Registers and declarations of interest: the potential new requirement to register interests of friends, in addition to partners. The difficulties that could arise from this.
- Livingstone case law: a discussion that this case law still stands as good law.
- Declaration of gifts and hospitality: whether the original £25 threshold is still relevant today.

The Advisory Committee

- Indicated concern with the new proposed term 'civility', preferring 'respect' which they felt better encompassed the range of desired behaviours.
- Stressed it is essential that sufficient clarity/guidance accompanies any proposal to include a requirement to register interests of 'friends' in addition to those of partners.

Ms Hussain suggested that any members who wish to offer comment on the draft code may wish to send their response directly to Mr Mannion and Ms Fasan, (copying in the Chair) with the aim to collate a single London Borough of Tower Hamlets response to the consultation, which she understood would be the practice of most councils. However, individuals submissions are encouraged where members wish to do so.

RESOLVED:

1. That the consultation questions on the draft Model Member Code of Conduct be noted
2. That the Advisory Committee's comments above are included in the response.
3. That any members who wish to offer comment on the draft code can respond directly, or send their response directly to Matthew Mannion and Janet Fasan, (copying in the Chair).

3.2 Draft Standards Advisory Committee Annual Report to Council

Asmat Hussain, Corporate Director of Governance and Monitoring Officer, provided a verbal update on the preparation of the Advisory Committee's draft report to Council. Including its work to review:

- Investigation of complaints and work with Independent Persons to analyse and improve complaints processes
- Dispensations granted
- Gifts and hospitality
- Member training and briefings
- The impact of the Covid pandemic: challenges and opportunities
- The Council's Social Media policy
- Members hub and bulletin
- The Local Government Ethical Standards Review and Committee on Standards in Public Life.

Ms Hussain added that she hoped to include reference to the Advisory Committee's response to the LGA Draft Code of Conduct consultation (as discussed at item 3.1 on this meeting's agenda) to the report by time it goes to Full Council.

Matthew Mannion, Head of Democratic Services, asked the Advisory Committee to note that there was some difficulty establishing the period the report should cover, as there had not been an Annual Council Meeting in May 2020 as is normal practice. It had been decided to generally continue to refer to activities within the period up to May. He noted that there were discussions in progress with political groups on a proposal for Council meetings to resume in the autumn.

Mr Mannion also advised that an advert for the vacant co-opted member position on the Advisory Committee was delayed by the pandemic but has now been published. There had been several expressions of interest

The Advisory Committee:

- Noted that the draft report includes a focus on the specific challenges and opportunities presented by the Covid pandemic and lockdown period.
- Asked that, prior to the report's submission:
 - The Advisory Committee's forward plan of work be added. The Chair encouraged members to make suggestions for additions to it, prior to the report's submission.
 - Reference to the Advisory Committee's discussion of the Holborn Studios planning matter, and related amendments to the Council's Planning Code of Conduct (as discussed at Item 3.3 on this meeting's agenda), be added.
 - Members of the Advisory Committee to review the draft report and forward any further thoughts or suggestions to Ms Hussain, Mr Mannion and Ms Fasan.
- Noted that, when it last submitted its annual report to a Full Council meeting, time had ran out before Members of the Council could discuss it.

RESOLVED:

1. That the update on the preparation of the Advisory Committee's Annual Report to Council be noted.

3.3 Standards and Code of Conduct Monitoring in relation to planning and development matter

Rachel McCoy, Head of Commercial & Contracts, introduced the report that provided the Advisory Committee with an update of the safeguards and governance arrangements in place at the London Borough of Tower Hamlets to ensure probity in the Council's planning decisions following several high profile instances of unlawful behaviour elsewhere. Ms McCoy summarised the learning from the recent high-profile planning cases mentioned in the report.

The Advisory Committee noted that the report had originated from a request from the vice chair to explain and contextualize recent developments in Redbridge, although it had since broadened in scope to encompass a range of matters related to probity in planning matters.

With respect to the Holborn Studios decision, Ms McKoy stressed that the legal finding represents a notable change of approach: Members can and should review objections which they receive directly. In future it should be considered as a key part of the democratic process. Objections can and should be passed to officers, but also considered by the Councillors who receive them.

With respect to the Redbridge matter, Ms McKoy asked the Advisory Committee to note that her interpretation was based on the limited information in the public domain. Her understanding was that the matter concerned allegations of interference, intimidation and bullying by the executive on the planning process. Having reviewed the existing LBTH guidance (including the Code of Conduct for Members, Planning Code of Conduct, Development and Strategic Development Committee Rules of Procedure), Ms McKoy is satisfied it covers how engagement from the executive should be exercised in planning matters and represents a suitable safeguard against such a situation arising in Tower Hamlets.

Several members of the Advisory Committee who had also sat on the Council's Development and/or Strategic Development Committee reported a positive view of the established practice and culture of those committees and the training and guidance currently provided to members on ethics and probity in planning matters.

RESOLVED that the Standards Advisory Committee:

1. Noted the content of the report.
2. Noted the recommended amendments to the Planning Code of Conduct, Part C, paragraphs 7.2 (d) and (e) of the Constitution concerning lobbying to be forwarded to the Strategic Development Committee for consideration set out in paragraph 6 of the report
3. Agreed to the arrangement/and facilitation of training for Members' of the Strategic Development and Development Committees on lobbying following the recent legal judgement in Holborn Studios (No.2) discussed at paragraphs 6 and 12 of the report.

3.4 COVID-19 Pandemic Impact on Support for Members and potential future developments

Matthew Mannion, Head of Democratic Services, introduced the report that provided the Advisory Committee with an update on the impact of the pandemic on the support for Members and invited a discussion on how the

new ways of working could be embraced in future to provide more flexible services to Members.

Mr Mannion asked the Advisory Committee to note that an annual general meeting of council had not yet taken place. Discussions were underway as to whether an AGM will be held in-year, or wait until 2021.

The Advisory Committee:

- Discussed experiences of remote meetings since the start of the pandemic period. Members of the Advisory Committee felt remote meetings offer significant advantages over traditional meetings such as enhanced flexibility and inclusivity. However, it also felt there were some challenges and teething problems encountered. In particular it indicated it would welcome guidance and support/training on managing, participating in and chairing remote meetings.
- Welcomed the reported increase in engagement in member training sessions since lockdown, though noted that delivering member training via remote software may require tweaks to how training is delivered.
- Indicated it would welcome feedback from members on their feelings/experiences of new ways of working and suggestions for improvement.
- Noted that the national legislation that permitted remote meetings would expire in 2021 and suggested the Council (possibly in partnership with relevant professional bodies such as the Association of Democratic Services Officers) could lobby to extend or make aspects of it permanent. Some members of the Advisory Committee felt that returning entirely to old ways of working may never be possible, especially for those who had a lower risk appetite.

RESOLVED that the Standards Advisory Committee:

1. Noted the update on the Member Development, Member Surgeries and related areas.
2. Welcomes the potential future options for taking advantage of new ways of working to support Members in future.

3.5 Code of Conduct for Members - Complaint Monitoring

Janet Fasan, Divisional Director Legal Services and Deputy Monitoring Officer, introduced the report that updated the Advisory Committee on the quarterly monitoring information for complaints and investigations relating to alleged breaches of the Council's Code of Conduct for Members. Ms Fasan summarised the complaints concluded since the Advisory Committee had last met and the results of the investigations into them, as provided in the report submitted.

The Advisory Committee had a discussion around difficulties of progressing and investigating complaints when insufficient information is provided by the complainant, especially where complaint forms are not provided or are not completed fully. It noted there is sometimes a need for officers to support complainants to ensure information is sufficient to allow a full investigation. However, there is also a risk that the subject of a complaint may feel progressing a complaint is unfair if the complainant has failed to comply with the Council's stated requirements (i.e. completing a complaint form).

The Advisory Committee noted that:

- The Code of Conduct could be strengthened if necessary to state that the council may not investigate/progress complaints if forms are not completed fully, or necessary information not provided.
- There is a danger of overlooking breaches of the code if officers are too process-focused. The process should allow for flexibility for the complainant to provide information in a way that works for them and they should be supported to supplement information where necessary.
- There have been occasions when complainants have been prompted to provide supporting information, but then do not engage, despite support.
- No complainants have been turned away, irrespective of whether forms were or were not completed.

The Advisory Committee noted the complaints regarding provision of Iftar meals. There can be difficulties placing value figure on such meals and similar gifts of a charitable or religious nature. Ms Hussain stressed that it is good practice to declare any hospitality (including an Iftar meal) even where the value is thought to be low or unknown. It was noted that that a guidance note had been sent to all members at the start of Ramadan this year, reminding of gifts and hospitality declaration obligations.

Further to consideration of the specific complaints received, the Advisory Committee:

- Asked that a reminder is sent to all members on the Council's social media policy and their obligations to comply with it.
- Was reassured to hear from Ms Hussain and Ms Fasan that complaints analysis suggested most are from unique complainants and there is no indication of repeat/vexatious complainants being an issue.
- Noted that in the specific complaint regarding non-response to email, the member concerned has been provided guidance on managing repetitive correspondence.

RESOLVED:

1. That the report and the information contained in Appendix 1 be noted.

3.6 Member Attendance Update

Matthew Mannion, Head of Democratic Services, introduced the report that provided an update on Member attendance at formal Council and Committee meetings.

RESOLVED:

1. That the report be noted.

3.7 Register of Gifts and Hospitality Quarterly Update

Matthew Mannion, Head of Democratic Services, introduced the report that provided an update on the declarations of gifts and hospitality received from Members since the previous report to the Advisory Committee on 30 January 2020.

Mr Mannion asked the Advisory Committee to note that, whilst the period covered by this report is longer than previous reports due to delays caused by the pandemic period, declarations received are very few. He also reminded the Advisory Committee of its role in reviewing whether gifts and hospitality were dealt with appropriately by those in receipt, for example whether the gift had been kept when it should more appropriately have been donated to charity or refused.

A summary was tabled showing whether members of the Council had responded to a recent letter from the Chair of the Standards Advisory Committee confirming whether they had declared all gifts and hospitality they had received. It was noted that six Councillors had yet to respond to the request.

The Advisory Committee asked that the response summary be sent to group whips and reminders to complete issued, to encourage full compliance. The Advisory Committee indicated it would welcome introduction of a standard 'nil return' declaration for gifts and hospitality.

RESOLVED:

1. That the report and the information contained in Appendix 1 be noted.
2. That group whips are informed of member compliance with requests for declarations of gifts and hospitality.

3.8 Dispensations under section 33 of the Localism Act 2011

Janet Fasan, Divisional Director Legal Services and Deputy Monitoring Officer, introduced the report that informed the Advisory Committee of dispensations in relation to disclosable pecuniary interests (DPI's) under section 33 of the Localism Act 2011. Ms Fasan explained the one specific, and four general dispensations, granted by the Monitoring Officer in the period.

RESOLVED:

That the content of this report and the specific dispensation granted by the Monitoring Officer detailed in paragraph 3.4 of the report is noted.

3.9 Work Plan

Mr Mannion advised he would circulate the current version of the work plan offline following the meeting. Mr Mannion and Ms Hussain encouraged members to review and offer suggestions for amendments or additions via email to Mr Mannion.

RESOLVED:

That the work plan would be circulated offline.

1. That members of the Advisory Committee are encouraged to review the work plan and offer suggestions for amendments or additions via email to Matthew Mannion, Head of Democratic Services.

4. ANY OTHER BUSINESS WHICH THE CHAIR CONSIDERS URGENT

There was none.

The meeting ended at 3.55 p.m.

John Pulford, Chair,
Standards Advisory Committee

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Non-Executive Report of the: Standards Advisory Committee Thursday, 15 October 2020	 TOWER HAMLETS
Report of: Asmat Hussain, Corporate Director, Governance and Monitoring Officer	Classification: Open (Unrestricted)
Standards Advisory Committee - Terms of Reference	

Originating Officer(s)	Matthew Mannion, Head of Democratic Services
Wards affected	(All Wards);

Executive Summary

This report:

- a. sets out the Terms of Reference, Quorum, Membership and Dates of meetings of the Standards Advisory Committee (SAC) for the Municipal Year 2020/21 for the information of members of the Committee.
- b. Asks Members to approve the establishment of its Sub Committees to consider complaints relating to breaches of the Member Code of Conduct.

Recommendations:

The Standards Advisory Committee is recommended to:

1. Note its Terms of Reference, Membership, Dates of future meetings and timing thereof, as set out in Appendices 1, 2 and 3 to this report;
2. Establish the following sub-committees for the municipal year 2020/21, to be convened as required on an ad hoc basis with membership from amongst the members of the SAC, including in each case a minimum of three members:-
 - Investigation and Disciplinary Sub-Committee
 - Hearings Sub-Committee

1. REASONS FOR THE DECISIONS

- 1.1 The decisions are required to enable Members to be aware of the arrangements of the Committee and to establish its Sub-Committees so that complaints against members can be investigated and where necessary answered.

2. ALTERNATIVE OPTIONS

2.1 There are no alternative options applicable to this report

3. ANNUAL ESTABLISHMENT, TERMS OF REFERENCE AND QUORUM, AND DATES OF MEETINGS

3.1 At the Annual General Meeting (AGM) of the full Council held on 30 September 2020, the Authority approved the proportionality and establishment of the Committees and Panels of the Authority, including the SAC and appointment of Members thereto.

3.2 It is customary that, following the Council AGM, the committees that have been established note their Terms of Reference (TOR), Membership and Quorum for the duration of the Municipal Year. The TORs are set out in Appendix 1 to this report. The membership is set out in Appendix 2.

3.3 The dates of SAC meetings for the remainder of the Municipal Year, agreed by the full Council are set out in Appendix 3 to this report.

3.4 It should be noted that the 'usual' start time for Standards Advisory Committee meetings as been set as 6pm but that during the pandemic the Chair has agreed to vary the start time for the most recent two virtual Committee meetings (including this one) and that this may continue. Changes to the permanent agreed start time for the Committee can be reviewed at a later date.

4. MEMBERSHIP

4.1 Full Council has agreed that the SAC shall comprise:

- Members of the Council (not including the Mayor or more than one Cabinet Member), appointed by the full Council in accordance with the requirements of political proportionality.
- Up to five persons who are not Members or officers of the Council or any other relevant authority (i.e. Co-opted members) who will be entitled to vote at meetings.
- Co-opted members may serve as many terms of appointment as the full Council considers appropriate. A person may not be appointed as a co-opted member of the SAC or one of its sub-committees unless the appointment is approved by full Council.
- Current co-optees, Mr John Pulford MBE, Ms Nafisa Adam, Mr Michael James Houston and Ms Fiona Browne were reappointed by Council. Their appointments were renewed until 30 September 2021.

4.2 *Observers:*

With respect to the 'Independent Person' (IP) role introduced nationally under the standards regime resulting from the Localism Act 2011, 2 appointments were made in 2013 and 2018 respectively. Ms Elizabeth Marshall (formerly Hall) was appointed by full Council 26 June 2013 and her appointment was renewed in 2018 for a term of 3 years ending on 18 September 2021. To assist the Monitoring Officer to discharge her investigatory duties and enable continuity of the IP role, the Council has recruited a second IP. Ms Rachel Tiffen was appointed in January 2018 for a term of 4 years ending on 16 January 2022.

Council has agreed that the IPs should be invited to all SAC meetings in the capacity of observers.

4.3 *Chairing the Committee*

The full Council has agreed that the Chair and the Vice Chair of the SAC will be appointed from the co-opted members of the SAC.

4.4 *Quorum*

The quorum for meetings of the SAC and for each of its sub-committees is three of the total membership and this must include at least one councillor and one co-opted member. A co-opted member shall Chair the meeting.

5. **SUB COMMITTEES**

5.1 SAC Sub-Committees are established at the beginning of each municipal year. Their function is to consider allegations and the outcome of investigations into misconduct made against elected and co-opted Members and, where necessary. Following implementation of the Localism Act 2011, the compulsory arrangements for standards committees in England were withdrawn. However, Tower Hamlets Council has chosen to maintain these arrangements on to ensure that robust ethical arrangements for standards in public life are in place.

5.2 Sub-Committee membership is drawn from the membership of the parent committee and meetings can be convened as required on an ad hoc basis.

6. **OTHER STAUTORY IMPLICATIONS**

6.1 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.

6.2 In regard to risk management, the terms of reference for the Standards (Advisory) Committee and the accompanying appendices provides a means of ensuring the work of the Committee and its sub committees is noted.

7. EQUALITIES IMPLICATIONS

7.1 When drawing up the schedule of dates, consideration was given to avoiding school holiday dates and known dates of religious holidays and other important dates where at all possible.

8. COMMENTS OF THE CHIEF FINANCE OFFICER

8.1 Matters brought before the Committee under its terms of reference during the year will include comments on the financial implications of decisions provided by the Chief Finance Officer. There are no specific comments arising from this report.

9. COMMENTS OF LEGAL SERVICES

9.1 The information provided for the Committee is in accordance with Article 9 and paragraph 3.3.14 of the Council's Constitution.

Linked Reports, Appendices and Background Documents

Linked Report

- NONE

Appendices

- Appendix 1 – Standards Advisory Committee Terms of Reference
- Appendix 2 – Appointments to Committee
- Appendix 3 – Dates of Meeting

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

List of "Background Papers" used in the preparation of this report

List any background documents not already in the public domain including officer contact information.

- NONE.

Officer contact details for documents:

N/A

Appendix 1 – Terms of Reference

Standards Advisory Committee

Summary Description: The Committee performs a number of functions to maintain high standards of conduct in public life including promoting the Members Code of Conduct and considering potential breaches of the Code of Conduct.

The Committee may establish Sub-Committees to consider certain matters as set out in the 'Functions' below.

The Committee and any of its sub-committees may meet in private in accordance with relevant legislation as advised by the Monitoring Officer. Any meeting or part of a meeting that considers whether or not a complaint should be referred for investigation or, following an investigation should proceed to hearing, shall be held in private and all papers relating to that consideration shall remain confidential.

Membership: 5 elected members of the Council (not including the Mayor or more than 1 Cabinet member),

Co-opted Members

Plus up to 5 independent co-opted members.

Co-opted members will be entitled to vote at meetings under the provisions of section 13(4)(e) of the Local Government and Housing Act 1989. The Standards Advisory Committee (SAC) shall be chaired by an independent co-opted member.

Independent Co-opted members shall be appointed by full Council on the recommendation of the Monitoring Officer. The term of appointment shall be 4 years unless otherwise determined by Council. Co-opted members may serve as many terms of appointment as the Council considers appropriate.

Note – Independent Persons

The Council has appointed two statutory Independent Persons to assist in dealing with complaints of alleged breach of the Code of Conduct for Members under section 28(7) of the Localism Act 2011. They are not co-opted member of the SAC but may attend and observe any meeting of the Committee or a sub-committee established by it.

Functions	Delegation of Functions
<p>Full details are set out in the Committee's Procedures in Part D of the Constitution, but in summary:</p> <ol style="list-style-type: none"> Promoting and maintaining high standards of conduct by the Mayor, councillors and co-opted members of the Council. 	<p>None</p>

2. Advising the Council on the adoption or revision of the Code of Conduct for Members.
3. To monitor and advise the Council about the operation of the Code of Conduct for Members in light of best practice and changes in the law.
4. Advising, training or arranging to train the Mayor, councillors and co-opted members on matters relating to ethics and probity and the Code of Conduct.
5. To appoint sub-committees for the purpose of discharging any of the Committee's functions including the consideration and determination of complaints of breach of the code of Conduct for Members.
6. As requested by the Monitoring Officer, to establish a Dispensations Sub-Committee to advise on any applications for dispensations in relation to participation at a meeting by a member with a Disclosable Pecuniary Interest.
7. To deal with any reports from the Monitoring Officer on any matter relating to standards of conduct.
8. Other functions relating to the standards of conduct of members under any relevant statutory provision or otherwise.

Quorum: A meeting of the Standards Advisory Committee or one of its sub-committees shall only be quorate where at least three members of the Committee or Sub-Committee are present for its duration and such quorum must include at least one councillor and at least one independent co-opted member.

Additional Information:

- Constitution Part A, Section 11 (The Standards Advisory Committee and the Code of Conduct for Members)
- Constitution Part C, Section 31 (The Code of Conduct for Members)
- Constitution Part D, Section 53 (Standards Advisory Committee Procedures)

Appendix 2 – Membership

Co-optees

- John Pulford MBE
- Nafisa Adam
- Michael Houston
- Fiona Browne
- Vacancy (Note – interviews for the post due shortly)

Councillors:

- Councillor Abdal Ullah
- Councillor Leema Qureshi
- Councillor Mufeedah Bustin
- Councillor Rajib Ahmed
- Councillor Rabina Khan

Substitutes


- Councillor Denise Jones
- Councillor Puru Miah
- Councillor Marc Francis

Independent Persons

- Elizabeth Marshall
- Rachael Tiffin

Appendix 3 – Dates of Meetings

1. 15 October 2020
2. 4 February 2021
3. 22 April 2021

<p>Non-Executive Report of the:</p> <p>Standards Advisory Committee</p> <p>Thursday, 15 October 2020</p>	
<p>Report of: Corporate Director, Governance and Monitoring Officer</p>	<p>Classification: Open (Unrestricted)</p>
<p>Members Rights to Access to Information</p>	

<p>Originating Officer(s)</p>	<p>Janet Fasan, Divisional Director, Legal Services and Deputy Monitoring Officer Ruth Dowden, Head of Information Governance Matthew Mannion, Head of Democratic Services Joel West, Democratic Services Team Leader (Committees)</p>
<p>Wards affected</p>	<p>All</p>

Executive Summary

Further to a request of the Advisory Committee, this report provides a summary of the rights of councillors to access information held by the council.

Recommendations:

The Standards Advisory Committee is recommended to:

1. Note and comment on the report.

1. REASONS FOR THE DECISIONS

- 1.1 The Advisory Committee has requested a report setting out rights of members to access information.

2. ALTERNATIVE OPTIONS

- 2.1 None as this is a noting report.

3. DETAILS OF THE REPORT

- 3.1 This report provides an overview of the different rights councillors have to access information held by the council. It is based in large part on the various

provisions in the constitution, namely the Access to Information Procedure Rules (Appendix 1) and the Member/Officer Relations Protocol (Appendix 2). The report summarises and condenses those provisions for ease of reading, but should not be read as re-interpreting them. In case of any perceived discrepancy, the constitution provisions should be considered the definitive guide to the rights to access information for councillors and the public.

Public rights of access to information relating to meetings and decision making

- 3.2 Councillors have all the ordinary rights of access to information relating to decision making and council meetings (including executive meetings and decision) as are enjoyed by the general public¹, including.
- Rights to attend meetings.
 - Access to notices of meetings.
 - Access to agenda and reports before meetings.
 - Access to minutes and decision records.
 - Access to background Papers.
- 3.3 However, members of the public do not have the right to access information that the council deems to fall within one of the seven categories of exempt information and where it also deems that the public interest in maintaining the exemption outweighs the public interest in disclosing the information.²
- 3.4 There are several other reasons why members of the public may not have the right to access documents relating to meetings and decision making, such as where information is confidential (the meaning of which is distinct from 'exempt' in this context) or includes advice of a political adviser.³

Additional rights of councillors to access information relating to meetings and decision making

- 3.5 Councillors enjoy several additional rights, beyond those enjoyed by members of the public:
- Councillors will usually have a right to access all exempt information for the meetings, bodies etc of which they are members as on the basis of the "Need to Know" principle (see below).
 - Councillors also have the right to access information that has been exempted under the following categories:
 - category 3 (information that reveals certain financial affairs - as long as it does not relate to contract negotiations); and
 - category 6 (information that reveals that the Council proposes to serve a statutory notice or make a statutory order or direction).⁴

¹ See Access to Information Procedure Rules, particularly rules 1-10.

² See Access to Information Procedure Rules 11 and 12

³ See Access to Information Procedure Rule 24.2.

⁴ This is explained in Access to Information Rule 25 (when read together with Rule 11.5).

Additional rights of scrutiny members to access information relating to executive meetings and decision making

- 3.6 Scrutiny members (those who are members of the Overview and Scrutiny Committee or of a scrutiny sub committee or panel) have the right to access any document (including those exempt from publication) relating to executive meetings or decision making, if it is relevant to an action or decision that they are reviewing or scrutinising or intend to review or scrutinise or is relevant to any review contained in any scrutiny work plan.
- 3.7 The above provision relates to matters that the Overview and Scrutiny Committee, or a scrutiny sub committee, has formally agreed to review or scrutinise. Individual members of scrutiny bodies cannot rely on it to access documents that they might wish to review or scrutinise outside the context of scrutiny meetings.
- 3.8 Scrutiny members do not have right to access information that is in draft form or includes advice of a political adviser.⁵

Councillors' access to other documents/information

- 3.9 In summary then, councillors have the same ordinary rights of access to information relating to council meetings and decision making as is enjoyed by the general public, albeit with additional rights to access information that is exempt from publication if they serve on certain bodies, or if the information falls within quite limited specified categories. However, they also have the right to access any other information held by the council provided that it is reasonably necessary to enable them to properly perform their duties as a councillor. This is known as the "need to know" principle.
- 3.10 Usually, a councillor will be able to show that they have a 'need to know' if the information involves that councillor's official council duties (for example, information relating to responsibilities of cabinet members⁶). It is less likely that a councillor can prove a 'need to know' in relation to their activities as part of a political group or party. Generally speaking a need to know will arise where the information sought relates to a committee upon which the councillor sits; where a resident has authorised the councillor to act as an advocate for them on that specific issue; or where it is reasonably required in order to deal with a ward matter.
- 3.11 The use of the 'need to know' principle is well established at LBTH and is explained in the Members Enquiries (ME) Protocol; an acknowledgement that, for many members, the ME system will be the easiest mechanism to pursue requests for information. The protocol states:

⁵ See Access to Information Rule 24.

⁶ As listed on the council's website in accordance with the Executive Scheme of Delegation

It is acknowledged that a Member is likely to have a prima facie “Need to Know” where s/he has a legitimate Ward problem and needs access to the documents that are relevant to that specific problem.

3.12 The councils Member/Officer Relations’ Protocol (see Appendix 2) sets out more details about the ‘need to know’, including guidance on when ‘need to know’ requests may and may not be considered legitimate, and additional obligations on councillors exercising requests.⁷

3.13 If a ‘need to know’ cannot be legitimately demonstrated, councillors can make a request for information under the Freedom of Information Act 2000.

Confidentiality

3.14 Councillors in possession of information that is exempt from publication, or otherwise obtained through their demonstrating a ‘need to know’ have obligations to treat that information as confidential. Officers involved in processing such requests similarly have confidentiality obligations.⁸

Data Protection and handling personal data.

3.15 Requests for information may result in councillors acquiring personal data. There are three different roles that members may occupy with respect to personal data and each will require an awareness of its parameters for data handling:

- As a member of the council, for example, as a member of a committee.
- As a representative of residents of their ward, for example, in dealing with enquiries / complaints.
- And for some -representing a political party, particularly at election time

3.16 The General Data Protection Regulation and Data Protection Act 2018 set out principles for handling personal data. The principles of data handling stipulate that its processing must be:

1. Fair, Lawful and Transparent
2. Purpose Limitation
3. Data Minimisation
4. Accuracy
5. Storage Limitation
6. Availability and Integrity.

3.17 It is essential that these legal duties are promoted through training and in the approach to an election, and for new members, awareness Data Protection, Freedom of Information and Confidentiality will be key areas for training.

⁷ See Member/Officer Relations’ Protocol, Rule 10.

⁸ See Member/Officer Relations’ Protocol rule 10.

Process for requests for information

- 3.18 Where a councillor wishes to have access to Council information or documents, a request may be made either:
- To the Democratic Services (Committee) Team – for requests for information relating to decision making or council meetings committee.services@towerhamlets.gov.uk; or
 - via the Member Enquiries portal – for all other requests for information for which a ‘need to know’ can be demonstrated <https://towerhamletsportal.icasework.com> ; or
 - via the council’s [Freedom of Information request form](#) or by email to freedomof.information@towerhamlets.gov.uk

More information

- 3.19 As referred to above, there is additional guidance for members on accessing and requesting information on the Members Hub, which is managed by the Democratic Services Team. <http://membershub.towerhamlets.gov.uk>.

4. EQUALITIES IMPLICATIONS

- 4.1 None.

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.
- Data Protection / Privacy Impact Assessment.

- 5.2 The Council’s approved protocols and guidance documents, as referred to throughout this report, are designed to ensure that its data protection duties are upheld.

6. COMMENTS OF THE CHIEF FINANCE OFFICER

- 6.1 There are no direct financial implications arising from this report.

7. COMMENTS OF LEGAL SERVICES

- 7.1 This is a noting report. The contents reflect the council's constitution and the relevant statutory provisions. .
-

Linked Reports, Appendices and Background Documents

Linked Report

- None.

Appendices

- Appendix 1 – Access to Information Procedure Rules
- Appendix 2 – Member Officer Relations Protocol

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:

Or state N/A

27 Access to Information Procedure Rules

CONTENTS

Rule	Subject
1	Scope
2	Additional Rights to Information
3	Rights to Attend Meetings
4	Notice of Meeting
5	Access to Agenda and Reports Before the Meeting
6	Items of Business
7	Supply of Copies
8	Access to Minutes etc. after the Meeting
9	Background Papers
10	Summary of Public's Rights
11	Exclusion of Access by the Public to Meetings
12	Exclusion of Access by the Public to Reports
13	Application of Rules to Executive
14	Procedure Before Taking Key Decisions
15	Notice of Key Decisions
16	Content of Key Decision Notices
17	Key Decision Notices – Exempt and Confidential Information
18	Urgency - General Exception
19	Urgency - Special Urgency
20	Rights of Overview and Scrutiny

21	Meetings of the Executive and its Committees to be held in public
22	Record of Decisions
23	Executive Decisions made by Officers
24	Overview and Scrutiny Committee Access to Documents - After a Decision has been made
25	Additional Rights of Access for all Members

1. SCOPE

- 1.1** These rules apply to all meetings of Council, Overview and Scrutiny Committee, Scrutiny Sub-Committees and Panels, the Standards Advisory Committee, regulatory and other Committees, Sub-Committees and public meetings of the Executive (together called “meetings”).

2. ADDITIONAL RIGHTS TO INFORMATION

- 2.1** These rules do not affect any more specific rights to information contained elsewhere in this Constitution or the law.

3. RIGHTS TO ATTEND MEETINGS

- 3.1** Members of the public may attend all meetings subject only to the exceptions in these rules.

4. NOTICE OF MEETING

- 4.1** The Council will give at least five clear working days’ notice not including the day that notice is given or the day of any meeting by posting details of the meeting at Tower Hamlets Town Hall, Mulberry Place, 5 Clove Crescent, London E14 2BG (the designated office).
- 4.2** If the meeting is convened at shorter notice than five clear working days, notice is to be given by the Council in the same manner set out above at the time the meeting is convened.

5. ACCESS TO AGENDA AND REPORTS BEFORE THE MEETING

- 5.1** The Council will make copies of the agenda and reports open to the public available for inspection at the designated office at least five clear working days before the meeting except;
- 5.2** Where the meeting is convened at shorter notice, copies of the agenda and report shall be open to inspection from the time the meeting is convened, and
- 5.3** Where an item is added to an agenda copies of which are open to inspection by the public, copies of the item (and of the revised agenda) and copies of any report for the meeting relating to that item, shall be open to inspection from the time the item is added to the agenda.

6. ITEMS OF BUSINESS

- 6.1** An item of business may not be considered at a meeting unless either:
 - (a) a copy of the agenda including the item (or a copy of the item) is open to inspection by a member of the public for at least five clear working days before the meeting or, where the meeting is convened at shorter notice, from the time the meeting is convened; or
 - (b) by reason of special circumstances, which shall be specified in the minutes, the Chair of the meeting is of the opinion that the item should be considered at the meeting as a matter of urgency.
- 6.2** “Five clear working days” excludes the day of the meeting, the day on which the meeting is called, weekends and bank holidays.
- 6.3** “Special circumstances” justifying an item being considered as a matter of urgency will relate to both why the decision could not be made by calling a meeting allowing the proper time for inspection as well as why the item or report could not have been available for inspection for five clear days before the meeting.
- 6.4** Where the item of business relates to a key decision Rules 14-19 also apply.

7. SUPPLY OF COPIES

- 7.1** The Council will supply copies of:
 - (a) any agenda and reports which are open to public inspection;
 - (b) any further statements or particulars necessary to indicate the nature of the items in the agenda; and
 - (c) if the Corporate Director, Governance thinks fit, any other documents supplied to Councillors in connection with an item,

to any person who makes a request to view copies of these documents on payment of a charge for postage and any other costs.

8. ACCESS TO MINUTES ETC. AFTER THE MEETING

8.1 The Council will make available copies of the following for six years after a meeting:

- (a) the minutes of the meeting or records of decisions taken together with reasons, for all meetings excluding any part of the minutes of proceedings when the meeting was not open to the public or which disclose exempt or confidential information;
- (b) a summary of any proceedings not open to the public where the minutes open to inspection would not provide a reasonably fair and coherent record;
- (c) the agenda for the meeting; and
- (d) reports relating to items when the meeting was open to the public.

9. BACKGROUND PAPERS

9.1 List of Background Papers. The Corporate Director, Governance will set out in every report a list of those documents (called background papers) relating to the subject matter of the report which in her/his opinion:

- (a) disclose any facts or matters on which the report or an important part of the report is based; and
- (b) which have been relied on to a material extent in preparing the report,

but does not include published works or those which disclose exempt or confidential information (as defined in Rule 11) or in respect of reports to the Executive, the advice of a political adviser or assistant.

9.2 Publication and Public Inspection of Background Papers. The Council will publish background papers on the Council's website and will make available for public inspection for four years after the date of the meeting one copy of each of the documents on the list of background papers.

10. SUMMARY OF PUBLIC'S RIGHTS

10.1 A written summary of the public's rights to attend meetings and to inspect and copy documents shall be kept at and available to the public at the designated office.

11. EXCLUSION OF ACCESS BY THE PUBLIC TO MEETINGS

- 11.1 Confidential Information – Requirement to Exclude Public.** The public *must* be excluded from meetings or those part or parts of meetings whenever it is likely in view of the nature of the business to be transacted or the nature of the proceedings that confidential information (as defined in Rule 11.4 below) would be disclosed in breach of the obligation of confidence.
- 11.2 Exempt Information – Discretion to Exclude Public.** The public *may* be excluded from meetings or those part or parts of meetings whenever it is likely in view of the nature of the business to be transacted or the nature of the proceedings that exempt information (as defined in Rule 11.5 below) would be disclosed and the public interest in maintaining the exemption outweighs the public interest in disclosing the information.
- 11.3** Where the meeting will determine any person’s civil rights or obligations, or adversely affect their possessions, Article 6 of the Human Rights Act 1998 establishes a presumption that the meeting will be held in public unless a private hearing is necessary for one of the reasons specified in Article 6.
- 11.4 Meaning of Confidential Information.** *Confidential information* means information given to the Council by a Government Department on terms which forbid its public disclosure or information which the disclosure of which to the public is prohibited by or under any enactment or by the order of a court. This includes information excluded under the Freedom of Information Act 2000 or the Data Protection Act 2018.
- 11.5 Meaning of Exempt Information.** *Exempt information* is those for the time being specified in Part I of Schedule 12A to the Local Government Act 1972, namely:
1. Information relating to any individual
 2. Information which is likely to reveal the identity of an individual
 3. Information relating to the financial or business affairs of any particular person (including the authority handling the information) [**Information is not exempt under this category if it is required to be registered under the Companies Acts 1985 and 2006, the Friendly Societies Act 1974 and 1992, the Industrial and Provident Societies Acts 1965 to 1978, the Co-operative and Community Benefit Societies Act 2014 or the Charities Acts 1993 and 2011.**]
 4. Information relating to any consultations or negotiations, or contemplated consultations or negotiations, in connection with any labour relations matters arising between the authority or a Minister of the Crown and employees of, or office holders under, the authority.
 5. Information in respect of which a claim to legal professional privilege could be maintained in legal proceedings.
 6. Information which reveals that the authority proposes:-
 - a) to give under any enactment a notice under or by virtue of which requirements are imposed on a person; or

- b) to make an order or direction under any enactment.
- 7. Information relating to any action taken or to be taken in connection with the prevention, investigation or prosecution of crime.
- 11.6 Information falling within any of the categories 1-7 of Rule 11.5 above are not exempt by virtue of that paragraph if it relates to proposed development for which the local planning authority can grant itself planning permission under Regulation 3 of the Town and Country Planning General Regulations 1992.
- 11.7 **Excluding the public to prevent disorder.** Under Reg 4(2) of the Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012, members of the public can be excluded from a meeting in order to maintain orderly conduct or to prevent misbehaviour at a meeting.

12. EXCLUSION OF ACCESS BY THE PUBLIC TO REPORTS

- 12.1 If the Monitoring Officer thinks fit, the Council may exclude access by the public to reports which in his/ her opinion relate to items during which, in accordance with Rule 11, the meeting or those part or parts of the meeting is likely not to be open to the public. Such reports will be marked "Not for publication" together with the category of information likely to be disclosed (see Rule 11.5 above for the categories).

13. APPLICATION OF RULES TO EXECUTIVE

- 13.1 Rules 14-25 apply to the Executive and its Committees (and which term includes Sub-Committees and other decision making meetings). If the Executive or one of its Committees meets to take a key decision or meets in public then it must also comply with Rules 1-11 unless Rule 18 (urgency - general exception) or Rule 19 (urgency - special urgency) apply. A key decision is defined in Part A Section 3 of this Constitution.
- 13.2 If the Executive or one of its Committees meets to discuss a key decision to be taken collectively, with an officer other than a political assistant present, within twenty-eight days of the date by which it is to be decided, then it must also comply with Rules 1-11 unless Rule 18 (urgency - general exception) or Rule 19 (urgency - special urgency) apply. This requirement does not include meetings whose sole purpose is for officers to brief Members.

14. PROCEDURE BEFORE TAKING KEY DECISIONS

- 14.1 Subject to Rule 18 (urgency - general exception) and Rule 19 (urgency - special urgency), a key decision shall not be taken unless:
 - (a) a notice has been published in connection with the matter in question at both the offices of the Council and on the Council's website;

- (b) at least twenty-eight days have elapsed since the notice has been published; and
- (c) where the decision is to be taken at a meeting of the Executive or a Committee of the Executive, notice of the meeting has been given in accordance with Rule 4 (notice of meeting).

15. NOTICE OF KEY DECISIONS

- 15.1** A notice shall be published under Rule 14 in respect of any matter which the Mayor has reason to believe will be the subject of a key decision to be taken by the Mayor, the Executive, a Committee of the Executive, an individual member of the Executive, an officer or under joint arrangements in the course of the discharge of an executive function.
- 15.2** In addition, a notice shall be published under Rule 14 in respect of those items of business which the Executive intends to consider and which form part of the policy framework and where the Executive will be making recommendations to Council.

16. CONTENT OF KEY DECISION NOTICES

- 16.1** Each notice published under Rule 14 shall contain the below details as far as reasonably practicable:
 - (a) that a key decision is to be made on behalf of the Council;
 - (b) the matter in respect of which the decision is to be made;
 - (c) where the decision maker is an individual, her/his name and title, if any; and, where the decision maker is a decision making body, its name and a list of its members;
 - (d) the date on which or the period within which the decision is to be made;
 - (e) a list of the documents submitted to the decision maker for consideration in relation to the matter in respect of which the decision is to be made;
 - (f) the address from which, subject to any prohibition or restriction on their disclosure, copies of, or extracts from, any document listed is available;
 - (g) that other documents relevant to those matters may be submitted to the decision maker; and
 - (h) the procedure for requesting details of those documents (if any) as they become available.
- 16.2** Where, in relation to any matter-
 - (a) the public may be excluded under Rule 21.2 below from the meeting at which the matter is to be discussed; or
 - (b) documents relating to the decision need not, because of Rule 17, be disclosed to the public,

then the document referred to in 16.1 must contain particulars of the matter but may not contain any confidential, exempt information or particulars of the advice of a political adviser or assistant.

17. KEY DECISION NOTICES – EXEMPT AND CONFIDENTIAL INFORMATION

17.1 Nothing in these Rules (or the Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012 (“the 2012 Regulations”)) is to be taken to authorise or require the disclosure of confidential information in breach of the obligation of confidence.

17.2 Nothing in these Rules or the 2012 Regulations-

(a) authorises or requires the Council to disclose to the public or make available for public inspection any document or part of document if, in the opinion of the Monitoring Officer, that document or part of a document contains or may contain confidential information; or

(b) requires the Council to disclose to the public or make available for public inspection any document or part of document if, in the opinion of the proper officer, that document or part of a document contains or is likely to contain exempt information or the advice of a political adviser or assistant.

18. URGENCY - GENERAL EXCEPTION

18.1 If a matter which is likely to be a key decision is to be considered and the matter has not been published in advance in accordance with Rule 14 then, subject to Rule 19 (urgency - special urgency), the decision may still be taken if:

(a) the decision must be taken by such a date that it is impracticable to defer the decision until public notice of at least twenty-eight days has been given;

(b) the Corporate Director, Governance has informed the Chair of the Overview and Scrutiny Committee, or if there is no such person, each member of the Overview and Scrutiny Committee by notice in writing of the matter about which the decision is to be made;

(c) the Corporate Director, Governance has made copies of that notice available to the public at the offices of the Council for inspection; and

(d) at least five clear days have elapsed following the day on which the Corporate Director, Governance complied with 18.1(b) and 18.1(c).

Where such a decision is taken collectively, it must be taken in public unless it involves consideration of confidential or exempt information.

19. URGENCY - SPECIAL URGENCY

19.1 If by virtue of the date on which a decision must be taken Rule 18 (urgency - general exception) cannot be followed, then a decision can only be taken if the decision taker (or the Chair of the body making the decision) has obtained from:

- (a) the Chair of the Overview and Scrutiny Committee ; or
- (b) if there is no such person, or if the Chair is unable to act, the Speaker; or
- (c) where there is no Chair of the Overview and Scrutiny Committee or Speaker, the Deputy Speaker;

and the agreement that the taking of the decision cannot reasonably be deferred.

19.2 The Mayor will submit an annual report to Council on the executive decisions taken under this Rule in the preceding year. The report will include the number of decisions so taken and a summary of the matters in respect of which each decision was made.

20. RIGHTS OF OVERVIEW AND SCRUTINY

20.1 When the Overview and Scrutiny Committee can Require a Report

If the Overview and Scrutiny Committee thinks that a key decision has been taken which was not:

- (a) published in advance in accordance with Rule 14, or
- (b) the subject of the urgency - general exception procedure (see Rule 18), or
- (c) the subject of an agreement with the Chair of the Overview and Scrutiny Committee, or the Speaker under Rule 19;

the Committee may require the Executive to submit a report to Council within such reasonable time as the Committee specifies. The power to require a report rests with the Committee, but is also delegated to the Chief Executive, who shall require such a report on behalf of the Committee when so requested in writing by:

- (a) the Chair of the Overview and Scrutiny Committee; or
- (b) three (3) Members of the Overview and Scrutiny Committee.

Alternatively the requirement may be raised by resolution passed at a meeting of the Overview and Scrutiny Committee.

20.2 The Executive's Report to Council

- (a) The Executive will prepare a report setting out the date of the decision, particulars of the decision, the individual or body making the decision, and if the Mayor is of the opinion that it was not a key decision, the reasons for that opinion. There should also be details of any alternative decisions that were considered and why they were rejected, and the names of any member who has declared a conflict of interest in relation to the decision (if any).
- (b) The report will be submitted to the next ordinary meeting of Council. However, if the next meeting of Council is within ten days of receipt of the written notice, or the resolution of the Committee, then the report may be submitted to the Council meeting after that.

21. MEETINGS OF THE EXECUTIVE AND ITS COMMITTEES TO BE HELD IN PUBLIC

- 21.1** Any meeting of the Executive or a Committee of the Executive shall be open to the public except to the extent that the public are excluded under Rule 21.2
- 21.2** The public must be excluded from a meeting during an item of business whenever—
 - (a) it is likely, in view of the nature of the business to be transacted or the nature of the proceedings, that if members of the public were present during that item, confidential information would be disclosed to them in breach of the obligation of confidence;
 - (b) the decision-making body concerned passes a resolution to exclude the public during that item where it is likely, in view of the nature of the item of business, that if members of the public were present during that item, exempt information would be disclosed to them; or
 - (c) a lawful power is used to exclude a member or members of the public in order to maintain orderly conduct or prevent misbehaviour at a meeting.
- 21.3** A resolution under Rule 21.2 (b) must—
 - (a) identify the proceedings, or the part of the proceedings to which it applies; and
 - (b) state, by reference to the descriptions in Rule 11.5 the description of exempt information giving rise to the exclusion of the public.

- 21.4** The public may only be excluded under sub-paragraph (a) or (b) of Rule 21.2 for the part or parts of the meeting during which it is likely that confidential information or exempt information would be disclosed.
- 21.5** Without prejudice to any power of exclusion to suppress or prevent disorderly conduct or other misbehaviour at a meeting, the Executive and its Committees do not have the power to exclude members of the public from a meeting while it is open to the public.
- 21.6** While a meeting of the Executive or one of its Committees is open to the public, any person attending the meeting for the purpose of reporting the proceedings is, so far as practicable, to be afforded reasonable facilities for taking their report.
- 21.7** The Council must ensure that members of the public are aware that a meeting is to be broadcast where the council or a person attending the meeting for the purpose of reporting proceedings intends to use facilities to record or broadcast the proceedings.

Procedures prior to private meetings

- 21.8** Any decision made by the Executive or one of its Committees to hold a meeting in private is a prescribed decision for the purpose of section 9GA(5) of the Local Government Act 2000 (regulations requiring prescribed information about prescribed decisions).
- 21.9** At least twenty-eight clear days before a private meeting of the Executive of one of its committees, the Executive must—
- (a) make available at the offices of the Council a notice of its intention to hold the meeting in private; and
 - (b) publish that notice on the Council's website.
- 21.10** A notice under Rule 21.9 must include a statement of the reasons for the meeting to be held in private.
- 21.11** At least five clear days before a private meeting of the Executive or one of its committees, the Executive must—
- (a) make available at the offices of the Council a further notice of its intention to hold the meeting in private; and
 - (b) publish that notice on the Council's website.
- 21.12** A notice under Rule 21.11 must include—
- (a) a statement of the reasons for the meeting to be held in private;

- (b) details of any representations received by the Executive about why the meeting should be open to the public; and
- (c) a statement of its response to any such representations.

21.13 Where the date by which a meeting must be held makes compliance with Rules 21.9 to 21.12 impracticable, the meeting may only be held in private where the decision-making body has obtained agreement from—

- (a) the Chair of the Overview and Scrutiny Committee; or
- (b) if there is no such person, or if the Chair of the Overview and Scrutiny Committee is unable to act, the Speaker; or
- (c) where there is no Chair of the Overview and Scrutiny committee or Speaker, the Deputy Speaker,

that the meeting is urgent and cannot reasonably be deferred.

21.14 As soon as reasonably practicable after the decision-making body has obtained agreement under Rule 21.13 to hold a private meeting, it must—

- (a) make available at the offices of the Council a notice setting out the reasons why the meeting is urgent and cannot reasonably be deferred; and
- (b) publish that notice on the Council's website.

21.14 The Executive or one of its Committees may meet in private if it meets with officers for the purposes only of briefing.

21.15 The Head of Paid Service, the Chief Finance Officer and the Monitoring Officer, and their nominees are entitled to attend any meeting of the Executive and its Committees. The Executive may not meet unless the Chief Executive has been given reasonable notice that a meeting is to take place. A meeting of the Executive may not meet to take any decisions unless the Head of Paid Service, the Chief Finance Officer or the Monitoring Officer or their nominee are present or have waived their entitlement to attend. The meeting may only take a decision if there is an officer present with responsibility for recording and publishing the decision.

22. RECORD OF DECISIONS

22.1 Executive Decisions made at Meetings. As soon as is reasonably practicable after a meeting of a decision-making body at which an executive decision has been made, whether held in public or private, the Corporate Director, Governance or nominated officer shall ensure that a written statement is produced in respect of every executive decision made at that meeting including:

- (a) a record of the decision including the date it was made;
- (b) a record of the reasons for the decision;
- (c) details of any alternative options considered and rejected at the meeting by the decision making body at which the decision was made;
- (d) a record of any conflict of interest relating to the matter which is declared by any Member of the decisions making body which made the decision; and
- (e) in respect of any declared conflict of interest, a note of dispensation granted by the Head of Paid Service.

Decisions taken at a meeting may only be taken on the basis of a written report, setting out key legal, financial, service and corporate implications and may not be taken unless the Corporate Director, Governance or their nominee is present.

22.2 Executive Decisions made by Individual Members of the Executive

- 22.3** All decisions taken individually by Members of the Executive must be based on written reports setting out key legal, financial, service and corporate implications and may not be taken unless the Corporate Director, Governance (or an officer nominated by them) has agreed the report.
- 22.4** When an officer prepares a report which is to be given to an individual Member for decision, they must first give a copy of that report to the Corporate Director, Governance (or an officer nominated by them).
- 22.5** The Corporate Director, Governance will publish the report to the Overview and Scrutiny Committee, the Chief Executive, Chief Finance Officer and Monitoring Officer. The report will be made publicly available as soon as reasonably practicable.
- 22.6** Individual decisions by Members of the Executive can only be taken in the presence of an officer.
- 22.7** Subject to Rules 18 and 19, the individual decision maker may not make any key decision until notice of the decision has been available for public inspection for at least twenty-eight days before the decision is made.
- 22.8** As soon as is reasonably practicable after an individual Member has made an executive decision they shall produce, or cause to be produced, a written statement including:
- (a) a record of the decision including the date it was made;
 - (b) a record of the reasons for the decision;
 - (c) details of any alternative options considered and rejected at the time by the Member when making the decision;

- (d) a record of any conflict of interest declared by any Executive Member who was consulted by the Member which relates to the decision; and
- (e) in respect of any declared conflict of interest, a note of dispensation granted by the Head of Paid Service.

22.9 A copy of the written statement setting out the decision must be sent to the Corporate Director, Governance. All decisions of the Executive must be published on the Council's website and will be subject to call in as set out in Part B Section 30 of this Constitution.

22.10 Nothing in these rules relating to the taking of decision by individual Members shall require them to disclose confidential or exempt information or the advice of a political adviser or assistant.

23 DECISIONS MADE BY OFFICERS

Key Decisions

23.1 Where officers are taking delegated key decisions, they must follow the procedure set out above for decisions taken by Individual Members of the Executive. This includes ensuring the decision is taken on the basis of a written report setting out key legal, financial and corporate implications.

23.2 Any officer decisions taken in accordance with Rule 23.1 will be subject to call-in as set out in Section 30 of this Constitution.

Other Executive Decisions (Non-Key Decisions)

23.3 As soon as is reasonably practicable after an officer has made a non-key decision delegated to the officer by a specific decision of the Executive, or another decision which incurs expenditure or savings over the threshold specified in Section 3 (currently £250k) the officer must produce a written statement including:

- (a) a record of the decision including the date it was made;
- (b) a record of the reasons for the decision;
- (c) details of any alternative options considered and rejected at the time by the officer when making the decision;
- (d) a record of any conflict of interest declared by any Executive Member who was consulted by the officer which relates to the decision; and
- (e) in respect of any declared conflict of interest, a note of dispensation granted by the Head of Paid Service.

23.4 Non-key decisions taken by officers are not subject to call in.

23.5 Nothing in these rules relating to the taking of a decision by individual officers shall require them to disclose confidential or exempt information or the advice of a political adviser or assistant.

23.6 Rule 23 must be read in conjunction with the Recording of Officers' Decisions Procedure Rules at Section 3 of this Constitution.

24. OVERVIEW AND SCRUTINY COMMITTEE ACCESS TO DOCUMENTS - AFTER A DECISION HAS BEEN MADE

24.1 Subject to Rule 24.2 below, any member of the Overview and Scrutiny Committee or of a Scrutiny Panel will be entitled to copies of any document which is in the possession or control of the Executive or any of its Committees, and contains material relating to:

- (a) any business which has been transacted at a public or private meeting of the Executive or its Committees; or
- (b) any decision taken by an individual Member of the Executive;
- (c) any key decision that has been taken by an officer in accordance with executive arrangements.

24.2 Limits on Rights. Overview and Scrutiny Committee Members and Scrutiny Panel Members shall not be entitled to:

- (a) any document that is in draft form;
- (b) any part of a document that contains exempt or confidential information unless;
 - (i) it is relevant to an action or decision that they are reviewing or scrutinising or intends to review or scrutinise; or
 - (ii) which is relevant to any review contained in any programme of work of an Overview and Scrutiny Committee or Scrutiny Panel;
- (c) any document or part of a document that contains the advice of a political assistant.

25. ADDITIONAL RIGHTS OF ACCESS FOR ALL MEMBERS

25.1 Material Relating to Council and Committee Meetings. All Members are entitled to inspect any document which is in the possession or under the control of the Council and contain material relating to any business to be transacted at a meeting of Council or its Committees or Sub Committees unless 25.1.1 below applies:

- (a) it contains exempt information falling within categories 1, 2, 3 (insofar as the information relates to any terms proposed or to be proposed by or to the Council in the course of negotiations for a contract), 4, 5 or 7 as set out at Rule 11.5 above.

- 25.2 Material Relating to Executive Meetings.** All Members are entitled to inspect any document which is in the possession or under the control of the Executive and contains material relating to any business to be transacted at a public meeting unless either 25.2.1 or 25.2.2 below applies:
- (a) It contains exempt information falling within categories 1, 2, 3, (insofar as the information relates to any terms proposed or to be proposed by or to the Council in the course of negotiations for a contract) 4, 5 or 7 as set out in rule 11.5 above.
 - (b) It contains the advice of a political assistant.
- 25.3** After the conclusion of a private meeting of the Executive at which an Executive decision has been made, all Members are entitled to inspect any document which is in the possession or under the control of the Executive and contain material relating to business transacted at the meeting in the terms set out at 25.2 above.
- 25.4 Material Relating to Key Decisions.** All Members are entitled to inspect any document which is in the possession or under the control of the Executive and contains material relating to any key decision in the terms set out at 25.2 above.
- 25.5 Nature of Rights.** These rights are additional to any rights of access to information a Member may have

32 Member / Officer Relations' Protocol

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1. INTRODUCTION

- 1.1 Councillors and officers are indispensable to one another and mutual respect between both is essential for good local government. Together, they bring the critical skills, experience and knowledge required to manage an effective public sector organisation. Councillors provide a democratic mandate to the Council, whereas officers contribute the professional expertise needed to deliver the policy framework agreed by Councillors.
- 1.2 The protocol is part of the Council's ethical framework and should be read in conjunction with the Council's Constitution, the Code of Conduct for Members, disciplinary codes which regulate the conduct of officers and other relevant codes and guidance.
- 1.3 This Protocol seeks to define what should be considered a proper working relationship between Councillors and officers in Tower Hamlets and to provide a framework within which confidence in the machinery of local government can be maintained. It contains interpretation and guidance on some of the issues which commonly arise. It cannot cover every matter which will arise in council life but it reflects an approach and sets standards which will serve as a guide to dealing with other issues. It is intended to guide Councillors and

officers and explain what they can expect of each other. It also explains what to do when things go wrong.

- 1.4 This protocol also applies to co-opted members of committees and also to consultants and agency staff working for the Council, to whom a copy will be supplied. With regard to associates from partnership organisations, where their organisation has no code of conduct, it is expected they will abide by the principles of Tower Hamlet's code and this protocol.
- 1.5 Councillors appointed to outside bodies or partnership organisations as representatives of Tower Hamlets Council need to be aware that the Code of Conduct for Members applies to these appointments. However, Councillors are advised to be aware that other conduct arrangements of the outside body are likely to exist. In those circumstances, Councillors should comply with both sets of conduct arrangements, unless the Code of Conduct for Members conflicts with the lawful obligations of the outside body.
- 1.6 A failure to abide by this Protocol by Councillors is likely to be a breach of the Code of Conduct for Members and may result in a complaint being made to the Monitoring Officer. As to officers, a failure to abide by this Protocol may result in a disciplinary investigation.
- 1.7 Any reference to 'Councillor' or 'Councillors' in this Protocol, or any appendices or related Codes/ Protocols, means the Mayor, elected and co-opted members. This Code applies at all times when Councillors act in their capacity as Councillors (or claim to act or give the impression of acting in their capacity as a Councillor).
- 1.8 'Officers' and 'staff' mean all persons employed by the Council: whether full or part time; fixed term contract; agency; or consultant.
- 1.9 A Councillor in need of advice about the application of this Protocol should contact the Monitoring Officer, whereas an officer in need in need of advice about the application of this Protocol should contact their line manager in the first instance.

2. ROLES OF COUNCILLORS AND OFFICERS

- 2.1 Councillors and officers are indispensable to one another and mutual respect between both is essential for good local government. Together, they bring the critical skills, experience and knowledge required to manage an effective public sector organisation but their responsibilities are distinct.

Councillors

- 2.2 Councillors are democratically accountable to residents of their Wards and serve only so long as their term of office lasts. The overriding duty of Councillors is to the whole community, but they have a special duty to their constituents, including those who did not vote for them.
- 2.3 All Councillors have responsibilities to determine the policy of the Council, monitor its performance, represent the Council externally and act as advocates on behalf of their constituents.

Officers

- 2.4 Officers are employed by and are accountable to the Council as a whole. With the exception of Political Assistants and the Mayor's Assistant, officers work to the instructions of their senior officers, not individual Councillors or Political Groups.
- 2.5 Officers manage and provide the Council's services within the framework of responsibilities delegated to them. This includes the effective management of employees and operational issues.
- 2.6 Officers have a duty to keep Councillors of all political groups fully informed about developments of significance in relation to council activities.

3. THE RELATIONSHIP BETWEEN COUNCILLORS AND OFFICERS

- 3.1 Bad relations between Councillors and officers are counter-productive to good governance and therefore the conduct of Councillors and officers should be such as to instil mutual trust and respect. Councillors and officers should understand and respect each other's roles and responsibilities. These should be reflected in the behaviour and attitude of each to the other, both publicly and privately.

Obtaining or granting favours

- 3.2 The Code of Conduct for Members emphasises the need for Councillors to avoid behaviour which could be viewed as conferring an advantage or disadvantage on an officer. Councillors must not seek personal favours from officers. Officers must not be tempted to give favours to please a Councillor. An example of favour seeking would be asking whether a Councillor's parking ticket could be withdrawn or whether an application for a service could be expedited. Similarly officers must not seek to circumvent agreed staff consultative procedures by lobbying Councillors on matters which directly concern them as employees

Councillor involvement in officer issues

- 3.3 Issues relating to the appointment, management and dismissal of most officers are reserved by law to the Head of Paid Service and officers appointed by him/her. Councillor involvement in employment issues generally, including where they relate to senior officers, is set out in the Local Authorities (Standing Orders) (England) Regulations 2001.
- 3.4 Occasions may arise where officers try to involve Councillors in day-to-day staff/ management issues. Councillors should strongly discourage such approaches. Officers should be advised to pursue matters with their management through the established procedures for resolving grievances etc. Officers must not raise matters concerning their employment with individual Councillors; to do so may result in disciplinary action being taken.

Personal Familiarity

- 3.5 Personal familiarity between Councillors and officers can create the suspicion of improper conduct, however unfounded and can undermine public confidence in the Council. Whilst it is clearly important that there should be a close working relationship between when officers and Cabinet members or chairs of Committees, such relationships should never be allowed to become so close, or appear to be so close, as to bring into question, the officer's ability to deal impartially with other Councillors and other party groups.
- 3.6 Informal and collaborative two-way contact between Councillors and officers is encouraged; personal familiarity can damage the relationship, as might a family or business connection. It is accepted that some close relationships will develop, particularly when Councillors and officers work closely together but it is important that close relationships between Councillors and officers are openly declared and if any relationship might be seen as unduly influencing their work in their respective roles then they should inform the Monitoring Officer.
- 3.7 It is not enough to avoid actual impropriety, Councillors and officers should always be open about their relationships to avoid any reason for suspicion and any appearance of improper conduct. Where a personal relationship has been disclosed, those concerned should avoid a situation where conflict could be perceived. Specifically, a Councillor should not sit on a body or participate in any decision which directly affects the officer on a personal basis.

Courtesy

- 3.8 Councillors and officers should respect each other's non-working time.
- 3.9 Councillors and officers should be courteous to each other at all times even if they disagree strongly with their respective views. Councillors and officers should not shout or raise their voice in an aggressive or rude manner.

Bullying

- 3.10 Councillors and officers must not bully or harass any person. Bullying may be characterised as offensive, intimidating, malicious, insulting or humiliating behaviour. Such behaviour may happen once or be part of a pattern of behaviour directed at a weaker person or person whom the Councillor or officer has some actual or perceived influence over. This can be contrasted with the legitimate challenges which a Councillor or officer can make in challenging policy or scrutinising performance.
- 3.11 Bad relations between Councillors and officers can be destructive to good governance. Councillors may from time to time become frustrated by what they regard as unacceptable or incompetent officer behaviour. It is self-evident that sometimes these feelings may be entirely justified although occasionally there may be a legitimate reason why member expectations cannot be met, e.g. because of a council policy or a legal requirement such as confidentiality.
- 3.12 Where a Councillor has a concern about an officer or the Council services then this should be made to the Director of the service where the Councillor feels the fault lies or to the Chief Executive where it involves a Director personally. Indeed, Councillors have a duty to raise any issues where they have reason to think that fraud/ probity, corruption or malpractice of any sort is involved within the Council. Councillors should not criticise officers in public as Councillors should bear in mind that officers are instructed not to “answer back” in public. Attacking an officer’s conduct in public can constitute bullying, as will undue pressure brought by either officers or Councillors in private.

Lines of conduct between Councillors and officers

- 3.13 Councillors must remember that Officers within Directorates are accountable to their chief officer. Chief officers, through their senior management, are responsible for the allocation and prioritising of work by their staff. Councillors should not seek to influence such decisions.
- 3.14 A Councillor is free to approach any Council Department to provide them with such information, explanation and advice about the Department’s functions as they may reasonably need as a Councillor. This can range from a request for general information or documentation about some aspect of the Department’s activities, to a request for specific information on behalf of a constituent.
- 3.15 In making such an approach, the request should be made to the Chief Officer or Divisional Director for the Department concerned. If access is denied or the Chief Officer/ Divisional Director is in doubt, the matter must be referred to the Monitoring Officer for determination.

- 3.16 Councillors should raise constituents' queries or concerns through the proper channels and not go direct to junior officers. Further in seeking to deal with constituents' queries or concerns, Councillors should not seek to jump the queue, but should respect the Council's procedures. Officers have many pressures on their time and officers may very well not be able to carry out the work required by Councillors in the requested timescale. Councillors should respect this. The Council does operate a Member's Enquiries system (see section 8.1 for more details).
- 3.17 Where Councillors and officers share an office building particular care needs to be taken to maintain appropriate lines of contact. Councillors and officers are reminded that within an open plan environment office certain standards are expected to be maintained. In particular meetings should not be held at workstations, Councillors and officers should use the meeting facilities provided and sensitive or confidential issues should not be discussed in the open plan environment.
- 3.18 Officers within a Directorate are accountable to their Corporate Director and whilst officers should always seek to assist a Councillor, they must not go beyond the bounds of whatever authority they have been given by their Corporate Director.

4. COUNCILLOR TO COUNCILLOR EXPECTATIONS

- 4.1 Whilst this Protocol is primarily aimed at the interaction between Councillors and Officers, the same principles apply to interactions between Councillors. Therefore Councillors should be entitled to expect from each other:
- respect, dignity and courtesy;
 - not to be subjected to bullying or personalised attacks;
 - respect for differing political views and values;
 - maintenance of confidentiality;
 - commitment to high standards of debate; and
 - compliance with the Council's Constitution including the Code of Conduct for Members.

5. COUNCILLORS AND LEGAL ACTION BY OR AGAINST THE COUNCIL

- 5.1 There is a whole range of circumstances where the Council as a corporate body may be involved in legal proceedings. This could be against residents or other individuals, organisations and companies, and across the whole range of service areas including housing, planning, highways, etc. Councillors have a clear role in representing residents' and general public interests. In this representative capacity, Councillors will inevitably become involved in issues where the Council is considering, or is in the process of

taking legal action, or where the Council is the defendant to legal actions brought by third parties.

- 5.2 Conflicts of interest will almost certainly occur when a Councillor is enquiring on behalf of an individual or body involved in legal action by or against the Council. In such cases, Councillors will be required to balance their representative role with their wider responsibilities in representing the corporate interests of the authority. For this reason, Councillors must be circumspect in any dealing with persons taking action against the Council, or against whom any legal action is being taken. Particularly, Councillors must be extremely cautious about having any dealings with professional representatives, advisers or witnesses in the case. Not only could such intervention prejudice the Council's position but the Councillor could find himself/ herself accused of an offence of Misconduct of Public Office or, Perverting the Course of Justice or an attempt or conspiracy to do so.
- 5.3 It is therefore particularly important that Councillors should be sure not only to avoid any actual impropriety, but at all times avoid any occasion for suspicion or any appearance of improper conduct.
- 5.4 In that regard, Councillors must not:
- attempt in any way to exercise improper influence over the legal process in which the Council is involved;
 - attempt to exert improper influence on Council officers involved in the legal process or witnesses in the case;
 - attempt to engage the community to exert improper influence on Council officers involved in the legal process or witnesses in the case.
- 5.5 Whilst Councillors have every right to information on how any such matter is being dealt with and a duty to represent their constituents, Councillors must also realise that the response on behalf of the Council must be limited to comments on process, so as not to prejudice the proceedings.
- 5.6 In respect of any ongoing or contemplated proceedings, all enquiries must be addressed to either the appropriate Divisional Director or Corporate Director. On no account is the Councillor to contact any officers involved in the proceedings to discuss or make any enquiries regarding the proceedings.
- 5.7 If a Councillor believes that the Council's actions or intentions are wrong, they should inform the Corporate Director concerned. It must then be for the Corporate Director to determine what action to take. If the Councillor remains unhappy with the action taken, then they should refer the matter to the Council's Monitoring Officer or to the Chief Executive.

6. REPORTS

6.1 Officers' reports should contain clear, evidence-based advice as to why a course of action is being recommended. From time to time corporate advice is given to officers on report writing and they should take care to follow it. The report should lay out all relevant factors for the decision maker, and examine all alternatives in an even handed way. Officers should take care to include even unpopular options if they feel they are relevant.

6.2 The relevant Corporate Director will always be fully responsible (and retains ultimate responsibility) for the contents of any report submitted in their name. Any issues arising between a Councillor and a Corporate Director in this area should be referred to the Monitoring Officer or Chief Executive for resolution.

6.3 Councillors have the right to criticise reports or the actions taken by officers, but they should always:-

- seek to avoid personal attacks on officers; and
- ensure that criticism is constructive and well-founded.

6.4 Councillors have the ability to agree or reject proposals placed before them by officers, irrespective of the advice or recommendations made by officers so long as they generally act in good faith and exercise reasonableness in decision-making and specifically:-

- take into account relevant and dismiss irrelevant matters; and
 - do not come to a conclusion that no reasonable authority would come to.
- Officers must therefore, be able to report to Councillors as they see fit and without any political pressure.

6.5 A resolution may be passed at meetings which authorises an officer to take action between meetings after consultation with the Chair/ Lead Member/ Portfolio Member etc. It is the officer, not the Chair etc., who takes the action and is responsible for it. The Chair etc. does not himself/ herself have the power between meetings to make decisions.

7. OFFICER ADVICE TO PARTY GROUPS

7.1 It must be recognised by all officers and Councillors that in discharging their duties and responsibilities officers serve the Council as a whole and not exclusively any political group, combination of groups or any individual Councillor. Special rules apply to Political Group Assistants and the Mayor's Assistant and those post holders are made aware of them through separate guidance.

- 7.2 There is statutory recognition for party political groups and it is common practice for such groups to give preliminary consideration to matters of Council business in advance of such matters being considered by the relevant Council decision making body. Senior officers may properly be called upon to support and contribute to such deliberations by political groups but must at all times maintain political neutrality. All officers must, in their dealings with political groups and individual Councillors treat them in a fair and even-handed manner.
- 7.3 The support provided by officers can take many forms, ranging from a briefing meeting with the Mayor, a Cabinet Member/ Chair/ Spokesperson prior to a Council, Cabinet, Committee or Sub-Committee meeting to a presentation to a political group meeting. Whilst in practice such officer support is likely to be in most demand from whichever political group is in control of the Council at the time, such assistance is available to all political groups.
- 7.4 Certain points, however, must be clearly understood by all those participating in this process, Councillors and Officer alike. In particular:
- (i) Requests for officers to attend any political group meeting must be made only to the appropriate member of the Corporate Leadership Team. Normally only that person will attend the meeting, although in exceptional circumstances they may be accompanied by one or more Senior Officers.
 - (ii) Unless otherwise agreed in advance with the Chief Executive, officers will not attend political group meetings that include persons who are not Councillors. However, where the Chief Executive has authorised such attendance special care needs to be exercised by officers involved in providing information and advice to such political group meetings. Persons who are not elected Councillors will not be bound by the Code of Conduct for Members (in particular, the provisions concerning the declaration of interests and confidentiality) and for this and other reasons officers may not be able to provide the same level of information and advice as they would to a Councillors only meeting.
 - (iii) Officer support (whether in the form of a written report or otherwise) must not extend beyond providing information and advice in relation to matters of Council business. Officer support will be limited to a statement of material facts and identification of options and the merits and demerits of such options for the Authority. Reports or other support will not deal with any political implications of the matter or any option, and officers will not make any recommendations to a political group. Officers (with the exception of Political Group/ Mayor's Assistants) are not expected to be present at meetings or part of meetings when matters of party business are to be discussed.
 - (iv) Political group meetings, whilst they form part of the preliminaries to Council decision making are not empowered to make decisions on behalf of the Council. Conclusions reached at such meetings do not therefore

rank as Council decisions and it is essential that they are not interpreted or acted upon as such.

- (v) It must not be assumed by any political group or Councillor that any Officer is supportive of any policy or strategy developed because of that officer's assistance in the formulation of that policy or strategy.
- (vi) Officers must respect the confidentiality of any political group discussions at which they are present in the sense that they should not relay the content of any such discussion to another political group or Councillor thereof. However, Councillors should be aware that this would not prevent officers from disclosing such information to other officers of the Council so far as is necessary to perform their duties.
- (vii) Where officers provide information and advice to a political group meeting in relation to a matter of Council business, it should be understood that the officers have a statutory duty to provide all necessary information and advice to the Mayor or Cabinet or relevant Committee/ Sub-Committee when the matter in question is considered.

8. MEMBERS' SERVICES AND THE USE OF COUNCIL FACILITIES

Members' Services and Members' Enquiries

- 8.1 The Council operates a Member's Enquiries system which is for the Mayor and Councillors to use for routine requests for information and advice. The maximum turn round time expected for such enquiries is 10 working days and officers will chase outstanding enquiries exceeding this period. Matters which are not routine or involve policy should be directed initially to the relevant Corporate Director or Divisional Director or any officer nominated by them.
- 8.2 Both Mayor's Office secretarial staff and the Councillors' Support Team provide assistance to Councillors in their role as Council Members. Staff in these sections may, therefore, be used, as appropriate, to help with work such as casework, meetings and correspondence to do with Council matters. Full details of the service offered are contained in the Members' Services Guide.
- 8.3 The Mayor's Office and Councillor Support Team staff will assist with booking venues for, and publishing details of, Councillor' surgeries. Councillors' surgeries should normally be held within a Councillor's own ward, but Councillor may arrange a surgery in premises outside their ward if this is necessary to provide suitable surgery facilities for their own constituents. Councillor must not ask Council officers to assist with any personal, business or party political matters; attend surgeries; or decide how case work will be dealt with.

Council Facilities

- 8.4 Councillors must use any Council facilities that are provided in their role as a Councillor strictly for that purpose and no other. For example, Councillors

must not use rooms in the Town Hall or other buildings or any of the Council's paper, computers, photocopiers, or printers for any personal, business related or party political matter, nor, for example, on behalf of any community groups of which the Councillor is a member, unless formal approval has been given by the appropriate chief officer.

- 8.5 The use of Council facilities and services by Councillors during a pre-election period for election campaigning or political purposes is not allowed. Specific guidance will be issued at that time to both Councillors and officers.
- 8.6 The Council can only provide legal representation to an individual Councillor where the action is taking place in the name of the Council and the individual deserves the protection of the Council. All such matters should be raised with the Chief Executive in the first instance.

Political Party Workers

- 8.7 Councillors are often assisted by political party workers. There is no objection to this, but no non-elected party worker has any entitlement to:
- information to which a Councillor has access in their role as Mayor or Councillor;
 - use Council facilities provided for the use of Councillors.

The principles which apply to use of facilities provided for Councillors (and the officers employed to assist them) apply equally to all Council property and facilities and all Council employees.

Use of IT

- 8.8 From time to time training and guidelines on the proper and effective use of Council IT resources will be issued.

9. POLITICAL ASSISTANTS

- 9.1 Section 9 of the Local Government and Housing Act, 1989 gives councils a power to appoint political assistants to qualifying political groups. Whilst the Act allows the political affiliation of an individual to be taken into account in the appointment of any Political or Mayor's Assistant, they remain officers of the Council and must therefore not undertake any activity, which may be deemed unlawful. In this context, it should be realised that officer support to the political groups is in the context of their role in the discharge of Council business and although it may require liaison with political parties, at both local and national level, should not be used in promoting the views of an individual political party or undertaking campaigning or other party political business.

9.2 Political assistants hold politically restricted posts and therefore also face restrictions on their personal political activity.

10. COUNCILLORS' ACCESS TO INFORMATION

General

10.1 The following paragraphs identify the rights of Councillors and the procedures that they must comply with when applying for access to Cabinet/ Committee/ Sub-Committee papers and other documents/ information. These paragraphs take into account the following:

- Relevant legislation including the Local Government Act 1972; the Data Protection Act 1998; the Freedom of Information Act 2000; and the Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012 (SI 2012/2089)
- Local Government Transparency Code 2015
- Open and accountable local government: plain English guide
- Access to Information Procedure Rules (Part B Section 27 of the Constitution)
- Relevant case law

10.2 In principle, Councillors have the same ordinary rights of access to certain information as is enjoyed by the general public but they also have the right to access any other information (i.e. confidential or exempt) held by the Council of which they are a Councillor provided that it is reasonably necessary to enable the Councillor to properly perform their duties as a Councillor (see "Need to Know" below). This right of access of additional access may not extend to the publication of or otherwise making public such information as there may be issues of confidentiality.

Access to Committee Papers for Forthcoming Meetings

10.3 The rights of Councillors can be summarised as follows:-

- (i) Councillors enjoy the same access rights as members of the public in respect of Part I Cabinet/Committee/Sub-Committee papers.
- (ii) Councillors of the appropriate Cabinet/ Committee/ Sub-Committee will have a good reason for access to all Part II exempt information on the respective Cabinet/ Committee/ Sub-Committee agenda under the "Need to Know" principles (see below).
- (iii) Councillors of the Overview and Scrutiny Committee will have a prima facie "Need to Know" where they require access to Part II Cabinet agenda items as part of their scrutiny function provided the subject matter is within the Committee/ Sub-Committee's terms of reference.

- (iv) All other Members who require access to confidential/ exempt Cabinet/ Committee/ Sub-Committee documentation will need to request disclosure under the Freedom of Information Act 2000 or demonstrate a “Need to Know” by complying with the principles set out below.

Access to Other Documents/Information – “The Need to Know”

- 10.4 It is important to note that in some cases access to information to which the public is not entitled only applies where Councillors are clearly carrying out their role as elected representatives. Where a Councillor has a financial or personal interest in a matter the Councillor will only be entitled to the same access as would be the case for a private individual. In these circumstances, the Councillor must make it clear that they are acting in their private capacity and not as a Councillor.
- 10.5 Under common law principles Councillors have the right to access information held by the Council where it is reasonably necessary to enable the Councillor to properly perform their duties as a Councillor. This is known as the “Need to Know”. This means that information must not be used for party political purposes.
- 10.6 The common law “Need to Know” is the prima facie right of Councillors to inspect documents of the authority which exist as Councillors are under a duty to keep themselves informed of Council business which relate to their role as elected representatives. Thus, this right applies to Councillors who do not have statutory rights to exempt or confidential information and to other documents held by the Council under local government legislation or the Freedom of Information Act 2000.
- 10.7 For example, a Councillor is likely to have a prima facie “Need to Know” where they has a legitimate Ward problem and needs access to the documents that are relevant to that specific problem. Also, for example, a Cabinet Member whose Portfolio covers the matter in question and they need to be aware of what is occurring for the purpose of their Cabinet position.
- 10.8 Access to information on the basis of a ‘Need to Know’ does not exist where the Councillor is considered to be “fishing” for information or seeks access for an ulterior/improper purpose (e.g. for a private purpose). Case law has established that mere idle curiosity as to what is in the documentation will not be sufficient.
- 10.9 It should be noted that some material (for example if commercial sensitive) may be redacted from information that is disclosed, if this does not affect the ability of a Councillor to exercise their role as an elected representative.

- 10.10 There will also be a range of documents which, because of their nature are either not accessible by Councillors (such as the personal records of an individual) or are accessible only by the political group forming the administration and not by the Councillors of other political groups. An example of this latter category would be draft documents compiled in the context of emerging Council policies and draft Committee reports, the premature disclosure of which might be against the Council's and the public interest.
- 10.11 Whilst the term "Council document" is very broad and includes, for example, any document produced with Council resources, it is accepted by convention that a Councillor of one political group will not have a "Need to Know" and therefore, a right to inspect, a document which forms part of the internal workings of another political group.

Use of Council Information – Confidentiality

- 10.12 Procedural Rules and specific local procedures (e.g. on contracts) require Councillors and officers to maintain confidentiality in certain circumstances. Officers are bound by their contracts of employment and any breach of confidentiality will almost certainly lead to disciplinary action. Officers must distinguish between assisting an elected representative in the course of the Councillor's Council business and dealing with the same person as a client or customer, e.g. a Housing Benefit claimant. In the latter case, Officers will treat the Councillor with the same degree of helpfulness, courtesy and confidentiality as would be afforded to any other member of the public in the same situation, and interpret the relevant rules and procedures as they would for any other client or customer.
- 10.13 Equally, any Council information provided to a Councillor on the basis of a 'Need to Know' must only be used by the Councillor for the purpose for which it was provided, i.e. in connection with the proper performance of the Councillor's duties as an elected representative of the Council. Confidential or exempt information provided to Councillors may be discussed in Part II Committee meetings or in private meetings of appropriate Councillors and Officers. However, it should not be discussed with, or released to, any other persons. Any information that is provided should be clearly marked as confidential before it is released to Councillors.
- 10.14 In cases where a Councillor discloses information given to him/her in confidence by anyone, or information acquired by the Councillor which they believe, or ought reasonably to be aware, is of a confidential nature then that Councillor may find themselves the subject of a complaint to the Standards Advisory Committee that they have contravened the Code of Conduct for Members.

- 10.15 Similarly, the unauthorised disclosure of confidential or exempt information is regarded by the authority as a serious disciplinary offence for Officers. This includes an unauthorised disclosure to a Councillor.
- 10.16 Any request from a Councillor for information will be treated in confidence by Officers and will not be made known to any other Councillor or political group. Officers are also under a duty not to relate any information disclosed privately by a Councillor(s) (e.g. during Part II discussions at Committee, etc., informal briefings, private conversations or Group meetings) to another Councillor, Officer or person not already privy to that information.
- 10.17 The duty of officers to observe a Councillor's confidence however will not apply if the information disclosed relates to something which could severely damage the Council or which is illegal or constitutes maladministration. In this event the matter will be referred to the appropriate Corporate Director and/or Monitoring Officer and Chief Executive for further investigation and action as appropriate.

11. WHEN THINGS GO WRONG

Procedure for officers

- 11.1 If an officer has a complaint about a Councillor it is always preferable to resolve matters informally, through an appropriate senior manager. If the matter cannot be resolved informally or it is not suitable for such then officers can make a complaint to the Monitoring Officer.

Procedure for Councillors

- 10.2 If a Councillor has a concern about the conduct or capability of an officer, they should raise the matter privately with the appropriate Divisional Director or Corporate Director. Any concern about a Corporate Director should be raised privately with the Chief Executive. Any concern about the Chief Executive should be raised privately with the Monitoring Officer.

11. REVIEW

- 11.1 The Standards Advisory Committee and the Monitoring Officer will jointly keep this Protocol under review and make recommendations for changes as appropriate. A review will take place annually in any event.

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Non-Executive Report of the: Standards Advisory Committee Thursday, 15 October 2020	 TOWER HAMLETS
Report of: Corporate Director, Governance and Monitoring Officer	Classification: Open (Unrestricted)
Register of Gifts and Hospitality - Quarterly Update	

Originating Officer(s)	Matthew Mannion; Head of Democratic Services
Wards affected	(All Wards);

Executive Summary

This report provides an update on the declarations of gifts and/or hospitality received from Members since the previous report to the Committee on 30 July 2020.

Standards (Advisory) Committee are receiving this report as it monitors compliance with the requirement in the Council Code of Conduct for Members to register and gift or hospitality with an estimated value of at least £25.

Recommendations:

The Standards (Advisory) Committee is recommended to:

1. Review and note the declarations of Gifts and/or Hospitality offered as reported in Appendix 1.

1. REASONS FOR THE DECISIONS

- 1.1 There is a statutory requirement for the Council to adopt a Code of Conduct for Members. For the purpose of the Code a Member includes the Mayor, elected Councillors and Co-opted Members of the Authority.
- 1.2 The Council's Code of Conduct (paragraph 3.6) requires a Member to register any gift or hospitality with an estimated value of at least £25 and the person from whom it is received.

2. ALTERNATIVE OPTIONS

- 2.1 This is a noting report.

3. DETAILS OF THE REPORT

3.1 Appendix 1 provides a copy of the Register of Gifts and Hospitality declared from 1 July to 30 September 2020. A total of 3 declarations were made during this period; two were declared on time within the 28-day notification period and one was late. This is a similar figure as for the previous reporting period.

3.2 When reviewing the declarations, the Committee are encouraged to consider whether they think decisions around specific gifts, for example whether they were kept, refused or donated to the Speaker's Fund, were appropriate in those cases.

The Impact of the Pandemic

3.3 As would be expected, the current COVID-19 pandemic has much reduced the number of events and occasions that Members might attend and so also reduced the number of related declarations of gifts and hospitality.

Ethics and Probity Training – Gifts and Hospitality

3.4 The recent Ethics and Probity Training sessions attended by many Members were used as an opportunity to highlight the issue of gifts and hospitality and to remind Members of the various scenarios which could result in the need to make a declaration.

Internal Audit on Corporate Governance

3.5 As set out in the last report, Gifts and Hospitality is an area also being considered in a current audit on the Council's Corporate Governance. Issues it is likely to consider include:

- Total number of declarations
- The value of individual gifts and whether higher value gifts should always be refused or donated (e.g. to the Speaker's Charity).
- The role of the Standards Advisory Committee in scrutinising gifts and hospitality.

Communications

3.6 As reported to the July meeting of the Committee, the Chair of the Standards Advisory Committee wrote to all Members in July asking them to confirm that they had no further gifts or hospitality to declare. This process did not result in any further declarations being made.

Next Steps

3.7 The next opportunity to highlight gifts and hospitality will be in January when the next regular reminders are sent to all Members asking them to confirm their Registers of Interest. This will include a new field where Members will be

required to actively confirm that they have no further gifts or hospitality to declare.

4. EQUALITIES IMPLICATIONS

4.1 There are no 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.
- Data Protection / Privacy Impact Assessment.

5.2 None arising from this report.

6. COMMENTS OF THE CHIEF FINANCE OFFICER

6.1 This report recommends that the Standards Advisory Committee note the declarations of Gifts and/or Hospitality offered as reported in Appendix 1. There are no direct financial implications arising from this report.

7. COMMENTS OF LEGAL SERVICES

7.1 Section 29 of the Localism Act 2011 Act provides that the Council's Monitoring Officer must establish and maintain a register of interests of Members of the Authority.

7.2 Section 30 of the 2011 Act requires Members to register disclosable pecuniary interests within 28 days. Otherwise it is for the Council to determine what is entered in the register of interests and as indicated in this report that includes gifts and hospitality with an estimated value of at least £25.

Linked Reports, Appendices and Background Documents

Linked Report

- Previous update reports to Standards (Advisory) Committee meetings.

Appendices

- Appendix 1 – Register of Gifts and Hospitality declared – 1 January 2020 to 30 June 2020.

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

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

List any background documents not already in the public domain including officer contact information.

- None.

Officer contact details for documents:

N/A

Appendix 1

Gifts and Hospitality Accepted 1 January 2020 – 30 June 2020

Name	Date offered /event	Type	Accepted / Declined	Date Declared	On Time?	Provided By	Value Estimate	Description
Cllr Kyrsten Perry	18 Jan 2020	Hospitality	Accepted	2 Aug 2020	Yes	Canary Wharf Group	£50	Jim Fitzpatrick farewell event, Canary Wharf
Mayor John Biggs	25 Sept 2020	Gift	Accepted	2 Oct 2020	Yes	London Communications, WC1V		Art frame of the new coat of arms
Mayor John Biggs	30 Sept 2020	Hospitality	Accepted	2 Oct 2020	Yes	Yang Xiaokun – Minister Council		Mid-Autumn Festival / Moon Festival

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<p>Non-Executive Report of the:</p> <p>Standards Advisory Committee</p> <p>Thursday, 15 October 2020</p>	 <p>TOWER HAMLETS</p>
<p>Report of: Corporate Director, Governance and Monitoring Officer</p>	<p>Classification: Open (Unrestricted)</p>
<p>Register of Interests - Member Addresses</p>	

Originating Officer(s)	Matthew Mannion, Head of Democratic Services Patricia Attawia, Democratic Services Team Leader (Civic and Members)
Wards affected	(All Wards);

Executive Summary

This report updates the Committee on the Elected and Co-opted Members' Register of Interests and the information published on the Council website, with particular reference to increasing requests to withhold Sensitive Interests.

Recommendations:

The Committee is recommended to:

1. Note the report.
2. Note the arrangements for the publication of personal information for Councillors including the exemptions for sensitive information.
3. Discuss the approach taken by the Council and whether this should be amended.
4. Agree to add a check to the six-monthly reminder for those councillors who have registered a concern to ensure that there is still a need for sensitive interests to be withheld

1. REASONS FOR THE DECISIONS

- 1.1 It its role as guardian of the Member Code of Conduct, the Committee is being asked to note and comment on the increase in requests from Members to have their residential addresses withheld from the register of interests as a 'sensitive interest' on the grounds of personal safety.

- 1.2 A sensitive interest is one which the Member and Monitoring Officer, who is responsible for the Register of Members' Interests, consider that disclosure of its details could lead to the Member, or a person connected to the Member, being subject to violence or intimidation.
- 1.3 Copies of the Register of Members' Interests which are available for inspection or published must not include details of a Member's sensitive interest, other than stating that the Member has an interest the details of which are withheld.

2. ALTERNATIVE OPTIONS

- 2.1 Not applicable.

3. DETAILS OF THE REPORT

- 3.1 The law set out in the Localism Act 2011 require a council to adopt a code of conduct for its Members and to have a Register of Members' Interests.
- 3.2 The code of conduct must comply with the seven principles of public life and set out how, in conformity with the law, Members will have to disclose pecuniary and other interests.
- 3.3 One of these principles is 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 declare and resolve any interests and relationships.
- 3.4 The registration of personal interests should be guided by this duty.
- 3.5 Members are required to complete a declaration of their interests within 28 days of their appointment and thereafter they must notify any changes to this within 28 days of becoming aware of the change.
- 3.6 The Declaration of Interests provided by Elected Members is published on the Council's website under the Councillor web pages, and a copy is available for inspection within the authority.
- 3.7 In a report to the Standards Advisory Committee 25 April 2019 on Publication of Candidates Home Addresses and Disclosure of Sensitive Interests, it highlighted that the review of intimidation in public life by the Parliamentary Committee recommended that Monitoring Officers ensure that Members (Councillors and Co-opted Members) required to declare pecuniary interests

are aware of the provisions relating to sensitive interests contained in the Localism Act 2011.

- 3.8 S.32 of The Act makes provision for the non-publication of the sensitive interests, where the Member and the Monitoring Officer consider that the disclosure of the details of the interest could lead to the Member or a person connected with the Member to be subject to violence or intimidation:

32 Sensitive interests

(1) Subsections (2) and (3) apply where—

(a) a member or co-opted member of a relevant authority has an interest (whether or not a disclosable pecuniary interest), and

(b) the nature of the interest is such that the member or co-opted member, and the authority's monitoring officer, consider that disclosure of the details of the interest could lead to the member or co-opted member, or a person connected with the member or co-opted member, being subject to violence or intimidation.

(2) If the interest is entered in the authority's register, copies of the register that are made available for inspection, and any published version of the register, must not include details of the interest (but may state that the member or co-opted member has an interest the details of which are withheld under this subsection).

(3) If section 31(2) applies in relation to the interest, that provision is to be read as requiring the member or co-opted member to disclose not the interest but merely the fact that the member or co-opted member has a disclosable pecuniary interest in the matter concerned.

- 3.9 As recently as 2019, the Local Government Minister wrote to local authorities encouraging the use of the provisions in the Localism Act 2011 in order to minimise risk to elected Members. This was following a review of intimidation in public life by the Parliamentary Committee on Standards in Public Life in 2018.

- 3.10 In such situations, the Members' Register of Interests will continue to be published on the website, however, the specific details of the interest will be withheld, and the item will reflect "Not shown on web site".

- 3.11 Copies of the Register of Interests that are made available for inspection and any published versions of the register, must not include details of the interest (but may state that the Member has an interest the details of which are withheld under section 32).

- 3.12 Over the past 12 months there has been an increase in requests from Councillors to withhold sensitive interests from the register through fears for their personal safety. Currently 21 are not shown on the website; 2 from 2018, 6 from 2019 and 13 this year.

- 3.13 It is difficult to establish a general threshold to measure a legitimate concern of abuse or intimidation. Where a Member expresses a fear for personal

safety or the threat of harm it appears the guidance suggests a sympathetic approach should be taken.

- 3.14 Where requests have been made for addresses to be withheld, it may be that the original concern is not an ongoing issue. Councillors are reminded to update their declarations of interests every six months but there is currently no specific requirement to confirm that the concern still exists. Adding such a requirement would ensure that only those addresses for councillors still experiencing fear or threat would continue to be withheld.
- 3.15 Current practices vary in other authorities as follows:

Camden, Barnet, Havering, Westminster, Waltham Forest – addresses withheld if a request is made to the Monitoring Officer and approved. Newham as above but message on website states; "The Monitoring Officer has agreed to withhold further details of these interests from the public register under s.32 of the Localism Act 2011 (to be reviewed in 3 months)". Ealing as above but a 'Sensitive Interest Form' must be completed by the Councillor, which the Monitoring Officer will sign if approval is given.

Merton - a request by a political group for all their Members' addresses to be removed was agreed by the Monitoring Officer, with the same being offered to the other groups. Councillors can still apply individually. Addresses are kept in a 'sensitive register of interests' file. The public register states, "An interest has been disclosed but is withheld under s.32 of the Localism Act and with the agreement of the Monitoring Officer".

Hackney – blanket removal of addresses. A report setting out a dispensation for all Councillors in respect of their home addresses, and the rationale for withholding this information, was considered by their Standards Committee on 2 July 2018.

4. EQUALITIES IMPLICATIONS

- 4.1 There is a danger that, should certain groups of people feel discouraged from standing as Councillors, this would reduce the diversity of Councillors standing, and elected, to serve the borough.

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.

- Data Protection / Privacy Impact Assessment.

5.2 There may be considerations around transparency. Members of the public may challenge a Councillor withholding property interests as they will not be able to check the accuracy of claims or identify potential conflicts of interest.

6. COMMENTS OF THE CHIEF FINANCE OFFICER

6.1 There are no financial implications arising from this report.

7. COMMENTS OF LEGAL SERVICES

7.1 Section 30 of the Localism Act 2011 ('the Act') requires all elected and co-opted members of a local authority to notify the monitoring officer of any disclosable interests which they, their spouse, civil partner or partner may have, within 28 days of election or co-option, or within 28 days of their becoming aware of the disclosable interest. The Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012 define the interests which must be disclosed under this requirement and they include a beneficial interest in land within the local authority's area. This would clearly include a home address.

7.2 Sensitive interests are exempted from this requirement under Section 32 of the Act. Sensitive interests are defined as being interests which the member and the monitoring officer consider that the disclosure of them could lead to the member or a person connected with them being subjected to violence or intimidation. In these circumstances Section 32 of the Act requires only the disclosure of the existence of an interest in any published record of interests.

7.3 The matters proposed in this report comply with the above legislation.

Linked Reports, Appendices and Background Documents

Linked Report

- None.

Appendices

- None.

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

List of "Background Papers" used in the preparation of this report

List any background documents not already in the public domain including officer contact information.

- None.

Officer contact details for documents:

None.

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TOWER HAMLETS

STANDARDS ADVISORY COMMITTEE WORK PLAN and ACTION LIST 2020/21

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Contact Officer:	Matthew Mannion Democratic Services matthew.mannion@towerhamlets.gov.uk
Email:	020 7364 4651
Telephone:	www.towerhamlets.gov.uk/committee
Website:	

Agenda Item 7

ACTIONS LIST

To list actions from previous meetings which will require the attention of the Committee at a future meeting.

Action number	Title	LEAD OFFICER	Originating Meeting	Due Date / Comment
1.	Reports as required on Ethics matters from elsewhere including government and other local authorities.	Janet Fasan, Divisional Director, Legal Services and Deputy Monitoring Officer	Ongoing	As required.
2.	Annual Review of the Code of Conduct	Janet Fasan, Divisional Director, Legal Services and Deputy Monitoring Officer	To be scheduled	Schedule for April 2021 (and April every year after)
3.	LGA Consultation on Draft Model Member Code of Conduct – to prepare a response including contributions received from Advisory Cttee members	Janet Fasan, Divisional Director, Legal Services and Deputy Monitoring Officer	30 July 2020	17 August 2020 - Concluded
4.	Amendments to Draft Standards Advisory Committee Annual Report to Council prior to submission to full council.	Janet Fasan, Divisional Director, Legal Services and Deputy Monitoring Officer	30 July 2020	September 2020
5.	Arrangement of training for Members' of the SDC and DC on lobbying following Holborn Studios judgement.	Janet Fasan, Divisional Director, Legal Services and Deputy Monitoring Officer	30 July 2020	

Standards Advisory Committee WORK PLAN 2020/21

Action number	Title	LEAD OFFICER	Originating Meeting	Due Date / Comment
6.	Reminder to be sent to all members on the Council's social media policy and their obligations to comply with it.	Janet Fasan, Divisional Director, Legal Services and Deputy Monitoring Officer	30 July 2020	
7.	Introduction of a standard 'nil return' declaration for gifts and hospitality.	Matthew Mannion, Head of Democratic Services	30 July 2020	
8.	Circulate workplan to Committee Members	Matthew Mannion, Head of Democratic Services	30 July 2020	Asap once agreed with MO and Chair - Completed
9.	Member / Officer Protocol	Janet Fasan, Divisional Direct, Legal Services and Deputy Monitoring Officer	Previous year's meeting	Added at request of Chair
10.	Self-Assessment survey on how effectively we meet all the TOR items	Matthew Mannion, Head of Democratic Services		Suggested by Fiona – take feedback and tailor reports or training as required. Look to have results for the next meeting.

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N.B. once concluded - actions should remain on the list marked 'complete' for the remainder of the municipal year.

WORK PLAN

The workplan itself is a standing agenda item

REPORT TITLE	BRIEF SUMMARY	LEAD OFFICER	OTHER CTTEE MEETINGS
30 JULY 2020			
1. Register of Gifts and Hospitalities	Quarterly update report	Matthew Mannion, Head of Democratic Services	
2. Member Attendance Statistics	Report on Member attendance for the previous year.	Matthew Mannion, Head of Democratic Services	
3. Dispensations under Section 33 of the Localism Act 2011	6-monthly update on any dispensations granted under the Act and any related matters.	Asmat Hussain, Corporate Director, Governance and Monitoring Officer	
4. Code of Conduct for Members – Complaint Monitoring and Associated Matters	Quarterly update report	Asmat Hussain, Corporate Director, Governance and Monitoring Officer / Janet Fasan, Divisional Director, Legal Services and Deputy Monitoring Officer	
5. Draft Annual Report to Council	To consider the draft Annual Standards Advisory Committee report to Council.	Janet Fasan, Divisional Director, Legal Services and Deputy Monitoring Officer	Council – Autumn 2020
15 OCTOBER 2020			
1. Annual Administrative Reports	[Note – if the Annual Meeting takes place in September then this meeting will consider the regular administrative housekeeping reports e.g. Appointment of Chair and Terms of Reference and Membership]		
2. Register of Gifts and Hospitalities	Quarterly update report	Matthew Mannion, Head of Democratic Services	

Standards Advisory Committee WORK PLAN 2020/21

REPORT TITLE	BRIEF SUMMARY	LEAD OFFICER	OTHER CTTEE MEETINGS
3. Code of Conduct for Members – Complaint Monitoring and Associated Matters	Quarterly update report	Asmat Hussain, Corporate Director, Governance and Monitoring Officer / Janet Fasan, Divisional Director, Legal Services and Deputy Monitoring Officer	
4. Member Learning and Development Programme Update	Yearly update on the Member Learning and Development programme and associated matters.	Matthew Mannion, Head of Democratic Services	
5. Implementation of Best Practice Recommendations by CSPL	Update following previous report to SAC in 2019. Note – report originally scheduled at cancelled April 2020 meeting.	Asmat Hussain, Corporate Director, Governance and Monitoring Officer	
6. Members Rights to Access to Information	Previous request of Committee to receive a report setting out Member rights to access information. Note – report originally scheduled at cancelled April 2020 meeting.	Matthew Mannion, Head of Democratic Services	
7. Practical guidance for Members handling confidential information – [Cover report merged with above item]	Previous request of Committee. Note – report originally scheduled at cancelled April 2020 meeting.	Janet Fasan, Divisional Director, Legal Services and Deputy Monitoring Officer and Ruth Dowden, Head of Information Governance	
8. Register of Interests – Member home addresses	An update on the issue of member home addresses being restricted from access through the register of interests.	Matthew Mannion, Head of Democratic Services, Patricia Attawia, Democratic Services Team Leader (Civic and Members)	
9. Update on Member training in relation to the Planning Code – [to be briefing note]	An update following recent discussions on planning code of conduct matters looking at how members are trained to think about these issues. [Note – after discussion to be a briefing note rather than committee report to enable it to capture information from October training development control training sessions]	Rachel McKoy, Head of Commercial and Contracts, Legal Services	

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Standards Advisory Committee WORK PLAN 2020/21

REPORT TITLE	BRIEF SUMMARY	LEAD OFFICER	OTHER CTTEE MEETINGS
4 FEBRUARY 2021			
1. Register of Gifts and Hospitalities	Quarterly update report	Matthew Mannion, Head of Democratic Services	
2. Dispensations under Section 33 of the Localism Act 2011	6-monthly update on any dispensations granted under the Act and any related matters.	Asmat Hussain, Corporate Director, Governance and Monitoring Officer	
3. Model Code of Conduct	Update including LGA	Asmat Hussain, Corporate Director, Governance and Monitoring Officer / Janet Fasan, Divisional Director, Legal Services and Deputy Monitoring Officer	
4. Member Officer (and Member to Member) Protocol	Review existing Protocol and propose any improvements.	Asmat Hussain, Corporate Director, Governance and Monitoring Officer / Janet Fasan, Divisional Director, Legal Services and Deputy Monitoring Officer	
5. Code of Conduct for Members – Complaint Monitoring and Associated Matters	Quarterly update report	Asmat Hussain, Corporate Director, Governance and Monitoring Officer / Janet Fasan, Divisional Director, Legal Services and Deputy Monitoring Officer	
6. Strengthening Local Democracy	Update report on the Strengthening Local Democracy Project	Asmat Hussain, Corporate Director, Governance and Monitoring Officer	
22 April 2021			
1. Register of Gifts and Hospitalities	Quarterly update report	Matthew Mannion, Head of Democratic Services	

Standards Advisory Committee WORK PLAN 2020/21

REPORT TITLE	BRIEF SUMMARY	LEAD OFFICER	OTHER CTTEE MEETINGS
2. Code of Conduct for Members – Complaint Monitoring and Associated Matters	Quarterly update report	Asmat Hussain, Corporate Director, Governance and Monitoring Officer / Janet Fasan, Divisional Director, Legal Services and Deputy Monitoring Officer	
3. Annual Review of the Code of Conduct		Asmat Hussain, Corporate Director, Governance and Monitoring Officer / Janet Fasan, Divisional Director, Legal Services and Deputy Monitoring Officer	

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