

Standards Advisory Committee



Thursday, 22 April 2021 at 2.00 p.m.

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

Agenda

Chair: John Pulford MBE

Members

Vice-Chair: Nafisa Adam

Fiona Browne, Denzil Johnson, Mike Houston, Councillor Rajib Ahmed, Councillor Mufeedah Bustin, Councillor Rabina Khan, Councillor Leema Qureshi and Councillor Abdal Ullah

Observers (Independent Persons):

Elizabeth Marshall MBE (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.

Physical Attendance at the Town Hall is not possible at this time.

Meeting Webcast

The meeting is being webcast for viewing through the Council's webcast system.

<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, 22 April 2021

2.00 p.m.

**PAGE
NUMBER(S)**

APOLOGIES FOR ABSENCE

1. DECLARATIONS OF INTEREST

5 - 6

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

2. MINUTES OF THE PREVIOUS MEETING(S)

7 - 14

To confirm as a correct record the minutes of the meeting of the Standards Advisory Committee held on 4 February 2021.

3. REPORTS FOR CONSIDERATION

3.1 New Member Code of Conduct - update report

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3.2 Draft Standards Advisory Committee Annual Report

19 - 40

3.3 Review of the guidance for nominees to outside bodies

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3.4 Register of Gifts and Hospitality - Quarterly Update

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3.5 Governance at Council owned bodies

To Follow

4. ANY OTHER BUSINESS WHICH THE CHAIR CONSIDERS URGENT

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

5. 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.

6. 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, 1 July 2021 at 6.00 p.m. location to be confirmed.

Agenda Item 1

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: Janet Fasan, Divisional Director, Legal Services 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 2.03 P.M. ON THURSDAY, 4 FEBRUARY 2021

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 (Vice-Chair)
Councillor Mufeedah Bustin
Councillor Rabina Khan
Councillor Abdal Ullah
Fiona Browne (Co-optee)
Mike Houston (Co-optee)

Observers:

Elizabeth Marshall MBE – Independent Person
Rachael Tiffen – Independent Person

Apologies:

Councillor Leema Qureshi (Member)

Officers Present:

Janet Fasan – (Director of Legal)
Clare Matthews – (Strategy & Policy Manager)
Patricia Attawia – (Democratic Services Team Leader, Civic & Members, Governance)
Matthew Mannion – (Head of Democratic Services, Governance)

1. INTRODUCTION

During the introduction it was reported to the Committee that, as a consequence of the ongoing Senior Management Review, Asmat Hussain, Corporate Director, Governance and Monitoring Officer, had left the authority. Janet Fasan, Director of Legal had been appointed as the Interim Monitoring Officer until the review was concluded. It was expected that the post of Director of Legal would permanently be assigned the Monitoring Officer role.

The Committee asked that their thanks to Asmat Hussain be placed on the record for her hard work supporting the Committee over her time at the Council. Members considered that the work and profile of the Standards Advisory Committee had much improved through her efforts and support and

that she had been a strong champion of the importance of the Committee and of adhering to the Code of Conduct.

2. DECLARATIONS OF INTEREST

There were no Declarations of Disclosable Pecuniary Interest.

3. MINUTES OF THE PREVIOUS MEETING(S)

RESOLVED

1. That the minutes of the meeting held on 15 October 2020 be approved and signed by the Chair as a correct record of proceedings.

4. REPORTS FOR CONSIDERATION

4.1 Model Member Code of Conduct

Janet Fasan, Director of Legal and Interim Monitoring Officer introduced the report. She explained that the new Model Code of Conduct from the Local Government Association had been published and the Committee should therefore determine to what extent they wished to adopt the new code or whether any local variations would be appropriate. She noted that, whilst the language did vary, the general scope of the new code was very similar to the existing Tower Hamlets Code of Conduct. However, there were a few differences and these were highlighted in Appendix 2.

It was noted that the Tower Hamlet's Code had last been reviewed in 2018/19 and it was part of the Committee's workplan to conduct a yearly review.

The Committee then discussed the report. It reviewed Appendix 2 setting out the key differences between the new Code and the existing Tower Hamlets code.

Points discussed included:

- When the Code would apply to Members and whether some activities would be considered part of the Member's private life and therefore exempt.
- Requirements around general standards of conduct, bullying and harassment.
- Impartiality of officers and making decisions and appointments on merit.
- How rules around use of resources, allowances etc were set out.
- How sanctions for breaching the code were covered.
- That the model code was proposing to increase the gifts threshold to £50 and the need for clarity over what 'significant' meant around declared and rejected gifts. There was some support on the Committee for keeping the declaration limit at £25.

- A change to the wording around interest types with new Registerable and Non-Registerable interests.
- The new code referred to the 'Public Interest' test which was a useful point to highlight. It was noted that the existing Constitution did not define how the 'Public Interest' was determined.

The Committee discussed the report and expressed the view that the new Model Code of Conduct was well written and had also been through a lot of consultation and development work. It therefore made sense to adopt it as the new Tower Hamlets code subject to any specific revisions which were felt appropriate.

It was agreed that a sub-group of the Committee should develop a proposed final code which could then be presented to the Committee for agreement before forwarding to Council for final determination.

RESOLVED

1. The a sub-group be established to work on a proposed new Code of Conduct, based on the new Model Code of Conduct.

4.2 Strengthening Local Democracy

Matthew Mannion, Head of Democratic Services, introduced the latest update report on the ongoing Strengthening Local Democracy project. He reminded Members that a previous report on this subject had been presented at an earlier meeting and this update set out how the project was developing and which targets had now been met.

Clare Matthew, Strategy and Policy Officer, took Members through the report in more detail. It listed all activity up to the autumn. Most actions were now complete although the pandemic had impacted in some areas. The intention now was to look at the Members Hub as the place to go for all the information and guidance in the support framework so that the work that had taken place and information and guides developed would continue to be useful to Members in the future.

During discussion it was noted how much technology was becoming the default tool for organising all areas of work, including Committee meetings at the moment, and how important it was therefore that as much support as possible was available to Members. Another key issue was the link to the Code of Conduct and making sure that all projects looked at the requirements to comply with relevant elements of the Code and how that impacted the work.

The Committee also asked officers to consider the impact of public behaviour towards Members and whether there was anything that could be done to tackle that problem.

RESOLVED

1. That the report be noted and that officers continue progressing the project taking account of the points raised by the Committee.

4.3 Member and Officer Protocol

Matthew Mannion, Head of Democratic Services, introduced the report on the Member and Officer Relations Protocol. He reported that this was a long-standing section of the Constitution and contained guidance on how members and officers should interact. It also included a section on Member to Member relations.

A number of earlier discussions and reviews, including one from Grant Thornton, had mentioned the Protocol, including suggestions that the Member to Member protocol should be a stand-alone section of the Constitution.

During discussion the Committee noted there had been occasions where there had been problems, including in Members attacking individual officers during formal meetings. However, it was noted that generally the Code was working ok but that there was likely to be scope to make any suggested improvements.

The Committee asked that feedback be sought from Members and officers on their perspective as to how effective it was. It was suggested that the language could be improved and consider whether case studies and similar could be useful to back it up.

It was agreed that consideration of the Protocol would be picked up by the new working group being established to look at the Model Code of Conduct, although to be dealt with after the group had reviewed the new Code of Conduct.

RESOLVED

1. That the report be noted and that the Protocol be passed to the working group for consideration before reporting back to the Committee.

4.4 Standards Advisory Committee - Terms of Reference Review

Matthew Mannion, Head of Democratic Services, introduced the report looking at the review of the Committee's Terms of Reference. The previous meeting of the Committee had proposed the review and it was suggested that the first stage of this would be to send a quiz to Members of the Committee to see what they thought of the Terms of Reference as they were.

He presented the results to date:

- 5 responses had been submitted.
- In general, responders felt that each function in the terms of reference was set out clearly. However, the final two functions dealing with more general standards issues did receive slightly lower marks, possibly because their general nature made them less easy to consider.
- When looking at whether the Committee were effectively dealing with each function, the first function on promoting and maintaining high standards received a four out of five mark which was the lowest of all the functions, but still a good mark.
- A number of specific comments had been submitted including:
 - The need to be more proactive rather than reactive.
 - How to find new ways of conducting training on the Code of Conduct.
 - Whether the function on setting up dispensation sub-committees should be removed as they were no longer used.
 - Whether the Committee should link up better with the Audit and Scrutiny functions.
 - A suggestion that the Committee be updated about national or regional stories relating to Member Conduct.

The Committee also noted the appendix which set out terms of reference from a number of other Councils. It was noted that some mentioned their Committees were there to 'support' Members in respect to the Code of Conduct and that idea should be included. It was agreed that final results of the survey would be circulated to Members on 15 February to allow time for final submissions.

No large-scale changes to the Terms of Reference were identified but it was agreed as yet but the final results of the review would be considered and some changes could then be proposed.

RESOLVED

1. That the report be noted and that the final results of the survey be considered in relation to any potential reviews of the Terms of Reference.

4.5 Code of Conduct for Members - Complaint Monitoring

Janet Fasan, Director of Legal and Interim Monitoring Officer, introduced the regular update report on recent complaints received in respect of the Members Code of Conduct. She reported that there were only two new complaints set out which was a significant drop from earlier in the year. In particular compared to the early stages of the Covid-19 pandemic when there had been a spike in complaints.

One current complaint referred to a possible breach of the Covid restrictions by a Councillor. Exchanges were ongoing to establish whether there had been a breach in regulations. A second complaint related to an allegation of

disruptive behaviour at a meeting. Investigations were ongoing and responses were awaited to questions from the Monitoring Officer. A third complaint had been received in the last week which would be reported at a later date.

Finally, a proposal from the Committee on Standards in Public Life was noted recommending additional wording for the constitution to cover situations where a Monitoring Officer was not able to progress a complaint due to a conflict of interest. The updated wording would allow cases to be referred to a monitoring officer at a neighbouring authority.

The Committee discussed the report and asked for confirmation that in the case complaining about a slow member response to the constituent that an apology had been sent.

RESOLVED

1. That the report be noted.
2. That the proposed new wording be agreed in respect of conflicts of interest in complaint handling and that the text be forwarded to the General Purposes Committee for adding to the Constitution.

4.6 Register of Gifts and Hospitality - Quarterly Update

Matthew Mannion, Head of Democratic Services, introduced the regular report on declarations of gifts and hospitality. He noted that there had been nine declarations in the October to December period which was an increase on the earlier months of the pandemic. This likely reflected the slight easing of restrictions seen during that time so a few events were taking place and also, as it covered the Christmas period, a number of seasonal gifts were recorded. Finally, he welcomed that one gift to the Mayor had been donated to the Speaker's Charity.

It was also reported that the Member Support team were currently asking all Members to review their Registers of Interest to ensure they were up to date. So far responses had been received from all bar three Councillors and four co-opted Members. The survey form being used this time included the new 'Nil Return' field for registering gifts and hospitality.

RESOLVED

1. That the report be noted.

4.7 Dispensations granted under Section 33 of the Localism Act 2011

Matthew Mannion, Head of Democratic Services, introduced the regular update report on dispensations granted to Members under Section 33 of the Localism Act. He reported that there had been no individual dispensations

granted since the previous report last July. The general dispensations previously reported remained in force.

RESOLVED

1. That the report be noted.

5. WORK PLAN

The Committee considered the workplan and noted a number of points including:

- Information Governance training was scheduled to take place in April 2021.
- New Personal Development survey forms were in development and would be circulated to Member shortly.
- The terms of office for all current co-optees and one Independent Person were due to expire later in the year so a report may be required for the Committee to consider on appointments.
- Two reports that were due to be received at the February meeting had been deferred:
 - Update on Member Enquiries – the Service were meeting with political groups soon and would report to the Standards Advisory Committee following the conclusion of those discussions.
 - A report was proposed relating to governance at controlled bodies. It had been confirmed that the Council did report on those bodies in its Annual Governance Statement but more work was required in relation to the second point of deliberation which was around how governance at those bodies was managed (for example around levels of transparency). This would be reported to a later meeting.
- The draft agenda for the April meeting was noted including the need to report back on the Code of Conduct review and also that the draft Annual Report to Council would be presented.
- Finally, it was noted that a candidate had been selected for the final co-optee place on the Committee. This would be confirmed at Council in March.

The workplan would also be updated to show the actions from this meeting.

RESOLVED

1. That the workplan be noted.

6. ANY OTHER BUSINESS WHICH THE CHAIR CONSIDERS URGENT

Nil items.

7. EXCLUSION OF THE PRESS AND PUBLIC

Nil items.

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

Nil items.

The meeting ended at 3.52 p.m.

Chair, John Pulford MBE
Standards Advisory Committee

Non-Executive Report of the: Standards Advisory Committee Thursday, 22 April 2021	 TOWER HAMLETS
Report of: Janet Fasan, Director of Legal and Interim Monitoring Officer	Classification: Open (Unrestricted)
New Member Code of Conduct - update report	

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

Executive Summary

At its meeting on 4 February, the Committee received a report setting out the new Model Code of Conduct which had been published by the Local Government Association.

The Committee agreed that the Council should adopt the new Code subject to any amendments that were felt appropriate and an informal sub-group was established to work through the Code and recommend an updated version to the Committee.

This report provides the Committee with an update on that work.

Recommendations:

The Standards Advisory Committee is recommended to:

1. Review and comment on the progress to date in relation to the new Member Code of Conduct.

1. REASONS FOR THE DECISIONS

- 1.1 This report enables the committee to steer the development work on the draft new Code of Conduct.

2. ALTERNATIVE OPTIONS

- 2.1 The Committee may propose alternative options or agree to retain the existing Code of Conduct.

3. DETAILS OF THE REPORT

- 3.1 As set out in the Committee report dated 4 February 2021, the new Model Code of Conduct was produced by the Local Government Association following a consultation period which ran through the summer of 2020.
- 3.2 The new Code is very similar in effect to the existing Tower Hamlets Code but it has updated much of the language and increased emphasis in some areas where that was felt appropriate.
- 3.3 When considering the new Code, the Committee considered that it would be appropriate to adopt it but that it would be useful to consider any potential adjustments that may be appropriate. It was therefore agreed to establish an informal sub-group to meet and discuss the development of the new Code.
- 3.4 That group has since met twice and has developed the code to bring a number of changes that were felt useful. This work is nearing completion and it is hoped that a final draft version can be agreed shortly.
- 3.5 This will then be circulated to the groups for comment before being presented to the next meeting of the Standards Advisory Committee for final agreement before submission to Council for adoption.
- 3.6 The sub-group have looked through the whole code and the main areas where changes were agreed or discussed involved:
- Adding small sections of text from the existing code for emphasis, for example around the reasons for having a code.
 - Made it clearer who was not covered by the Code (but stating that they should have regard to it).
 - Reference to specific accompanying Tower Hamlets codes such as the Tower Value and the Social Media Policy
 - How to best set out the dual expectation that the public must treat Members with respect and highlighting that Members do not have to feel compelled to deal with threatening individuals.
 - Considering whether to reinsert the annexe on bullying created due to the recommendations of the Committee on Standards in Public Life.
 - Agreeing to retain the £25 threshold for gifts and hospitality declarations and also adding guidance around regular small donations and the option of donating gifts to the Speaker's Charity.
 - A line was added highlighting that large value gifts should normally be refused.
 - Adding more detail on the types of gifts that do not need to be declared.
- 3.7 The main issues still to cover are:
- Making sure the way the different types of Interests are set out is clear and making sure no further guidance is required.

- Finalising the content on bullying.
- The best way of highlighting the role of Members to encourage each other to uphold best practice.
- Continuing to consider the impact of threatening public behaviour

3.8 The final document will be circulated to Members of the Committee for comment.

3.9 After that point it will be appropriate to consult with the groups before considering any final changes.

3.10 The completed Code can then be presented to the Committee and to Council for agreement.

4. EQUALITIES IMPLICATIONS

4.1 Equalities considerations are important as part of the consideration of the Code and have been included in the discussions. The Committee should ensure they are satisfied that the Code covers all relevant equalities issues.

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 Nil items.

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 The principal statutory provisions relating to standards of conduct are contained in the Localism Act 2011. Section 27(1) of the 2011 Act provides that the Council must promote and maintain high standards of conduct by members and co-opted members of the authority.

7.2 Sections 27 and 28 of the 2011 Act require the Council to adopt a Code of

Conduct consistent with the Nolan principles of good governance and to appoint at least one Independent Person whose views must be sought and taken into account before the Council makes any decision about the alleged breach of the Code that has been investigated.

- 7.3 Under the Council's Constitution, the Standards Advisory Committee's terms of reference include advising the Council on the adoption or revision of the Council's Code of Conduct for Members.

Linked Reports, Appendices and Background Documents

Linked Report

- Report to the Standards Advisory Committee 4 February 2021

Appendices

- Appendix 1 – early draft of the new Member Code of Conduct (to follow)

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

Non-Executive Report of the: Standards Advisory Committee 22 April 2021	 TOWER HAMLETS
Report of: Janet Fasan, Director of Legal and Interim Monitoring Officer	Classification: Unrestricted
Draft Standards Advisory Committee Annual Report to Council	

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

Summary

This report sets out a first draft of the Committee’s annual report to Council. The report covers the activities of the Committee over the last year as well as being an opportunity to highlight any relevant issues to Council.

The Committee are asked to consider the draft Annual Report and feedback on any updates or changes they would like to see.

An updated report will then be presented to the meeting on 1 July 2021 before being submitted to Council on 21 July 2021.

Recommendation:

The Standards Advisory Committee is recommended:

1. To consider and comment on the suggested draft Annual Report attached as Appendix 1.

1. REASONS FOR THE DECISIONS

- 1.1 It is considered best practice in many authorities for the full Council to receive an annual report in relation to the work of the Standards Advisory Committee and on issues around standards generally. The provision of an annual report of the Committee’s business ensures the profile of ethical standards across the organisation and affords the opportunity to highlight areas of good practice and identify any requirements for improvement.

2. ALTERNATIVE OPTIONS

- 2.1 The Advisory Committee could decide not to submit an annual report but this course of action is not recommended.

3. DETAILS OF REPORT

- 3.1 The Advisory Committee is asked to consider and comment on the proposed draft Annual Report attached as Appendix 1.
- 3.2 The draft report contains an outline of the work and activities of the Standards Advisory Committee over the past year as well as highlighting any particular issues that Council should consider.
- 3.3 The report would usually consider activity across a single municipal year from May in one calendar year to May in the next. However, the Covid-19 pandemic caused the Council's 2020 annual meeting to be delayed until September 2020.
- 3.4 To maintain a good consistency and comparator through the Committee's annual reports it was agreed that they would continue to monitor a year's worth of activity. Therefore, this report considers the period from May 2020 to May 2021.
- 3.5 The Committee are asked to consider the content of the draft Annual Report and propose changes where useful. An updated report will be presented to the Committee's meeting on 1 July with the final version submitted by the Chair to Council on 21 July 2021.

4. EQUALITIES IMPLICATIONS

- 4.1 There are no immediate equalities implications arising out of this report.

5. OTHER STATUTORY IMPLICATIONS

- 5.1 This section of the report is used to highlight further specific statutory implications that are either not covered in the main body of the report or are required to be highlighted to ensure decision makers give them proper consideration. Examples of other implications may be:
- Best Value Implications,
 - Consultations,
 - Environmental (including air quality),
 - Risk Management,
 - Crime Reduction,
 - Safeguarding.
- 5.2 Robust ethical governance arrangements help to ensure the proper, efficient and effective discharge of the Council's functions and contribute to compliance with the requirement to achieve best value.

6. COMMENTS OF THE CHIEF FINANCE OFFICER

- 6.1 There are no immediate financial implications resulting from this report.

7. LEGAL COMMENTS

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

Linked Report

- NONE

Appendices

- Appendix 1 – draft Annual Report to Council

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

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

- NONE

Officer contact details for documents:

- N/A

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London Borough of Tower Hamlets
Standards Advisory Committee – Annual Report to Council
Year May 2020 to May 2021

Introduction

1. This is the regular Annual Report of the Advisory Committee. It sets out the key issues dealt with by the Committee during the past municipal year and identifies the priorities for 2021/22. Note that although the Covid-19 pandemic has altered the Council's formal municipal year timetable, for clarity the Committee is reporting on the regular May to May period.

Membership

2. During the municipal year 2020/21 the Committee comprised 5 elected members and 5 independent co-opted members. The Council's Constitution provides that an independent co-opted member be appointed Chair of the Committee.

Elected Members (up to September 2020):

- Cllr. Sufia Alam
- Cllr. Mufeedah Bustin
- Cllr. Rabina Khan
- Cllr. James King
- Cllr. Abdal Ullah

Elected Members (post September 2020):

- Cllr. Rajib Ahmed
- Cllr. Mufeedah Bustin
- Cllr. Rabina Khan
- Cllr. Leema Qureshi
- Cllr. Abdal Ullah

Independent Co-opted Members

- John Pulford MBE (Chair)
- Nafisa Adam (Vice Chair)
- Fiona Browne
- Mike Houston
- Denzil Johnson (appointed March 2021)

Independent Persons

3. The Council has appointed two statutory Independent Persons (IPs) under the Localism Act 2011. Ms Elizabeth Hall served an initial term of 5 years until June 2018 and has been re-appointed as an IP until 18 September 2021. Ms Rachael Tiffen was appointed in June 2018 and her term of office will expire on 16 January 2022.

4. The principal role of the IP is to give an independent view on governance issues in general and specifically in relation to alleged breaches of the Code of Conduct for Members. Both IP's work closely the Monitoring Officer and her Deputies, considering all complaints and whether an alleged breach of the Code meets the criteria for investigation.

5. It is also a statutory requirement to consult the IP before deciding on the outcome of an investigation into a complaint and whether to impose any sanction. The Member complained about may also at any stage of the process seek a view from the IP and in order to avoid any conflict of interest the Council has appointed two IPs.

6. The Council is fortunate to have appointed two IPs with a sound understanding of the ethical framework who both act as advocates for the Council in promoting ethical standards and of high standards of conduct. Although not members of the Standards Advisory Committee, they attend meetings and play an important role in the proceedings. Both IPs also contribute to and participate in the Council's mandatory Ethics & Probity training programme. In this report I would like to acknowledge the continuing invaluable work and support of Elizabeth Hall and Rachael Tiffen.

7. As the terms of appointment for both Independent Persons expire during the 2021-22 year, it will be necessary to consider any appropriate recruitment exercises or re-appointments during that year.

Officers

8. The Committee's lead officers were:

- Asmat Hussain – Corporate Director Governance & Monitoring Officer (up to December 2020)
- Mark Norman – Legal Adviser & Deputy Monitoring Officer
- Janet Fasan – Director, Legal Services and Interim Monitoring Officer
- Matthew Mannion – Head of Democratic Services

Terms of Reference

9. The current terms of reference for the Standards Advisory Committee are contained in Part B Section 19 of the Constitution, with the Committees procedures set out in Part D. These are attached as Appendix A to this report.

Meetings

10. The Standards Advisory Committee held four meetings during the 2020/21 municipal period on the following dates:

- 30 July 2020
- 15 October 2020
- 4 February 2021
- 22 April 2021

11. Due to the pandemic, the Committee met virtually and at a new time of 2pm. These innovations were generally successful and many Members commented that they found it easier to attend meetings if they were held virtually and during the day. However, in line with the expiration of the virtual meetings regulations, the Committee will be reverting to physical meetings for the next municipal year. **The start time will revert back to its regular evening slot [Note – Committee to discuss].**

Standards Advisory Committee Work Programme 2020/21

12. The Committee agreed a work programme at the first meeting of the municipal period on 30 July 2020. It was updated throughout the year. The key areas of business considered during the year are listed below:

Code of Conduct for Members – Complaint Monitoring:

13. The Committee received bi-annual monitoring reports on complaints of alleged breach of the Code of Conduct for Members. There were **XX** complaints from May 2020 to May 2021.

14. **XX** of the complaints were made by members of the public and **YY** by local councillors. **Following consultation with the IP it was not necessary to refer any of the complaints for investigation, although in 1 of the cases it was agreed that the Monitoring Officer would issue additional guidance to members about behaviour during meetings. This guidance was reflected in the Speaker’s script for Full council meetings which was amended (March 2020).**

15. The Committee continue to monitor whether there are lessons to take from complaints monitoring. They continue to monitor remedial actions and that outcomes are reported to the complainant, to give assurance that maintaining ethical standards is given full organisational support.

Dispensations:

16. The Committee received bi-annual reports on dispensations granted by the Monitoring Officer under section 33 of the Localism Act 2011 in respect of disclosable pecuniary interests (DPI’s). There is a continuing General Dispensation to all Members to be present, speak and vote where they would otherwise have a DPI in the following matters:

- (a) Housing: where the Councillor (or spouse or partner) holds a tenancy or lease with the Council if the matter does not relate to the particular tenancy or lease of the Councillor (their spouse or partner).
- (b) Council Tax: setting the council tax and related matters including setting precepts and agreeing council tax reduction schemes; and
- (c) Determining an allowance, travelling expense, payment or indemnity for Councillors. This includes discussions of issues relating to officer pay which could have consequential impacts on Member Allowances.

17. A specific dispensation may also be granted where the Monitoring Officer is satisfied that:

- (a) without the dispensation the number of persons prohibited from participating in any particular business would be so great a proportion of the body transacting the business as to impede the transaction of the business;
- (b) without the dispensation the representation of different political groups on the body transacting any particular business would be so upset as to alter the likely outcome of any vote relating to the business;
- (c) granting the dispensation is in the interests of persons living in the authority's area; or
- (d) it is otherwise appropriate to grant a dispensation.

Any grant of a dispensation must specify the duration of the dispensation up to a maximum of 4 years.

The regular reporting to the Standards Advisory Committee allows Members to maintain oversight of any specific dispensations that are granted.

18. One specific dispensations was reported up to the Committee during the year. This related to Councillor Sirajul Islam in respect of his role as Cabinet Member for Housing. As a Council tenant he had a potential interest in any work around tenancy agreements. However, as the relevant Cabinet Member he would have been expected to have a role in relation to this. The dispensation allowed him to undertake that role, whilst putting certain restrictions in place.

Gifts & Hospitality:

19. The Committee received quarterly reports on the requirement contained in the Code of Conduct to register gifts and hospitality received or declined with an estimated value of £25 or above.

20. In total **XX** declarations were made within the reporting periods of the July 2020, October 2020, February 2021 and April 2021 meetings. **The total number of declarations were slightly lower than a similar period the previous year.**

21. During the year the Committee also monitored the speed of the declarations made, taking interest in whether declarations were made within the 28-day deadline.

The Committee were pleased to note that the vast majority were made within this time but did note occasions where that was not the case and in particular...

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Given it was an issue raised in the previous internal audit of the gifts and hospitality process the Committee will continue to monitor compliance.

(Note – add comment about ‘large gifts’ and about encouraging donation to Speaker’s Charity)

22. The Committee noted that acceptance of gifts and hospitality by councillors is not merely an administrative issue. Acceptance can impact on member reputation and on the council as a whole. Members need to show they are acting in the public interest and do not gain personally from receiving gifts.

23. Following a proposal from a Member at the Committee noted in the last annual report to Council, the Register of Interests form update form was updated to include a ‘Nil Return’ field in relation to Gifts and Hospitalities. This additional field allows Members to actively confirm each time they update their Register that they have declared all relevant gifts and hospitality. This helps mitigate any concerns that a Member had missed any declarations. The Committee will continue to monitor this issue and will receive quarterly update reports.

Member Learning and Development Programme:

24. The October meeting of the Committee received the regular yearly report providing an update on the Member Learning and Development Programme listing events that had taken place during the year to that date.

25. The Committee saw that the planned programme of sessions and training events had been severely impacted by the Covid-19 pandemic with a pause in all sessions between February and July 2020. Nevertheless, a wide range of briefing sessions had taken place on subjects as diverse as the Youth Consultation Task and Finish Group, the Council’s Housing Allocation Scheme and the Regeneration Delivery Plan.

26. A number of learning and development sessions had also been run including on resilience and group cohesion, local government finance, social media policy and the mandatory ethics and probity training had also taken place.

27. It was noted that the move to virtual training and information sessions from July 2020 caused by the pandemic had seen a significant increase in Member attendance and the Committee heard that Members found the new virtual sessions much more convenient and simpler to fit into their busy diaries.

28. Consequently, the Committee noted that virtual member briefing sessions were likely to remain the default arrangement once the pandemic had passed but that some training and development sessions would revert to physical attendance where that was appropriate.

[Add comments from the Member Learning and Development Survey]

Strengthening Local Democracy:

29. The Committee considered an update report on the Council's Strengthening Local Democracy project at its February 2021 meeting. Whilst this is under the guidance of the General Purposes Committee, it was useful to have a report presented to the Standards Committee due to the overlap with the Code of Conduct and the work of Members.

30. The report set out the Ward Councillor Support Framework which had been developed and listed the various actions and tasks to be completed or in progress.

31. The Committee welcomed the updates and had good discussions looking at the issues raised. Particular issues that came up included:

- Public behaviour towards Members and whether there was anything that could be done to tackle the problem.
- How ICT was changing all areas of work and it was important to ensure Members were supported in this.
- Ensuring that projects like Strengthening Local Democracy considered their role in supporting good practice and standards under the Code of Conduct.

Local Government Ethical Standards Review:

32. As previously reported, the Committee on Standards in Public Life (CSPL) conducted a review of local government ethical standards between January and May 2018. The review considered all levels of local government in England and its terms of reference were to:

- examine the structures, processes and practices in local government in England for:
- maintaining codes of conduct for local councillors
- investigating alleged breaches fairly and with due process
 - enforcing codes and imposing sanctions for misconduct
 - declaring interests and managing conflicts of interest
 - whistleblowing
- assess whether the existing structures, processes and practices are conducive to high standards of conduct in local government
- make any recommendations for how they can be improved
- note any evidence of intimidation of Councillors, and make recommendations for any measures that could be put in place to prevent and address such intimidation

33. The CSPL set out 15 Best Practice Recommendations in a letter to all Councils in July 2020. The Committee considered a report looking at these recommendations at its meeting in October 2020. It noted that some recommendations were not relevant (for example some referenced Parish Councils) and in other cases the Council's existing processes and procedures covered the recommended actions. A number of actions remained and the report set out how

these were to be covered. This report was also attached as an appendix to the last Annual Report to Council.

New Model Code of Conduct

34. As reported in the last Annual Report, in June 2020, the Local Government Association (LGA) launched a consultation on a draft Model Code of Conduct. The Committee provided feedback as part of that consultation exercise.

35. Following the consultation exercise a new Model Code of Conduct was produced. This was considered by the Committee at its meeting on 4 February 2021.

36. The Committee welcomed the new Code and in particular noted that it incorporated a number of additions to the existing code which Tower Hamlets had already implemented including the requirement for Members to register additional interest beyond the standard Disclosable Pecuniary Interests.

37. The Committee agreed that the Council should look at adopt the new Model Code, subject to any amendments and additions that were thought to be useful.

38. The Committee established an informal sub-group to consider potential revisions to the code and to then report back to the Committee.

[Note the report can highlight when the final version will be presented to Council for agreement.]

Member / Officer Relations Protocol

39. The Committee received an initial report at its February meeting providing an opportunity to consider whether Members wished to review the existing Member / Officer Relations Protocol as set out in the Constitution.

40. During discussion it was felt that the new Code of Conduct would have a big impact on the Protocol and that therefore it should be reviewed once the Code of Conduct was updated and agreed. This action has been added to the Committees 2021/22 workplan.

Members' Rights of Access to Information

41. At its October meeting, the Committee considered a briefing on the constitutional right of access to information for Members of the Council. The standard and additional rights for Members were noted and examples were given on the 'need to know' and the rights of Members on Committees.

42. The briefing paper generated a good discussion and a wide range of views were expressed. Particular points noted included:

- The role of the Member Enquiries process and how to balance the 'need to know' with the needs of Members to undertake their various roles.

- Occasions where it was appropriate to delay sharing of information such as when it was due to be published at a later date.
- The role of the Overview and Scrutiny Committee and how it could request additional information from services in relation to reviews it was undertaking.

43. Following the discussion, the Committee asked for more details on the current review of the Member Enquiries process.

Register of Interests – Member Addresses

44. A recurring theme across the year concerned Member safety. At the October meeting the Committee considered a report highlighting the increase in the number of Members requesting that their home addresses be removed from the published Register of Interests under the Localism Act 2011. As recently at 2019 the Local Government Minister had written to Councils encouraging use of this option to minimise risk to Members (this followed a review of intimidation in public life by the Parliamentary Committee on Standards in Public Life).

45. It was noted that in 2018 only 2 Members had their home addresses withheld but that this had now increased to 21. The Committee heard that it was for the Member to present their concerns to the Monitoring Officer who could agree such requests.

46. A good discussion was held on the balance between a Member's right to take action when threatened against the public interest in knowing the Interests of their elected Members. It was agreed that Members had a right to feel safe in their own homes and removing addresses was a reasonable action where threats had been received. However, the public interest was also noted. It was confirmed that only home addresses were removed from the website. It was also agreed that in future where an address was removed the general area of the borough it was located in would be retained to provide some transparency.

Terms of Reference Review

47. Following a suggestion at the October meeting of the Committee, a report was presented to the February meeting to begin a project to review the Committee's Terms of Reference (TOR). This was to ensure that the TORs were comprehensive and were written in clear language. The question was also raised as to whether the TORs set out were achievable and realistic.

48. The review began with a survey of existing and recent Members of the Committee to take their views. This was reported up to the Committee in February 2021. The general results were very positive. None of the functions in the TORs were identified as being extremely deficient. However, some potential improvements were noted. This work will be picked up in the Committees workplan for 2021-22.

Guidance Provided to Members who are appointed to Outside Bodies

[Add after the April meeting]

Governance at Council Owned Bodies

[Add after the April meeting]

Member Attendance Update

49. At the July meeting, the Committee received the annual report setting out Member attendance at Council and Committee meetings. The report set out how attendance was recorded and provided details of attendance at meetings by the Mayor, Councillors and Co-optees. In particular the Committee noted the impact that the Covid-19 pandemic had had on Committee meetings from March to September 2020.

50. The Committee also welcomed the first use of the new facility to allow Members to take maternity, paternity or adoption leave with Councillor Mufeedah Bustin granted leave for much a period from 13 November 2019 to 31 May 2020.

51. The Committee also noted that the General Purposes Committee (under its emergency powers on behalf of Council) had agreed a general extension for all Councillors until the end of October 2020 to the requirement to attend at least one meeting every six months, due to the Covid-19 pandemic disruption.

Standards and Code of Conduct in relation to planning and development matters

52. Reported to the Standards Advisory Committee in July 2020 (and attached to the previous annual report as an appendix), was an update on recent issues seen at other authorities around probity in relation to planning decisions.

53. The committee were provided with reassurance that the Council had strong processes in place. Members of the Committee who were also members of the Council's Development and Strategic Development Committees reported on the strong culture of ethics and probity on those Committees.

54. The issues raised by the report would be included in training for the planning committees when appropriate.

Pandemic and support for Members

55. Given the impact the Covid-19 pandemic was having on Members and the Council's decision making arrangements, the Committee asked for a report to its July meeting setting out how the pandemic had impacted the Council's arrangements and how Members were being supported through this time.

56. The report covered a number of areas including:

- How the Council had developed new virtual Committee meeting arrangements
- The impact on the work of the Speaker of the Council.

- That the Member Learning and Development Programme had been paused but that it was now starting up again as online events and briefings.
- The temporary introduction of an 'Urgent' Member Enquiries process during the early stages of the pandemic.
- That Member Surgeries had ceased for the time being.
- General support provided to Members, including the new ICT equipment being rolled out.

57. The Committee noted the impact on the Council's Committees and meetings and held an interesting discussion on early experiences of online meetings. It was noted that the legislation which allowed for remote meetings would expire in May 2021 and that there may be lobbying to encourage government to make the new rules permanent.

Standards Advisory Committee Work Planning for 2021-22

58. The Committee intends to undertake a substantial work programme during 2021-22, including looking at the following items.

- Bi-annual monitoring of complaints of alleged breach of the Code of Conduct for Members.
- Quarterly monitoring of gifts and hospitality registered.
- Bi-annual reports on DPI dispensations.
- Concluding its preparation of the proposed new Member Code of Conduct
- Following the conclusion of the Member Code of Conduct
- Members training programme update.
- Implementation of CSPL best practice recommendations.
- Looking at what follows the Strengthening Local Democracy project.
- Continue its review of the Committee's Terms of Reference.
- Practical guidance for Members handling confidential information.
- News on ethics matters elsewhere including areas such as good practice, case law, ombudsman and quasi-judicial proceedings and similar.
- Members attendance at meetings.
- Annual report to Council.
- Annual review of the Member Code of Conduct

59. The 2021/22 work programme aims to continue to embed behaviours that support the seven principles in public life described in the Nolan report by encouraging Members to apply ethical standards in their day-to-day duties and to look at how these should influence their approach to discharging their responsibilities in their individual and collective capacities.

Conclusion

60. As Chair of the Committee I wish to thank my fellow committee members, both Independent Persons and the Monitoring Officer for their contributions to the Committee's business and their commitment to promoting and maintaining high

standards of ethical conduct across the Council. I also wish to thank the officers of the Council for their work in supporting the Committee during the year.

61. I would particularly like to highlight how important it is that the Council has such dedicated co-opted Members who are active contributors to the Committee's discussions and have demonstrated commitment to the role of Standards in the authority. The involvement of co-opted Members should be considered as 'good governance'. We are ahead of many local authorities in this area.

John Pulford MBE
Independent Chair

Standards Advisory Committee – Terms of Reference and Procedures

(As agreed at the Standards Advisory Committee on 15 October 2020)

17. Standards Advisory Committee – Terms of Reference

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
1. Promoting and maintaining high standards of conduct by the Mayor, councillors and co-opted members of the Council.	None

<ol style="list-style-type: none"> 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 considering 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. 	
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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)

Standards Advisory Committee Procedures

1. Composition

1.1 The Standards Advisory Committee shall be comprised of 5 Members of the Council (not including the Mayor or more than 1 Cabinet Member) and each political group may appoint up to 3 substitutes, appointed by the Council in accordance with the requirements of political proportionality; and up to 7 persons who are not Members or officers of the Council or any other relevant authority (i.e. Co-opted members).

1.2 The Co-opted member(s) 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 shall be chaired by a Co-opted member.

1.3 The Committee shall establish Hearings and other Sub-Committees in accordance with its terms of reference and these procedures.

2. Appointment of Co-Opted Members

2.1 A person may not be appointed as a Co-opted member of the Standards Advisory Committee or one of its sub-committees unless the appointment is approved by Full Council. The term of appointment shall be for 4 years unless otherwise determined by Council or the Co-optee does not continue to fulfil any required conditions as may be determined by the Authority from time to time. Co-opted members may serve as many terms of appointment as the Council considers appropriate.

3. Roles and Functions

3.1 The Standards Advisory Committee has the following roles:

(a) To recommend to the Monitoring Officer whether or not any complaint of a breach by the Mayor, a Councillor or a co-opted member of the Members Code of Conduct should be referred for investigation by the Monitoring Officer or an investigator appointed by the Monitoring Officer; and where a complaint has been subject to such investigation, to recommend whether or not the complaint should proceed to hearing. Where the Monitoring Officer considers that a complaint should not be subject to investigation or should not proceed to hearing, s/he shall convene an Investigation and Disciplinary Sub-Committee of the Standards Advisory Committee comprising at least 3 different Members of the Standards Advisory Committee (comprising 2 of the co-opted members and 1 Councillor) which shall make the final decision on the matter;

(b) To receive regular quarterly reports from the Monitoring Officer on the numbers of complaints of the Code received, the decisions taken by the Monitoring Officer (in consultation with the Independent Person) on such complaints and investigation outcomes where the investigation determines there was no evidence of a failure to comply with the code or where the investigation outcome recommends a local resolution;

(c) To convene a Hearings Sub-Committee of 3 Members of the Standards Advisory Committee comprising 2 of the co-opted members and 1 Councillor to consider any matter where the investigation finds evidence of a failure to comply with the Code and a local resolution is not possible or appropriate;

(d) To make such recommendations to Council in respect of the matter as the Hearings Sub-Committee considers appropriate as a result of any matter referred including;

(i) Reporting its findings to Council for information;

(ii) Recommending to the member's Group Leader (or in the case of ungrouped members, recommend to Council or to Committees) removal from any or all Committees or Sub-Committees of the Council;

(iii) Recommending to the Mayor removal from the Executive, or from particular Portfolio responsibilities;

(iv) Recommending the Monitoring Officer arrange training for the member;

(v) Recommending removal from outside appointments to which s/he has been appointed or nominated;

(vi) Recommending withdrawing facilities provided to the member by the Council, such as a computer, website and/or email and Internet access;

(vii) Recommending excluding the member from the Council's offices or other premises, except for meeting rooms as necessary for attending Council, Executive Committee and Sub-Committee meetings;

(viii) Recommending the Member to contact the Council via specified point(s) of contact;

(e) To convene a Hearings (Appeal) Sub-Committee of at least three different Members of the Standards Advisory Committee (comprising 2 of the co-opted members and 1 Councillor) to consider any appeal against a finding of, or sanction recommended by, the Hearings Sub-Committee;

(f) To receive reports on compliance with any recommendation(s) made for sanctions to be applied in respect of any member;

(g) Promoting and maintaining high standards of conduct by the Mayor, Members of the Council, co-opted members including church and parent governor representatives and where the Committee considers that there may be issues of concern recommending that the Monitoring Officer considers and reports on the issues raised;

(h) Assisting the Mayor, Members of the Council, co-opted members including church and other faiths and parent governor representatives to observe the Council's Code of Conduct for Members;

(i) Advising the Council on the adoption or revision of the Code of Conduct for Members;

(j) Monitoring the operation of the Code of Conduct for Members;

(k) Advising, training or arranging to train the Mayor, Members of the Council and co-opted members including church and other faiths and parent governor representatives on matters relating to the Code of Conduct for Members;

(l) To act as an advisory body in respect of any matters referred to the Standards Committee by the Local Strategic Partnership (LSP) or Community Forums in respect of probity issues arising out of the codes and protocols applicable to relevant members of the LSP and Community Forums as set out in the Community Forum handbook and as may be amended from time to time;

(m) To advise on allegations of Member breaches of the Protocols set out in the constitution as may be referred to the Committee by the Monitoring Officer and to make recommendations with regard to such allegations as maybe so referred;

(n) Advising on local protocols for both Officer and Member governance;

(o) To monitor and review Member and Officer Procedures for registering interests and declaring gifts and hospitality;

(p) To receive periodic reports on the Council's Ethical Governance arrangements, on whistle blowing arrangements and complaints; and

(q) 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.

4. Validity of proceedings

4.1 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 co-opted member.

4.2 Part VA of the Local Government Act 1972 applies in relation to meetings of the Standards Advisory Committee or its Sub-Committees as it applies to meetings of the Council.

5. Hearings Sub-Committee and Hearings (Appeal) Sub-Committee

5.1 Any Hearings Sub-Committee or Hearings (Appeal) Sub-Committee shall comprise a minimum of three Members of the Standards Advisory Committee at least two of whom shall be co-opted members.

5.2 The Hearings Sub-Committee shall consider complaints referred to it that the Mayor, an elected or co-opted Member of the Council may have failed to comply with the Council's Code of Conduct for Members or local protocol where the complaint has been subject to an investigation arranged by the Monitoring Officer and shall make recommendations accordingly. The Hearings Sub-Committee shall decide at the outset of the meeting whether it is in the public interest that the Hearing is held in

a public or private session in accordance with relevant statutory guidance as advised by the Monitoring Officer.

5.3 The membership of the Hearings (Appeal) Sub-Committee shall not include any member who served on the Hearings Sub-Committee that considered the same complaint.

5.4 The Independent Person, or if that person is unable to act a reserve Independent Person, shall have the right to attend all meetings of the Hearings Sub-Committee or Hearings (Appeal) Sub-Committee as an observer but may not vote or participate in the decision making.

6. Attendance Requirements

6.1 In the event that any Member of the Committee does not attend three or more consecutive meetings of the Committee, the Committee may draw the attention of the Council to such non-attendance and may recommend that the member concerned be replaced on the Committee.

6.2 The Committee shall not do so without first giving the absent Member an opportunity to make representations (which may be made in writing) as to their non-attendance and any matters they wish the Committee to take into account.

7. Procedures

7.1 The Committee shall maintain these procedures to enable it to discharge the arrangements under its Terms of Reference.

8. Confidentiality

8.1 The Committee and any of its Sub-Committees may meet in private in accordance with the 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.

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Non-Executive Report of the: Standards Advisory Committee Thursday, 22 April 2021	 TOWER HAMLETS
Report of: Janet Fasan, Director of Legal and Interim Monitoring Officer	Classification: Open (Unrestricted)
Review of the guidance for nominees to outside bodies	

Originating Officer(s)	Matthew Mannion, Head of Democratic Services Joel West, Democratic Services Team Leader (Committees)
Wards affected	(All Wards);

Executive Summary

One of the roles Members play is to be appointed as the Council’s representative on local charity and organisation boards and committees. Most of these appointments are made by the Mayor at Cabinet or as Individual Mayoral Decisions.

When a Member is appointed they are provided with guidance on how to perform the role as a representative on an outside body and what is generally expected of them.

This report presents the current guidance so that the Committee can review it and determine whether it is still effective or to suggest improvements.

Recommendations:

The Advisory Committee is recommended to:

1. Note and offer any comments on the guidance that is provided to persons appointed or nominated by the council to outside bodies.

1. REASONS FOR THE DECISIONS

- 1.1 The Advisory Committee has asked to review the guidance that is provided to persons nominated by the council to positions on outside bodies.

2. ALTERNATIVE OPTIONS

- 2.1 None

3. DETAILS OF THE REPORT

- 3.1 The council can nominate persons to positions on outside bodies. Authority to nominate or appoint councillors, officers and other individuals to serve on

outside bodies rests with the Mayor in respect of executive functions and to General Purposes Committee in respect of non-executive functions.

- 3.2 When a nomination to an outside body is made as above, the council informs both the nominee and the representative of the outside body. The nominated person is provided with guidance to enable them to understand their duties and obligations when fulfilling their new role.
- 3.3 The guidance was last fully reviewed in 2017 and was subsequently also noted by the General Purposes Committee in 2019 when it refreshed the list of Outside Bodies the council made appointments to.
- 3.4 The guidance is attached as Appendix A. The Advisory Committee is invited to review the guidance and offer comment.

4. EQUALITIES IMPLICATIONS

- 4.1 It is important that the guidance is clear to ensure that all Members are able to fully engage with local organisations to support the good work they undertake to support our communities.

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 Appendix A summarises the statutory obligations of appointees to certain types of outside bodies. There are no other statutory implications relating to this report.

6. COMMENTS OF THE CHIEF FINANCE OFFICER

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

7. COMMENTS OF LEGAL SERVICES

- 7.1 There are no direct legal implications arising from this report.

Linked Reports, Appendices and Background Documents

Linked Report

- None.

Appendices

- Appendix A - London Borough of Tower Hamlets protocol for councillors, officers and individuals appointed or nominated by the council to outside bodies

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:

Joel West, Democratic Services Team Leader (Committee)

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**LONDON BOROUGH OF TOWER
HAMLETS**

**PROTOCOL
FOR COUNCILLORS, OFFICERS AND
INDIVIDUALS
APPOINTED OR NOMINATED BY
THE COUNCIL
TO OUTSIDE BODIES**

1. Introduction

- 1.1 This document sets out guidance for elected Councillors, Officers and other individuals who are not elected Councillors or Officers, who are appointed or nominated by the Council to serve on outside bodies such as companies, charities and unincorporated associations. It is not intended to apply to representatives who may legitimately promote the Council's own interests, for example at meetings of London Councils.
- 1.2 The Council has nomination/appointment rights to a wide range of outside bodies (e.g. voluntary organisations, foundations, trusts, boards of management, central and local authority organisations).
- 1.3 The Council values its links with these bodies and appreciates the time and service Councillors, Officers and other individuals devote to the wider community by participating in their work.

2. General

- 2.1 Authority to nominate or appoint Councillors, Officers and other individuals to serve on outside bodies rests with the Mayor in respect of Executive functions and to General Purposes Committee in respect of non-Executive functions. All nominations to outside bodies are published on the Council's website.
- 2.2 Any such Councillor, Officer or individual serving on an outside body has a responsibility to commit to the task, attend meetings and support the work of the organisation. Some organisations have rules about attendance (e.g. missing a number of consecutive meetings may lead to loss of the place on the body). It is therefore for Councillors etc. to understand the extent of the commitment before seeking or agreeing to an appointment to an outside body.
- 2.3 Service on an outside body requires the nominated or appointed person to:
 - act according to the rules, constitution and framework of the outside body;
 - make independent and personal judgements in line with the duty of care to the outside body;
 - report back to the Council and lead member or relevant committee as requested or as necessary;

- behave ethically, and follow the Council's Member of Officer Codes of Conduct, as appropriate **unless this conflicts with other obligations to which the outside body is subject;**
 - take an active and informed role in the management of the outside body's affairs;
 - ensure the Council's Register of Interests is updated to include reference to his/her representational role on the outside body.
- 2.4 Service on an outside body generally means that the Councillor, Officer or other individual cannot represent the Council's interests. For example, if the service is as a trustee or a company director the appointee has a legal responsibility to act in the interests of the outside body only, as opposed to the interests of the Council or any other organisation. This could lead to conflicts of interest (including a conflict of loyalty) between the role as a Councillor, Officer or appointed/nominated individual and the role on an outside body.
- 2.5 When any matter arises within the Council that relates to an outside body on which a Councillor, Officer or other nominated/appointed individual sits, a conflict of interest may arise. For Councillors, or other nominated/appointed individual serving on Council Committees, an interest may arise which must be declared and recorded on the Councillor or individual's Register of Interests. Whether or not the interest is a disclosable pecuniary or other registrable non-pecuniary interest under the Code of Conduct for Members will depend on all the circumstances, including whether a member of the public would reasonably consider it is likely to affect the Member's ability to act in the public interest. Independent or co-opted persons serving on Council Committees are also expected to comply with the Members' Code of Conduct and therefore, should any of those persons also be nominated or appointed by the Council to an outside body, the same principles on managing conflicts shall apply to them as to elected Councillor. Councillors and any relevant individual should refer to the Code of Conduct, any relevant Guidance which the Council has published, and can seek further advice from the Monitoring Officer. Officers will need to seek advice from their Corporate Director as to how best to deal with such a conflict and must have regard to the Officers' Code of Conduct. Conversely, when any matter arises within the outside body on which a Councillor, Officer or nominated/appointed individual sits that relates to the Council, a conflict of interest may also arise and should be managed in accordance with that outside body's rules and processes for dealing with conflicts of interest.
- 2.6 Subject to any other duties and responsibilities Councillors, Officers and nominated/appointed individuals owe in respect of their service to the outside body (for example the duty of confidentiality), those persons should:

- (i) provide an annual update on the work of the outside body, and
- (ii) provide any information relevant to any application from the outside body for funding from the Council to the General Purposes Committee.

2.7 For general advice on any aspect of their service, Councillors, or other nominated/appointed individuals, should contact the Members' Service Team.

3. Legal Advice

3.1 A guide to the law as it affects Councillors, Officers and individuals serving on outside bodies is attached as **Appendix A**. The guide covers the range of different outside bodies and, therefore, those seeking guidance can refer to the relevant section.

APPENDIX A

SERVICE ON OUTSIDE BODIES A GUIDE TO THE LAW

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

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

General

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

papers or failing to ask for appropriate reports. They will be expected to seek professional advice where appropriate.

5. An individual may not be appointed or nominated as a charity trustee or director if s/he is disqualified from taking up this position. Eligibility requirements are set out in Appendix B.

COMPANIES

General

6. On incorporation, a company becomes a separate legal entity which can hold property in its own right, enter into contracts and sue and be sued in its own name. The company is distinct from its members and officers. In the case of a limited liability company, the liability of members of the company is limited to the amount they paid or agreed to pay when they joined the company.
7. Companies limited by shares are those that have a share capital. Each member holds shares and receives a share in the profits made by the company according to the value of the shares held. Shares can be sold. Companies limited by guarantee are those where there is no shareholding. Instead each member agrees that in the event of the company being wound up they will pay a certain amount. This may be as little as £1. This form of company is the most usual in the public and voluntary sector particularly where charitable status is sought.
8. The management of a company is generally the responsibility of a board of directors. The powers of the directors are usually set out in the company's Articles of Association (the rules each company has to govern its internal management). Sometimes, even though a company has been incorporated, the directors may be referred to as members of the committee of management, governors or even trustees. However, this does not change their status as directors. Conversely, sometimes officials are called directors but they are not members of the board. Again, their status will not be affected. Directors are those who are appointed by the company to act in that capacity.

Directors' Duties

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

(1) Duty to act within powers

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

(2) Duty to promote the success of the company

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

(3) Duty exercise independent judgement

A director is under a duty to exercise independent judgement. This means that they must not be unduly influenced by the wishes or instructions of others, though it is permissible for them to take account of the interests of the third party which they represent. In such a case the director must disclose that position and tread a fine line between the interests of the company and the party represented (in this case the Council). The director cannot vote and speak simply in accordance with the Council mandate. To do so would be a breach of duty.

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

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

(5) Duty to avoid conflicts of interest

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

(6) Duty not to accept benefits from third parties

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

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

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

(8) Duty to ensure compliance with the Companies Acts

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

Directors' Liabilities

10. Directors may be liable in the following circumstances:
 - (1) The remedies available against a director for a breach of the duties set out at paragraphs 9(1-3) and 9(5-7) above include damages, accounting for profits made, restitution of property and injunctive relief. In practice damages are by far the most common remedy. Damages are the only remedy for a breach of the duty set out at paragraph 9(4).
 - (2) The company's name must clearly be shown on its business stationery. The company number, place of registration and registered office address must be shown on business letters, order forms (including equivalent emails) and any company website. If any of the directors' names are shown then they must all appear. Non-compliance is an offence and the directors and company officers can be fined.
 - (3) If a director knows or ought to know that there is no reasonable prospect of the company avoiding liquidation, a Court may require that director to contribute to the company's assets on liquidation if the company continues to trade. This is known as wrongful trading. No such order will be made if the Court is satisfied that the director took all reasonable steps to minimise the loss to the creditors. However, liability can be incurred through failing to act. If a director has concerns about the company's financial position he/she would be well advised to inform the other directors and seek advice from the company auditors. He/she should try to ensure that further debts are not incurred.
 - (4) A director will also be liable if to his/her knowledge the company carries on business with intent to defraud creditors or any other person, or for

any other fraudulent purpose. Fraudulent trading can lead to disqualification from acting as a director. It is also a criminal offence and can lead to a fine or imprisonment.

- (5) All cheques and similar documents which purport to be signed on behalf of the company must bear the company name. Where they do not, the director signing on behalf of the company may be liable to a fine and may also be liable to the payee if the company fails to honour the cheque. It is, therefore, wise for directors to make sure that all documents they sign on behalf of the company state very clearly that they act as agent for the company, (e.g. Director, for and on behalf of).
- (6) A third party who enters into a contract on the assumption that a director has power to bind the company, may be able to claim damages against the director if it subsequently transpires that the director had no such power. Directors would be well advised to ensure that contracts are approved by the board and that the authority to enter into any contract has been properly delegated before signing it.
- (7) Though company liability ceases on dissolution, the liability of the directors (if any) may still be enforced after dissolution.

Indemnities and Insurance

11. The following arrangements apply:

- (1) Directors cannot be indemnified by the company against liability arising out of negligence, default, breach of duty or breach of trust in relation to the company. However, the company's Articles of Association may allow for directors to be indemnified by the company against liability to a third party, although this must not extend to payment of a criminal fine, a financial penalty payable to a regulatory authority, or liabilities incurred in certain legal proceedings where the director is unsuccessful. Please note that it is lawful for companies to purchase insurance to protect their directors against claims of negligence, breach of duty, breach of trust and default. Directors may, therefore, wish to consider maintaining such insurance. For professional directors (accountants, solicitors, etc.) providing specialist knowledge and expertise, professional indemnity insurance may be available at a cost.
- (2) The first recourse would be to ensure that the company provides insurance. The Council may provide indemnities for Councillors or Officers when appointing them to act as directors, and has insurance to cover any losses which they may suffer through acting conscientiously as a director, although the cover only.

Local Authorities (Companies) Order 1995

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

CHARITIES

General

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

- the prevention or relief of poverty;
 - the advancement of education;
 - the advancement of religion;
 - the advancement of health or the saving of lives;
 - the advancement of citizenship or community development;
 - the advancement of the arts, culture, heritage or science;
 - the advancement of amateur sport;
 - the advancement of human rights, conflict resolution or reconciliation or the promotion of religious or racial harmony or equality and diversity;
 - the advancement of environmental protection or improvement;
 - the relief of those in need, by reason of youth, age, ill-health, disability, financial hardship or other disadvantages;
 - the advancement of animal welfare;
 - the promotion of the efficiency of the armed forces of the Crown or of the police, fire and rescue services or ambulance services;
 - other purposes recognised as charitable under existing law and any new purposes which are similar to another prescribed purpose.
14. A charitable organisation must operate for the public benefit and have exclusively charitable purposes. An organisation that operates for political purposes does not qualify for charitable status.

14. To register as a charity the organisation must submit its governing document (constitution or rules, trust deed, or Memorandum and Articles of Association – depending on whether it is an unincorporated association, trust or limited company) plus any other required documents to the Charity Commissioners for approval. If they are satisfied that the organisation is charitable it will be registered as such.

15. Those who are responsible for the control and administration of a charity are referred to as charity trustees, and will have those obligations even where the charity has the legal form of a company limited by guarantee. Trustees of a charity retain personal liability, and can only delegate to the extent that the governing document authorises them so to do.
16. Specific guidance for those serving on charitable organisations is available from the Charity Commission.

Trustees' Duties

17. Trustees have the following duties:
 - (1) Trustees must take care to act in accordance with the governing document and to protect the charity's assets. They are also responsible for compliance with the Charities Acts, (and as relevant the Trustee Acts) and should note the particular requirements of the applicable Acts in respect of land transactions.
 - (2) Trustees must ensure the charity is carrying out its purposes for the public benefit, must always act in the charity's best interests and act with reasonable care and skill.
 - (3) Generally speaking, trustees must not profit from their position. They cannot receive remuneration or any other personal benefit without the sanction of the Charity Commission. They must also perform their duty with the standard of care which an ordinary, prudent business person would show. Higher standards are required of professionals, and in relation to investment matters.
 - (4) Trustees must ensure that the information relating to the charity and trustees is registered with the Charity Commissioners and that annual accounts, reports and returns are completed and sent where this is required.
 - (5) If charitable income exceeds £10,000, the letters, advertisements, cheques etc. must bear a statement that the organisation is a registered charity.
 - (6) Trustees are under a duty to ensure compliance with all relevant legislation and other regulators (if any) which govern the activities of the charity.
 - (7) Trustees have a duty of care to their charity if they work with vulnerable groups including children and will need to take the necessary steps to safeguard and take responsibility for them.

Trustees' Personal Liability

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

advice given.

19. Liabilities may arise in the following ways:

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

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

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

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

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

Indemnities

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

COMMITTEES OF MANAGEMENT

Unincorporated Associations

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

members as to how the organisation will operate. Usually the constitution will provide for a management committee to be responsible for the everyday running of the organisation. An unincorporated association may be charitable and may register as a charity.

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

Duties

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

Liabilities

24. The following liabilities may arise:

- (1) Generally, the Management Committee members are liable for the acts of the organisation, but are entitled to an indemnity from the funds of the organisation if they have acted properly. If there are not enough funds, the Committee members are personally liable for the shortfall.
- (2) If one person is appointed by the constitution to act as the agent of the organisation for certain purposes, then that person acts as the agent of all the members, who have joint and several liability for the agent's actions.
- (3) Members of the committee of management will have personal liability if they act outside the authority given to them or if they do not comply with statute e.g. the payment of employees' tax etc.

Indemnities

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

APPENDIX B

Eligibility to serve on Outside Bodies Trustee	Director
<p>Prospective Trustees must meet the following eligibility requirements before any appointments can be made. They must:</p> <ul style="list-style-type: none"> • Be at least 18 years old or at least 16 years old if the charity is also a Company or Charitable Incorporated Organisation (CIO). • Have no unspent conviction for an offence involving dishonesty or deception. • Not be declared bankrupt or be subject to bankruptcy restrictions, an interim order or have an individual voluntary agreement (IVA) with creditors. • Not be disqualified from being a company director. • Not been removed as a trustee by either the charity commission, the Scottish charity regulator or the High Court due to misconduct or mismanagement. • Not be disqualified from being a trustee by an order of the Charity Commission under section 181A of the Charities Act 2011 	<p>Prospective Directors must meet the following eligibility requirements before any appointments can be made. They must:</p> <ul style="list-style-type: none"> • Be at least 16 years old for the appointment to the Outside Body to take effect (section 157 Companies Act 2006). • Not be subject to a bankruptcy restrictions order or undertaking, or a debt relief restrictions order or undertaking. • Not be subject to an order made under section 429(2)(b) of the Insolvency Act 1986 (disabilities on revocation of administration order against an individual). • be convicted of an indictable offence (whether on indictment or summarily) in connection with the promotion, formation, management, liquidation or striking off of a company, with the receivership of a company's property or with them being an administrative receiver of a company (section 2, Company Directors Disqualification Act 1986).

<p>Non-Executive Report of the:</p> <p>Standards Advisory Committee</p> <p>Thursday, 22 April 2021</p>	 <p>TOWER HAMLETS</p>
<p>Report of: Divisional Director, Legal Services and Interim Monitoring Officer</p>	<p>Classification: Open (Unrestricted)</p>
<p>Register of Gifts and Hospitality - Quarterly Update</p>	

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 4 February 2021.

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, comment on 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 January 2021 to 31 March 2021. A total of 3 declarations were made

during this period; all were declared on time within the 28-day notification period. The impact of the pandemic can still be seen on the limited number of gifts and hospitality being received.

- 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.

Register updates and guidance clarifications

- 3.4 Members were asked at the start of 2021 to update their registers of interest and ensure declarations of gifts and hospitality were updated. The Mayor and all Councillors have provided updates, and these were recorded in their files, and published where appropriate. The guidance provided to Members on the Members Hub was also updated in respect of highlighting the advisability of declaring gifts even under the £25 limit and also encouraging the donation of gifts to the Speakers' Charity appeal.

Internal Audit on Corporate Governance

- 3.5 As set out in the last report, Gifts and Hospitality is an area considered in a recent audit on the Council's Corporate Governance. Issues it suggested the Committee should particularly consider included:
- 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).

Next Steps

- 3.6 The next round of reminders on updating registers of interest and gifts declarations will be in the summer and will be reported to an upcoming meeting as appropriate.

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 2021 to 31 March 2021.

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 Declared 1 January 2021 – 31 March 2021

Name	Date offered /event	Type	Accepted / Declined	Date Declared	On Time?	Provided By	Value Estimate	Description
Cllr Asma Begum	16.01.21	Gift	Accepted	18.01.21	Yes	New City	£15	Goodie bag
Mayor John Biggs	26.03.21	Gift	Accepted	07.04.21	Yes	English National Ballet	£110	2 Tickets to 'Reunion: An Evening with English National Ballet
Mayor John Biggs	26.03.21	Gift	Accepted	07.04.21	Yes	28 Queen's Gate, South Kensington		£10 book 'Diary for golden Jubilee', £10 book 'Prison Diaries', £12.50 Book 'Unfinished Memoirs',