



City of Westminster

# Committee Agenda

Title: **Standards Committee**

Meeting Date: **Thursday 11th July, 2019**

Time: **7.00 pm**

Venue: **Room 18.07 - 18th Floor, 64 Victoria Street, London, SW1E 6QP**

Members:

**Councillors:**

Judith Warner (Chairman)  
David Boothroyd  
Danny Chalkley  
Louise Hyams  
Patricia McAllister  
Robert Rigby  
Asif Iqbal (Independent Person)

**Members of the public are welcome to attend the meeting and listen to the discussion Part 1 of the Agenda**

**Admission to the public gallery is by ticket, issued from the ground floor reception from 6.00pm. If you have a disability and require any special assistance please contact the Committee Officer (details listed below) in advance of the meeting.**



**An Induction loop operates to enhance sound for anyone wearing a hearing aid or using a transmitter. If you require any further information, please contact the Committee Officer, Reuben Segal, Head of Committee and Governance Services.**

**Tel: 7641 3160; Email: [rsegal@westminster.gov.uk](mailto:rsegal@westminster.gov.uk)  
Corporate Website: [www.westminster.gov.uk](http://www.westminster.gov.uk)**

**Note for Members:** Members are reminded that Officer contacts are shown at the end of each report and Members are welcome to raise questions in advance of the meeting. With regard to item 2, guidance on declarations of interests is included in the Code of Governance; if Members and Officers have any particular questions they should contact the the Director of Law in advance of the meeting please.

## **AGENDA**

### **PART 1 (IN PUBLIC)**

**1. MEMBERSHIP**

To report any changes to the membership.

**2. DECLARATIONS OF INTEREST**

To receive any declarations by Members and Officers of the existence and nature of any personal or prejudicial interests to matters on the agenda.

**3. MINUTES**

To sign the minutes of the meeting held on 21 March 2019.

**(Pages 5 - 12)**

**4. LOCAL GOVERNMENT ETHICAL STANDARDS - PROBITY IN PLANNING DECISION MAKING**

Report of the Director of Law and the Director of Place Shaping and Town Planning

**(Pages 13 - 26)**

**5. LOCAL GOVERNMENT ETHICAL STANDARDS - IMPLEMENTATION OF RECOMMENDATIONS OF THE COMMITTEE ON STANDARDS IN PUBLIC LIFE**

Report of the Director of Law

**(Pages 27 - 54)**

**6. GUIDANCE ON THE USE OF SOCIAL MEDIA BY MEMBERS**

Report by the Director of Law

**(Pages 55 - 62)**

**7. RECRUITMENT OF AN INDEPENDENT PERSON**

Committee to receive a verbal update.

**8. WORK OPTIONS AND WORK PROGRAMME**

Report of the Head of Committee and Governance Services

**(Pages 63 - 64)**

**9. ANY OTHER BUSINESS THE CHAIRMAN CONSIDERS  
URGENT**

**Stuart Love  
Chief Executive  
3 July 2019**

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CITY OF WESTMINSTER

# MINUTES

## Standards Committee

### MINUTES OF PROCEEDINGS

Minutes of a meeting of the **Standards Committee** held on **Thursday 21st March, 2019**, Room 18.01, 18th Floor, 64 Victoria Street, London, SW1E 6QP.

**Members Present:** Councillors Judith Warner (Chairman), David Boothroyd, Danny Chalkley, Louise Hyams and Robert Rigby.

**Also Present:** Asif Iqbal MBE (Independent Person).

**Apologies for Absence:** Councillor Patricia McAllister and Baroness Julia Neuberger.

#### 1 MEMBERSHIP

1.1 There were no changes to the membership.

#### 2 DECLARATIONS OF INTEREST

2.1 There were no declarations of interest.

#### 3 MINUTES

##### 3.1 RESOLVED:

That the Minutes of the meeting held on 6 December 2019 be signed by the Chairman as a correct record of the proceedings.

#### 4 Q&A WITH THE LEADER OF THE COUNCIL ON ETHICAL STANDARDS

4.1 The Chairman introduced the item and referred to a review undertaken by the Committee on Standards in Public Life that had been circulated to Members. The review had made a number of recommendations, of which a large number the Council already carried out. The Committee noted that the list of 'Dos and Don'ts' in respect of Members' use of social media was to be included in the Members' bulletin on 22 March. The Chairman then invited the Committee to ask Councillor Nickie Aiken (Leader of the Council) questions and make comments in respect of the review.

- 4.2 Councillor David Boothroyd suggested that it would be useful if there was some form of official or unofficial code of understanding between the Majority Group and the Minority Group in terms of boundaries for reasonable debate. He added that the behaviour of members towards each other, including between the two groups, was better than that experienced at some other local authorities. In respect of members accepting gifts or hospitality, Councillor Boothroyd stated that he had read the investigation report about a former member who had chaired Planning Application Committee meetings which had concluded that although there had been no breach of regulations, the acceptance of gifts and hospitality had been excessive. He asked if there was a threshold in accepting gifts and hospitality that would be considered reasonable and was there any specific guidance on this.
- 4.3 In reply, Councillor Aiken emphasised the importance of members adhering to the Members' Code of Conduct and that members should be aware of the level of behaviour expected of them as elected representatives. At a national level, the aggressive behaviour of some elected representatives, including their use of social media, was unfortunate and Councillor Aiken stated that she no longer used Twitter as some of the exchanges that members could be involved in were not helpful. She advised that she was in contact with Councillor Adam Hug (Leader of the Minority Group) and Karen Buck MP when there were any issues arising between members of the two groups and she enjoyed a respectful relationship with them. With regard to accepting gifts and hospitality, Councillor Aiken felt that this was about members exercising sound judgement and having a clear understanding on what is considered acceptable and there was no harm in regularly reminding them of this.
- 4.4 Councillor Daniel Chalkley referred to the recommendations of the review in relation to councillors accused of criminal offences and queried whether it was appropriate that the Police be involved in view of the pressures on their resources. He also asked what would be the appropriate action to take if, for example, a councillor deliberately failed to declare a pecuniary interest. He also commented that he did not recall as a Standards Committee Member, ever being asked to investigate another member and he asked how the Council compared with other local authorities on this matter.
- 4.5 In reply, Councillor Aiken stated that the action that should be taken against a member and whether it should involve the Police should be considered on a case-by-case basis in order to take the most appropriate steps. A negative view should be taken of any member who deliberately failed to declare a pecuniary interest, although asking the Police to take action may not be the most appropriate course of action. However, withdrawing the party whip from the member could be considered in serious cases, as well as withdrawing a member from committees which would be of sufficient embarrassment to them in view of the media attention this was likely to create. The Council had high standards with regard to councillor conduct and would not shy away from investigating members where they were subject to a complaint.
- 4.6 Tasnim Shawkat (Monitoring Officer) advised that the review was recommending that the criminal offences in the Localism Act 2011 relating to disclosable pecuniary interests be abolished, however this would require

legislative changes to enable this to happen. She advised that nationally there had only been one successful prosecution of a councillor from action brought by the Police. In respect of Westminster, there had been instances of the Standards Committee investigating a councillor in the past. The investigating officer would refer a case to the Committee if there was no other appropriate resolution. Tasnim Shawkat confirmed that there had been three complaints made about councillors this municipal year which had led to two officer investigations. The councillors involved had since resigned or been de-selected which meant it would not be possible to refer to them to the Committee in any case. The number of investigations of councillors varied widely on a national level, although generally they had reduced since the introduction of the Localism Act 2011.

- 4.7 Councillor Louise Hyams sought views on what constituted public or private behaviour for councillors. With regard to gifts and hospitality and planning, Councillor Hyams commented that there were a number of developments in her Ward seeking planning permission. She stated that she was frequently invited to meetings by the applicant which she felt were of value as it allowed members to have more information on the nature of the application and give the opportunity for members to provide feedback as knowledgeable elected members of their Ward and she hoped that members would not be prevented from doing this in future. Councillor Hyams emphasised the importance of members declaring any gifts or hospitality in order to be open and transparent.
- 4.8 In reply, Councillor Aiken highlighted the point that as elected members, councillors have chosen to be of public service and so they should behave to the standards expected of them, including in social media, whether using a councillor account or in their own name. She agreed with the recommendation in the review that councillors should be presumed to be acting in an official capacity in their public conduct, including statements on publically accessible social media. With regard to gifts and hospitality and planning, Councillor Aiken stated that upon becoming Leader she had made it clear that there needed to be a review of the planning system and she had purposefully split the Cabinet Member portfolio that included planning by preventing the same member to chair planning committee meetings to prevent a similar situation that had occurred regarding the member who was investigated. It was not only important that planning be open and transparent, but also that it was perceived to be. However, ward members represented the biggest voice for local residents and understood their aspirations for their area and could provide useful feedback on the planning process and to the applicants in respect of this.
- 4.9 Councillor Robert Rigby sought the Leader's views on whether the Members' Code of Conduct was robust enough to address matters relating to bullying and harassment. With regard to whistleblowing, he asked whether arrangements for this were also robust enough with the appropriate support and protection in place. Turning to procurement and the organisations that the Council worked with, Councillor Rigby emphasised the importance of ensuring that these organisations shared the standards that the Council demanded.

- 4.10. In reply, Councillor Aiken stated that tackling bullying and harassment was an important issue. Members should be mindful of how they spoke with officers, particularly more junior officers who may be surprised if a member spoke to them in the same way they might speak to more senior officers. Every effort was made to ensure that officers felt they could approach their line manager if they had any concerns about how they were treated. It was also important to support the whistleblowing process which Councillor Aiken felt was robust and she was not aware of any specific concerns about this. Councillor Aiken had worked with the Chief Executive and the Director of People Services to create a more 'open door' policy for staff and staff forums had also been set up to facilitate this. With regard to the standards of other organisations that the Council worked with, Councillor Aiken concurred that it was important that they shared the same standards as the Council's. She referred to an example where the Council had firmly set out to a Council supplier that the processes it followed after concerns had been raised about a Council officer were far from satisfactory, and the appropriate disciplinary actions were taken swiftly after the complainants were transferred to the Council.
- 4.11 Tasnim Shawkat advised that there had been one whistleblowing case that had been considered by the Audit and Performance Committee.
- 4.12 Asif Iqbal MBE emphasised that transparency was invaluable and asked if there were visible mechanisms for residents to make complaints.
- 4.13 In reply, Tasnim Shawkat advised that the Members' Code of Conduct was on the Council's website and complaints could be lodged either through completing an online form or contacting the Council through email or telephone.
- 4.14 The Chairman stated that there may have been some instances where gifts or hospitality had not been declared. She felt that there would be some value in members being able to explain the context in which gifts and hospitality had been received when they declared. Also consideration should be given to when the member concerned was a Cabinet Member or Chair of a Committee. She stated that as Deputy Lord Mayor, there were some situations where she carried out Mayoral duties in the absence of the Lord Mayor and so it would be useful to be able to explain this if she had to declare any gifts or hospitality when performing this role. In addition, because this was Westminster, members were often invited to a number of events and in receipt of special invitations, so it was important that they could provide context to their declarations.
- 4.15 In reply, Tasnim Shawkat advised that in respect of recommendation 6 in the review proposing that local authorities establish a register of gifts and hospitality, this was already undertaken by the Council and the register was updated regularly. The Council's threshold to declare was anything of the value of £25 or above, whilst other local authorities' threshold was higher. In addition, the Council was also the largest planning and licensing authority in the country and this, along with the lower threshold, were the main reasons why members made more declarations compared to other local authorities. Tasnim Shawkat added that she could provide some further guidance in

respect of declaring at a future meeting.

- 4.16 Councillor Aiken concluded her remarks by restating her commitment to high standards of conduct and local government had an opportunity to lead the way in being more open and transparent and restore confidence in elected representatives.
- 4.16 The Chairman felt that regular meetings between the Leader, Group Whips and the Monitoring Officer to discuss members' conduct matters would help uphold high standards. The Committee agreed to the Chairman's suggestion that the Guidelines to Social Media report agreed at the last meeting be presented at the next Council meeting and this was supported by the Leader.

## **5 REVIEW OF LOCAL GOVERNMENT ETHICAL STANDARDS BY COMMITTEE ON STANDARDS IN PUBLIC LIFE**

- 5.1 Tasnim Shawkat (Monitoring Officer) presented the report and referred to the key findings of the review in relation to bullying and harassment, social media, gifts and hospitality, including in relation to planning, investigations and safeguards and leadership and culture. She stated that consideration could be given as to whether to provide a definition of what constitutes bullying and harassment. A separate document was being produced in respect of planning and gifts and hospitality and Tasnim Shawkat confirmed that public speaking at Planning Application Committee meetings was now taking place. In respect of the review's recommendations concerning investigations and safeguards, the Council already undertook these and there were some local authorities that did not have a separate Standards Committee. Tasnim Shawkat added that although rules and guidance were necessary in respect of standards, leadership and culture had the biggest impact on the standing of the Council's ethical standards.
- 5.2 During discussions, the Chairman felt that the Advisory, Conciliation and Arbitration Service's (ACAS) definition of bullying was too restrictive and the Committee agreed to her suggestion that wording of what constitutes bullying and harassment be considered and Tasnim Shawkat agreed to undertake this. Asif Iqbal MBE welcomed the conciseness and clearness of the report.
- 5.3 In reply to a query concerning pre-determination and planning, Tasnim Shawkat advised that pre-determination was not a Code of Conduct issue, however it could make a decision unlawful where pre-determination had been established. Members should also seek advice in advance where they think they may be exposed to accusations of pre-determination. Tasnim Shawkat advised that an update would be presented at the Committee's next meeting with proposals for changes to the Code of Conduct in light of the review's recommendations that did not require changes in legislation.

#### 5.4 **RESOLVED:**

1. That the 26 recommendations made by the Review of Local Government Ethical Standards by Committee on Standards in Public Life and the 15 best practice points be noted.
2. That it be noted that the Council already practices many of the recommendations which do not require legislative changes as a matter of good practice.

### **6 ANNUAL REPORT ON COMPLAINTS TO THE MONITORING OFFICER**

- 6.1 Tasnim Shawkat presented the report which also included recommendations to recommend to the General Purposes Committee to amend paragraph 2.10 of the Code of Conduct to read:

“To promote and support high standards of conduct through leadership and by example, including not acting in a manner which could be seen to bring the Council or the role of the Councillor into disrepute.”

- 6.2 Tasnim Shawkat advised that other local authorities also used similar wording to address this issue.

- 6.3 The Chairman commented that it was important that councillors anticipate the implications of their actions and that there was a need for those elected by the public to improve the perception of elected representatives.

#### 6.4 **RESOLVED:**

1. That note the outcomes of the Members complaint referred to in paragraph 3 of the report be noted.
2. That it be agreed that the Members Code of Conduct be amended to provide greater clarity to paragraph 2.10 by adding the following:  
“including, not acting in a manner which could be seen to bring the Council or the role of the Councillor into disrepute”.
3. That the General Purposes Committee be recommended to agree the proposed amendment to paragraph 2.10 of the Code of Conduct, which will read as follows:  
“To promote and support high standards of conduct through leadership and by example, including not acting in a manner which could be seen to bring the Council or the role of the Councillor into disrepute.”

### **7 WORK OPTIONS AND WORK PROGRAMME**

- 7.1 Members noted that an update in respect of the Planning Protocol would be provided at the next meeting. The Chairman added that other items could be added to the agenda before the next meeting.

**8 ANY OTHER BUSINESS THE CHAIRMAN CONSIDERS URGENT**

8.1 There was no other business.

The Meeting ended at 8.24 pm.

**CHAIRMAN:** \_\_\_\_\_

**DATE** \_\_\_\_\_

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## City of Westminster Standards Committee

|                                   |  |
|-----------------------------------|--|
| <b>Meeting or Decision Maker:</b> | Standards Committee  |
| <b>Date:</b>                      | 12 July 2019   |
| <b>Classification:</b>            | General Release  |
| <b>Title:</b>                     | Local Government Ethical Standards – Probity in Planning Decision Making |
| <b>Report of:</b>                 | Tasnim Shawkat, Monitoring Officer                                       |

### 1. Executive Summary

- 1.1 This report provides an update to the Standards Committee on the actions taken by the Council following the independent review of Westminster’s planning service by the Planning Advisory Service (PAS) and the review of ethical standards in public life by the Committee on Standards in Public Life (CSPL).

### 2. Recommendations

- 2.1 To note the updated guidance for members involved in planning decision making.
- 2.2 To make any comments and recommendations for changes to the current draft guidance.

### 3. Background

- 3.1 The Leader, Cllr Aiken, commissioned an independent review of the planning system in Westminster. A report setting out the findings of the review was presented to Cabinet on 25 October 2018.
- 3.2 Cabinet made several recommendations based on the findings of the review. One of the key themes was to improve the openness and transparency of the planning system. In January 2019 the Council introduced a procedure for “public speaking rights” at Planning sub-committee meetings. The meetings are to be recorded and the coverage to be available post meetings. IT are working to provide live streaming of planning sub committees in the autumn.
- 3.3 The independent review did not find any impropriety or failure to follow guidelines and protocols regarding hospitality. The practice of accepting hospitality from planning applicants, in some instances, was found to be excessive and unnecessary.
- 3.4 The CSPL review highlighted that planning is an area of decision making where a small number of councillors can have a significant impact on the financial interests

of specific individuals or firms. The review states that Councillors involved in planning decisions should generally not accept overly frequent or overly generous hospitality and should always ensure that acceptance of such hospitality does not constitute a conflict of interest.

- 3.5 The review recommended that local authorities establish a register of gifts and hospitality to record gifts and hospitality received over a value of £50 or totalling £100 over a year from a single source.
- 3.6 The Monitoring Officer presented a report to the Standards Committee on 6 December 2018 in relation to gifts and hospitality following a complaint against a member of the Council which attracted significant attention particularly in the context of the Council's planning function.
- 3.7 Westminster's Code of Conduct already requires members to register gifts, hospitality and benefits with a value of more than £25.
- 3.8 The register is published on the Council's website and is continually updated.
- 3.9 The Monitoring Officer is presenting a separate report to the Standards Committee on the implementation of the recommendations of the CSPL review. This proposes an amendment to the Code of Conduct to include the principles members should bear in mind when considering whether to accept gifts and hospitality i.e. purpose, proportionality and avoidance of a conflict of interest. It is further proposed that a definition of the principles is included in the Code of Conduct.
- 3.10 At the Standards meeting on 6 December 2018 the Monitoring Officer informed Members that guidance would be drafted for officers and members involved in the planning process in relation to meeting land owners, applicants, agents and community stakeholders. A pre-application guide for officers and members has already been prepared.
- 3.11 A draft revised guide for members in relation to planning was presented to the Planning and City Development (PCD) meeting on 20 June 2019. A copy of this guide is appended to this report (Appendix One). The purpose of the guide is to create a more transparent and robust town planning decision function. The guide outlines best practice for Members of Planning Committees across a range of issues including, but not limited to, standards of conduct and probity in decision making.
- 3.12 Members are asked to consider the contents of the guide and to provide any comments. At its meeting on 20 June PCD agreed to delegate publication of the final version of the guide to the Director of Place Shaping and Town Planning, following consultation with the Director of Law and Chair of the PCD committee.

#### **4. Financial Implications**

- 4.1 There are no financial implications for this report.

#### **5. Legal Implications**

- 5.1 There are no legal implications arising from this report.

**If you have any queries about this Report or wish to inspect any of the  
Background Papers please contact:**

**Reuben Segal Acting Head of Committee and Governance Services,**

**Tel: 020 7641 3160 Email: [rsegal@westminster.gov.uk](mailto:rsegal@westminster.gov.uk)**

## **BACKGROUND PAPERS:**

<https://committees.westminster.gov.uk/documents/s30109/6%20-%20Gifts%20and%20Hospitality.pdf> (Report to Standards Committee 06.12.18, gifts and hospitality)

<https://committees.westminster.gov.uk/documents/s33055/PCD%20Committee%20June%202019%20-%20Planning%20Review%20FINAL%20VERSION%20120619.pdf> (report to PCD 20.06.19, Guide for Planning Members)

## **APPENDIX 1**

Guidance for Planning Members

<https://committees.westminster.gov.uk/documents/s33050/Updated%20Members%20Handbook%20-%20PCD%20Draft.pdf>

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**City of Westminster**

## **Planning & City Development Committee**

**Date: 20 June 2019**

**Classification: General Release**

**Title: Update on the Planning Review**

**Report of: Executive Director of Growth Planning and Housing and  
Director of Place Shaping and Town Planning**

**Financial Summary: The implications will be managed within existing  
resources.**

**Report Author and Contact Details: Oliver Gibson (ogibson@westminster.gov.uk/ 020 7641  
2680)**

### **1. Executive Summary**

- 1.1 This report presents an update on the Planning Review programme of work to deliver improvements to the processes and practices of the planning service to address the findings of the review carried out by the Planning Advisory Service (PAS), which were endorsed by Cabinet on 25 October 2018. Cabinet approved the direction of travel to make the planning service more proactive, transparent and focused on the delivery of the Council's City for All vision and other corporate priorities. This includes making it easier for residents to engage with the planning system in Westminster.
- 1.2 Initial progress on the Planning Review was reported to the Planning and City Development Committee on 17 January 2019 (see Appendix 1). The initial stage in implementing measures to address the PAS report findings comprised the introduction of public speaking at the Planning Applications Sub-Committees. In January the Committee agreed with amendments the procedures and protocols to allow for members of the public to make verbal representations at the Sub-Committee meetings. Public speaking was subsequently introduced at the Planning Applications Sub-Committee on 26 February 2019. To date the agreed procedures and protocols have been successful in facilitating public speaking. Notwithstanding this, a detailed 6-month review of public speaking will be carried out in August 2019 in accordance with the previous Committee resolution. The findings and recommendations of the 6-month review will be reported to the next Planning and City Development Committee.
- 1.3 To incorporate the changes outlined above and to meet the requirements to create a more transparent and robust Town Planning decisions function, attached at Appendix 1 is an updated document titled draft Guidance for members- Making Planning Decisions. This outlines best practice for Members of Planning Committees across a range of issues including standards of conduct, probity in decision making, conflicts of interest as well as support and guidance on the substance and parameters of taking planning decisions. Subject to the views of this Committee it is proposed that this draft

is submitted to the Standards Committee on 11 July 2019. Members are asked to approve the draft Guidance, note that the comments the Standards Committee will be sought and delegate to the Director, in consultation with the Chair, the approval and publication of a final version.

- 1.4 Since January 2019, officers have continued work to establish the scope of changes required to current processes and practices to deliver the service enhancements identified in the PAS report and sought by Cabinet. Following on from the engagement workshops held with Members and external stakeholders in late 2018, planning staff have undertaken visits to observe the planning services of the other local authorities that were identified in the PAS report (Camden, Wolverhampton and Cornwall). Following these visits staff took part in a departmental Away Day on 5 June to identify the strengths and weaknesses of existing processes and practices and identify the aspirations of officers for the future of the service.
- 1.5 Following the Away Day the scope of the changes to procedures and protocols to be taken forward as part of the Planning Review will be finalised. The preferred options for implementation of each aspect of the review will also be identified, including how pre-application community engagement and increased delegated decision making can be delivered. A timetable for implementation of the different aspects of the review will also be set. The preferred options and the finalised timetable will be reported to the next Planning and City Development Committee.

## **2. Recommendation**

- 2.1 Members are asked to consider the contents of this report and to note the ongoing work to implement measures to address the findings of the PAS report as part of the wider Planning Review programme.
- 2.2 The Committee is recommended to approve the draft Guidance for Members – Making Planning Decisions (at Appendix 1), subject to the incorporation of views and advice of the Standards Committee at their meeting on 11<sup>th</sup> July 2019, and to agree to delegate publication of the final version to the Director of Place Shaping and Town Planning, following consultation with the Director of Law and Chair of the Planning and City Development Committee.

## **3. Background**

- 3.1 A review of Westminster's planning service by the Planning Advisory Service and Local Government Association was undertaken in 2018 to look at all aspects of the decision-making process to ensure it is an independent and impartial process.
- 3.2 The findings of the review were reported to Cabinet on 25 October 2018. The review set out a number of key recommendations, which included introducing the opportunity for members of the public to make verbal representations at Planning Applications Sub-Committee. A process and protocol for the introduction of public speaking were endorsed by the Committee on 17 January 2019 and public speaking was subsequently introduced on 26 February 2019. The next phase of the Planning Review programme is focused on delivering changes to processes and practices to address the other PAS recommendations, which were:
  - Development of closer links between development management officers and officers in Planning Policy and the delivery and regeneration teams.
  - Establish appropriate distance between the regulatory planning service and applicants, agents, formal community organisations and the public.

- Review committee practices and procedures to focus resources on strategic development and involve Members earlier in the pre-application and application processes.
- Delegate decision making to a greater number of officers.
- Review roles of the Highways Planning team and the corporate highways function so that they are more closely aligned and share objectives and priorities.
- Continue to seek to improve recruitment and retention of planning officers.
- Review communication of planning decisions, including review of website content, communication of Planning Performance Agreements to ensure the service to be provided to customers is clearly communicated and review of the form of the service offered at pre-application and application stage.

3.3 The purpose of this report is to update the Planning and City Development Committee on progress since January 2019 on the work carried out as part of the Planning Review programme to deliver service enhancements and changes to processes and practices that will enable the recommendations of the PAS report to be realised.

## 4. Considerations

### Overview of the Planning Review

- 4.1 The Planning Review Team has adopted a programme structure designed to enable a collaborative approach to the delivery of the changes required to deliver the PAS report recommendations, which will draw upon the expertise of staff within Place Shaping and Town Planning. The structure comprises three 'Clusters', each with a specific officer lead under which eight 'Workstreams' have been identified. The Workstreams will have a lead officer and a working group comprised of officers from Place Shaping and Town Planning, who will be tasked with developing the necessary changes to existing processes and procedures in tandem with officers from the Planning Review Team. The structure is designed to ensure appropriate oversight of the workstreams, with regular upward reporting of progress on each workstream to the management group within Place Shaping and Town Planning, the Planning Review Board and the Cabinet Member for Place Shaping and Planning.
- 4.2 Appendix 1 contains a document titled draft Guidance for Members- Making Planning Decisions. This document outlines essential and crucial information and guidance across the broad range of issues that will ensure the outcomes of the planning review are met. This draft updated guidance is designed to ensure that decisions are taken in a robust, transparent way to provide high levels of integrity to the process. It therefore outlines clear advice on the standards of conduct of members in respect of their role on planning committees, including gifts and hospitality, site inspections, dealing with development proposals impacting Councillors, their families or close associates. This is set within general principles such as making decisions with an open mind, absence of predisposition and focusing on material planning matters. Procedural issues are also laid out as well as guidance on how they will be advised at Committees and in reports presented. This guidance should be read in conjunction with extant protocols and procedures for Member involvement at pre-application stage governing requests for meetings with developers (April 2019) and the ongoing member training opportunities. All of this guidance is kept under review and with other changes in prospect as indicated in this report, it is likely that further updates on this will be brought forward. This is to ensure that Members are always fully equipped to continue to make robust, transparent and effective decisions.

- 4.3 Since the previous Planning and City Development Committee in January 2019 officers have undertaken visits to observe the planning services of the local authorities that were identified in the PAS report as examples of innovative and good practice (Camden, Wolverhampton and Cornwall). The visits have allowed officers to more clearly understand how the recommendations made in the PAS report may be realised in practice and enabled the processes and procedures used in these authorities to be understood, whilst also offering insight into the differing scales of these example planning authorities and the varying physical, social and political environments in which they operate. This has enhanced officers understanding of the breadth of options for delivering a successful planning service and has been of significant assistance in undertaking the ongoing scoping and options analysis exercise, which will identify the changes to current processes and procedures that will be taken forward as part of the Planning Review programme.
- 4.4 An Away Day for all officers in Place Shaping and Town Planning was held on 5<sup>th</sup> June to enable all staff within the department, as expert practitioners in their fields, to provide their views and ideas on how the recommendations of the PAS report can most effectively be realised. The Away Day was a significant opportunity to reinforce the cultural change that has occurred within the department to date, particularly following the integration of the Place Shaping Team, and to involve all officers in the formation of a departmental vision, which will define the new culture of the department following the completion of the Planning Review programme.
- 4.5 As well as discussion of a departmental vision, the Away Day focused the potential for reform of the pre-application service to increase transparency and Member and community involvement, the introduction of Design Review Panels, extension of delegated powers to more junior officers, improvement of working relationships with other Council departments and teams and achieving greater digital inclusion through website improvements and best use of software, systems and technology. The ideas and suggestions offered by staff at the Away Day have been collated and reviewed by the Planning Review Team and are being used to inform the scoping and options analysis exercise described in paragraph 4.2.
- 4.6 The scoping and options analysis exercise will result in a paper that will set out the preferred options for delivering the recommendations of the PAS report. A timetable will also be produced to identify the timescales for delivery of the changes to current processes and practice that will collectively deliver a new operating model for the department. The changes that would deliver on the key recommendations of the PAS report will be prioritised within the delivery timetable where possible.
- 4.7 The following sections of the report set out a short update on the key recommendations identified in the PAS report.

#### **Public Speaking at Planning Applications Sub-Committees**

- 4.8 In January the Committee resolved to agree the proposed procedures and protocols to allow for members of the public to make verbal representations at the Sub-Committee meetings. Public speaking was subsequently introduced at the Planning Applications Sub-Committee on 26 February 2019. The agreed procedures require speakers to register in advance on the Council's website if they wish to speak and the number of speakers for and against is limited at each committee meeting with each speaker limited to no more than 3 minutes (see Appendix 1 for full details of the public speaking process and protocol). Up to 7 May 2019 there have been 41 requests to speak publicly at 11 Planning Applications Sub-Committee meetings. Of these, 27 speakers were in

support of schemes and 13 speakers were objecting to schemes. One representation was made by a local amenity society.

- 4.9 To date the agreed procedures and protocols have been successful in facilitating and managing public speaking at Planning Applications Sub-Committee meetings. Notwithstanding this, a detailed 6 month review of public speaking will be carried out in August 2019 pursuant to the requirements of the January 2019 Committee resolution. The review will include consultation with all participants and stakeholders, including members sitting on the three Sub-Committees. The findings and recommendations of the 6 month review will be reported to the next Planning and City Development Committee.
- 4.10 Work is currently on going to source, procure and introduce software and technology that will allow live recording and streaming of planning committee meetings, with the expectation that this service will be commenced in autumn 2019. This will allow applicants and stakeholders to watch the meeting live or view previously recorded committees and encourage wider participation and transparency in the planning process. Once installed, the system will be available for use by other committees held in the same room, such as Licensing.
- 4.11 In tandem with the introduction of recording and live streaming of committee meetings a regular programme of training will be arranged for the Members of the three Sub-Committees. It is intended that training will be provided for Members on a quarterly basis with the dates to coincide with Planning and City Development Committee meetings. The training to be offered as part of this programme will be confirmed in due course but will include media training, as well as topic based training on planning policy and legislation.

### **Pre-application Community and Member Engagement**

- 4.12 The PAS report recommends that the Council develops a new approach to the early involvement of communities in shaping development proposals, which is proportionate to their scale. The report to the Planning and City Development Committee in January 2019 set out how this recommendation could be realised through planning officers playing a greater role in co-ordinating pre-application engagement on major schemes. This will enable more transparent consultation with the local community and enable the involvement of ward councillors, who will be able to play a stronger role in influencing and guiding developments in their ward at an earlier stage in the planning process.
- 4.13 Following feedback from stakeholders in late 2018 and in light of the visits to Camden, Wolverhampton and Cornwall, and the Away Day sessions with Place Shaping and Town Planning officers, the Planning Review Team are currently considering the options for how this more transparent and engaging pre-application process can be delivered. The design of this service will draw on the examples of good practice that have been observed, albeit with the service designed specifically for the particular needs and constraints of Westminster. It is expected that formal recommendations and more detailed proposals will be reported to the next Planning and City Development Committee.

### **Delegated Authority**

- 4.14 The PAS report recommends that Planning Applications Sub-Committee meetings should focus on major and contentious applications rather than small-scale applications which raise local issues and that such applications should be delegated to officers. The current scheme of delegation to officers allows for most applications to be delegated to

officers with officers using their discretion to report applications to a Sub-Committee depending on the nature of objections received. At the time of the Planning and City Development Committee in January 2019, 97% of planning decisions were being taken under delegated authority by planning officers.

- 4.15 It has been observed that since the publication of the PAS report and the Cabinet decision to endorse it, there has been a cultural shift in terms of officers exercising their delegated authority to determine smaller scale applications; albeit working within the parameters of the terms of the existing schedule of delegation. This has already resulted in a downward trend in terms of the numbers of applications being reported to the Planning Applications Sub-Committees. As a result, it was possible for the Annual Council Meeting to resolve on 15 May 2019 to reduce the number of Planning Applications Sub-Committee's from 4 to 3. This reduction will deliver some limited departmental cost savings and reduce the time spent by officers on the time consuming committee processes.

**Table 1 – Numbers of Applications Reported to the Planning Applications Sub-Committees.**

| Period                                 | No. of Meetings | No. of Apps Reported | No. of Items | Length of Committee (Hrs) | Items Per Hour |
|--|-----------------|----------------------|--------------|---------------------------|----------------|
| 2017/18                                |                 |                      |              |                           |                |
| Half Year 1 - 1 May 17 to 10 Oct 17    | 24              | 192                  | 7.67         | 1.92                      | 4.30           |
| Half Year 2 - 17 Oct 17 to 24 April 18 | 24              | 184                  | 8.00         | 2.05                      | 4.46           |
| YR TOTALS                              | 48              | 376                  | 7.83         | 1.98                      | 4.38           |
| 2018/19                                |                 |                      |              |                           |                |
| Half Year 1 - 1 May 18 to 23 Oct 18    | 24              | 160                  | 6.67         | 1.74                      | 4.26           |
| Half Year 2 - 30 Oct 18 to 23 April 19 | 22              | 103                  | 4.68         | 1.67                      | 3.37           |
| YR TOTALS                              | 46              | 263                  | 5.98         | 1.78                      | 4.01           |

- 4.16 In light of paragraphs 4.14 and 4.15, it is not envisaged that significant change to the current schedule of delegation from Members to officers will be required in respect of the reporting of applications to a planning committee, although limited amendments could be made to afford officers greater delegated powers in the case of minor applications where only a small number of objections on valid planning grounds have been received. As reported in January 2019, it is expected at this stage that Ward Councillors will retain their right to call in all planning applications to Committee and will be required to attend the Committee meeting to discuss any concerns about an application in their ward if they have called the application in. However, all of these options are currently being scoped by the Planning Review Team as part of the options analysis process.
- 4.17 As reported in January 2019, the Planning Review Team is in the process of exploring options for increased delegation to a wider number of planning officers and to delegate the hierarchy of decision making which is currently highly concentrated at a senior officer level. It is proposed that planning officers engage more with Ward Councillors at the pre-application stage to solve issues, thereby avoiding the need for an application to be reported to a Planning Applications Sub-Committee at the end of the process. Appropriate checks and balances would remain in place with peer review of proposed decisions and escalation controls in the event of certain thresholds being reached with different applications. This will require a comprehensive shift in culture as

well as a training and development programme for officers, planning for which has already commenced.

- 4.18 These proposals, for which options are currently being modelled and analysed, will be considered as part of the review of the operating model of the directorate, which forms part of the wider changes envisaged as part of the Planning Review programme.

#### **Achieving Closer Alignment and Developing Relationships with Other Services and Directorates**

- 4.19 The PAS report encourages closer alignment between development management officers and officers in other departments and teams, including planning policy and the delivery and regeneration teams. It also suggests review of the relationship and linkages of the Highways Planning team with the Council's corporate highways function so that the two are more closely aligned and share objectives and priorities.
- 4.20 Initial discussions have been held between Place Shaping and Town Planning officers and officers in Planning Policy and the Economy Team, with the aim of building more positive and collaborative relationships to improve the delivery of the Council's corporate objectives through planning decision making. Further discussions to formalise the future relationships and linkages with these teams will be required and separate discussions will also be required with the delivery and regeneration teams. Progress towards adoption of the new City Plan will assist this process as the new suite of policies this will deliver will be more closely aligned with the Council's current priorities, aims and objectives than those contained within the current 2007 UDP and 2016 version of the City Plan.
- 4.21 In response to the findings of the PAS Review the Highways Planning and Trees teams are in the process of being moved to within City Management and Communities so that they are more closely aligned with the corporate highways function in terms of line management. However, these teams will remain in their current form and will continue to provide the same service to Place Shaping and Town Planning in terms of their observations on development proposals and tree works applications.
- 4.22 The Planning Review project will investigate whether there are opportunities for linkages between Place Shaping and Town Planning on an operational level, such as through the shared use of technology with other departments including Licensing.

#### **Enhancing Transparency and Maintaining Probity**

- 4.23 The PAS report recommends that appropriate distance between the regulatory planning service and applicants, agents, formal community organisations and the public is established. The report to Cabinet enabled the Chief Executive to restate to both officers and Members their responsibilities in terms of the Council's gifts and hospitality policies. Cabinet's endorsement of the cabinet report and the findings set out in the PAS report therefore marked a point of change in terms of the relationship that officers have with applicants, agents, formal community organisations and the public in future. Subsequently training has been undertaken by all officers to ensure that they are aware of the requirements of the anti-bribery policy.
- 4.24 As outlined above in paragraph 4.2, the 'Guidance for Members Making Planning Decisions' document has been updated to reflect changes in Town and Country Planning legislation, regulations, and Council policies and procedures. The updated Guide includes a section on gifts and hospitality, the value of high standards of probity to the integrity of the decision making system, conflicts of interest. underlining the

strong relationship between this high standard of decision making and creating good places as it gives confidence for sustainable investment from residents and businesses.

### **Recruitment and Retention**

- 4.23 The PAS report acknowledges that there are and have been ongoing efforts made to seek to improve the recruitment and retention of officers within the planning service. When carrying out the Planning Review programme the options for changing and evolving the service will have regard to all opportunities they also provide in terms of improving the career development of officers and to empower officers to take greater ownership of their work. In these regards the potential changes being considered in respect of delegated authority offer a significant opportunity to enhance the role of officers in the planning decision making process. There will though need to be appropriate training put in place to ensure that officers are suitably equipped to exercise greater delegated authority and have the skills necessary to work more autonomously.

### **Setting and Communicating Service Provision and Decisions**

- 4.24 The Planning Review project will review the form that the pre-application processes take in the new operating model to ensure that it includes community and Member involvement as set out in paragraphs 4.12 and 4.13. As part of this process officers will review the way in which the benefits of pre-application advice and Planning Performance Agreements are communicated to applicants and their professional representatives. The introduction of more formalised processes to ensure community and Member involvement at pre-application stage will assist in developing a framework that provides a clear demonstration to applicants of the benefits of seeking pre-application advice. Pre-application advice is currently offered on the basis of a 'sliding scale' with only written advice provided for small scale development with meetings and written responses provided only for larger scale developments, with the fee amount increased set accordingly. The review of the pre-application processes will consider whether this model remains appropriate or whether a more customer focused model should be adopted with the pre-applicant determining the level of service they wish to pay for.
- 4.25 Likewise the service offered to applicants entering into a PPA will also be reviewed to make the service that is offered more tangible and structured so that the value that is derived from PPAs is apparent to applicants. The review of PPAs is likely to consider the model wording for PPAs and at what stage in the planning process they are entered into. At present they are typically entered into at the point at which an application is submitted, but they could be used to better effect for both parties if entered into earlier in the planning process, for example at pre-application stage.
- 4.26 In tandem with the review of the pre-application advice service and the PPA service the opportunity will be taken to ensure that the fees charged for these services are reflective of the full cost of providing these services.
- 4.27 The Planning Review project includes a dedicated workstream focused on enhancing digital inclusion. This will review options to enhance the content of the planning section of the Council's website, as well as considering how the planning process and planning decisions can be better communicated to stakeholders.
- 4.28 Initial measures to better communicate the planning process to applicants and stakeholders digitally were previously implemented with the introduction in October 2017 of e-notifications to applicants of significant planning application milestones (e.g.

validation of application, end of consultation period etc.). Since the PAS Review this has been supplemented by the introduction in January 2019 on a trial basis of an e-notification service to allow stakeholders who choose to create an account on the Council’s website to receive notification of all future applications on a specified site or within a geographical area that they specify. The initial take-up of this service, which has not received significant publicity due to it being introduced on a trial basis, is set out in the table below. Following the end of the initial 6-month trial period, it is expected that the Planning Review programme will seek to ensure that the availability of this service is more clearly advertised as part of the Council’s digital ‘offer’. For example, the service could be actively promoted to residents and businesses as part of other online processes and interactions (e.g. at the end of online payment for parking permits etc.).

| <b>Month</b> | <b>Number of Subscriptions/Accounts</b> | <b>Total</b> |
|--------------|---|--------------|
| January      | 10                                      | 10           |
| February     | 23                                      | 33           |
| March        | 17                                      | 50           |
| April        | 33                                      | 83           |
| May          | 13                                      | 96           |

**5. Financial Implications**

5.1 The implications will be managed within existing resources.

**6. Legal Implications**

6.1 None.

**7. Conclusion**

7.1 From the above update, it will be noted that considerable work has already been undertaken to enable the delivery of improvements to the processes and practices of the planning service to address the findings of the review carried out by the Planning Advisory Service (PAS), as endorsed by Cabinet on 25 October 2018. Members are also asked to note the ongoing work on the Planning Review project to deliver further positive change and enhancements to the current processes and practices of the planning service, including facilitating improved pre-application engagement with the community and Members and review of the delegation arrangements for planning decisions.

**If you have any questions about this report, or wish to inspect one of the background papers, please contact: Oliver Gibson (ogibson@westminster.gov.uk / 020 7641 2680)**

**Appendices:**

1. Draft version of updated 'Guidance for Members – Making Planning Decisions' guidance document.
2. Report to the Planning and City Development Committee dated 17 January 2019 and minutes.
3. Report to Cabinet on Planning Review dated 25 October 2018 and associated resolution and appendix.



|                                   |   |
|-----------------------------------|---|
| <b>Meeting or Decision Maker:</b> | Standards Committee   |
| <b>Date:</b>                      | 12 July 2019  |
| <b>Classification:</b>            | For General Release   |
| <b>Title:</b>                     | Local Government Ethical Standards - implementation of recommendations of the Committee on Standards in Public Life |
| <b>Report of:</b>                 | Tasnim Shawkat, Monitoring Officer  |

### 1. Executive Summary

- 1.1. This report sets out the proposed action for the Council to implement following the review of Local Government Ethical Standards by the Committee on Standards in Public Life (CSPL).
- 1.2. The proposed actions in this report reflect the discussion at the Standards Committee meeting on 21 March 2019, when the Committee considered the report of the CSPL.

### 2. Recommendations

- 2.1. To note the CSPL recommendations and best practice which are already adopted by the Council (Appendix 1)
- 2.2. To agree to enhance the wording of the provision in relation to bullying and harassment in the Code of Conduct as proposed by the CSPL, and as set out in the proposed draft amendments to the Code (Appendix 2)
- 2.3. To adopt the Cabinet Office principles for accepting gifts or hospitality, as recommended by CSPL, and as set out in the proposed draft amendments to the Code (see appendix 2)
- 2.4. To refer the changes to the Code of Conduct to the General Purposes Committee to recommend for adoption by the Council

### 3. Background

- 3.1. At the meeting on 12 March 2019 the Monitoring Officer presented a report on the key findings of the review by CSPL on ethical standards in local government. The report asked Members to:

- Note the 26 recommendations made by the review and the 15 best practice points.
  - Note the Council already practices many of the recommendations which do not require legislative changes as a matter of good practice
  - To consider what further changes could be made to the Council's Code of Conduct and Arrangements for dealing with complaints alleging a breach of the members Code of Conduct, which would not require legislative change
- 3.2. The purpose of this report is to set out the changes the Monitoring Officer proposes to make, following the review, to its Code of Conduct and guidance to Members.
- 3.3. A list of the CSPL 26 recommendations and 15 best practice points is appended to this report (**Appendix 1**). The list is in tabular format and sets out:
- Recommendation of the CSPL
  - Responsible body i.e whether it can already be implemented by the Local Authority or if it requires legislative change.
  - Whether or not the Council has already adopted the recommendation or best practice (where it does not require legislative change)
- 3.4. At the meeting on 12 March 2019 Members discussed in detail some particular sections of the CSPL report
- Bullying and harassment
  - Role of Ward Councillors and Planning Committee Members in relation to planning matters (particularly in relation to the acceptance of gifts and hospitality)
  - Social Media
- 3.5. At the meeting on 12 March 2019 the Leader attended for a question and answer session. The Leader said that leadership was essential in embedding an ethical culture. The Leader spoke of her regular meetings with the Group Whips and the Monitoring Officer.
- 3.6. The Monitoring Officer confirmed that training on Code of Conduct is mandatory for all Members and that annual training for Members in relation to ethical governance would also be provided.

#### **4. Proposals for changes in the light of the CSPL Report**

##### **Bullying and Harassment**

- 4.1. The CSPL review found that most allegations of code breaches related to bullying and harassment. The review further states it is best practice for Local Authorities to include prohibitions on bullying and harassment in codes of conduct. These should include a definition of bullying and

harassment, supplemented with a list of examples of the sort of behaviour covered by such a definition.

- 4.2. The Council Code of Conduct already includes bullying and harassment as a ground for complaint. Recently this has been strengthened by an amendment in the Arrangements for Dealing with Complaints, which extends the time allowed for complaints in relation to bullying and harassment to be submitted from three months to six months. It was agreed by the Committee on 21 March that the CLSP recommendation that a definition should be included in the Code.
- 4.3. There is no statutory definition of bullying. Harassment is defined in the Equality Act 2010 as “unwanted conduct related to a relevant protected characteristic”, which has the purpose or effect of violating an individual’s dignity or “creating an intimidating hostile, degrading, humiliating or offensive environment” for that individual”
- 4.4. The review referred to an example of a Code of Conduct which has a definition of bullying and harassment.

“Bullying may be characterised as: offensive, intimidating, malicious or insulting behaviour; or any abuse misuse of power in a way that intends to undermine, humiliate, criticise unfairly or injure someone.  
Harassment may be characterised as unwanted conduct which has the purpose or effect of violating an individual’s dignity or creating an intimidating, hostile, degrading, humiliating or offensive environment for an individual”
- 4.5. It is proposed the Council adopts the above definition of bullying and harassment in its code of conduct. The proposed wording has been incorporated in the Code as a draft for approval. Please see Appendix 2, which sets out the proposed definition.

### **Gifts and Hospitality and Planning matters**

- 4.6. The CSPL review highlighted that planning is an area of decision-making where a small number of councillors can have a significant impact on the financial interests of specific individuals or firms. The review stated that Councillors involved in planning decisions should generally not accept over-frequent or over-generous hospitality and should always ensure that acceptance of such hospitality does not constitute a conflict of interest.
- 4.7. The review recommended that local authorities establish a register of gifts and hospitality to record gifts and hospitality received over a value of £50 or totalling £100 over a year from a single source.
- 4.8. Westminster’s Code of Conduct is more stringent and has a provision for members to register gifts, benefits or hospitality with a value more than £25. This must be done within 28 days of receiving. The register is published on the Council’s website and is continually updated.
- 4.9. At the meeting of this Committee on 21 March the Monitoring Officer suggested that the Cabinet Office guidance on gifts and hospitality should be adopted by the City Council, as it is highlighted by the CSPL as a good model.

4.10. The Monitoring Officer stressed that it is a judgment call for individual councillors to make when deciding whether to accept gifts and responsibility, but the guidance provided by the Cabinet Office would be helpful for members to have regard to. These principles require members to consider the following before accepting any gift, benefit or hospitality:

- *“Purpose” – acceptance should be in the interests of Council departments and should further Council objectives”*
- *“Proportionality” – hospitality should not be over-frequent or over-generous. Accepting hospitality frequently from the same organisation/ individual may lead to an impression that the organization/ individual is gaining influence. Similarly, hospitality should not seem lavish or disproportionate to the nature of the relationship with the provider*
- *“Avoidance of conflict of interest” Members should consider the provider’s relationship with the Council, whether it is bidding for work or grants or being investigated or criticized, and whether it is appropriate to accept an offer from a taxpayer-funded organization”*

4.11. It is recommended that the above wording/ guidance is incorporated into the Council’s Code of Conduct as an additional para 29.10(4) as proposed in **Appendix 2.**

4.12. In addition, the Committee is asked to note that the guidance for Planning Committee is also being enhanced and that is the subject of a separate report.

### **Social Media Guide**

4.13. At its meeting on 6th December 2018 the Standards Committee approved the Guidance on the use of social media by Members. This Guidance has been circulated to all Members.

4.14. The CSPL report deals with the issue of social media and its impact. Therefore, the Standards Committee Members at their meeting on 12 March 2019 Members agreed that the social media policy should be discussed at a Council meeting, to ensure all Members are aware of the Guidance.

4.15. At the meeting on 12 March Members agreed that the social media policy should be discussed at a Council meeting. At the Council meeting on 26 June. At the meeting some Councillors suggested proposed amendments to the guidance. Following the Council meeting Councillors were asked to provide their comments on the guidance to committee and governance services. A separate report has been prepared in relation to social media for Members to discuss.

## **5. Financial Implications**

5.1. There are no financial implications for this report.

## **6. Legal Implications**

- 6.1. The Council and individual Members are required to promote and maintain high standards of ethical behaviour as is required under section 27 of the Localism Act 2011 (“the Act”). Under section 28 of the Act, the Council must have in place “arrangements” under which allegations that a member or co-opted member of the Council, or of a Committee or Sub-Committee of the Council, has failed to comply with the Code of Conduct can be investigated and decisions made on such allegations
- 6.2. The Monitoring Officer has reviewed the Code of Conduct following the CSPL review of ethical standards in local government and made some proposed amendments.
- 6.3. If members of the Standards Committee agree with the proposed amendments the revised Code of Conduct will have to be referred to the General Purposes Committee for consideration before seeking approval from Council to update the Constitution.

### **Background papers**

Report for Standards Committee on review of Local Government Ethical Standards by Committee on Standards in Public Life 21 March 2019  
<https://committees.westminster.gov.uk/documents/s31769/5a%20-%20Report%20on%20Committee%20on%20Standards%20in%20Public%20Life%20Local%20Government%20Ethical%20Standards.doc.pdf>

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| <p style="text-align: center;"><b>If you have any queries about this report, please contact:<br/>Reuben Segal, Acting Head of Committee and Governance Services<br/>Tel: 020 7641 3160<br/>Email: <a href="mailto:rsegal@westminster.gov.uk">rsegal@westminster.gov.uk</a></b></p> |
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**Appendix 1**

**Recommendations by the Committee on Standards in Public Life regarding Ethical Standards in Local Government and Best Practice points**

|   | <b>Recommendation</b>  | <b>Responsible Body</b> | <b>Westminster City Council's position</b>  |
|---|--|-------------------------|---|
| 1 | The Local Government Association should create an updated model code of conduct, in consultation with representative bodies of councillors and officers of all tiers of local government   | LGA                     | WCC's code was adopted from the illustrative text for local codes published by DCLG in April 2012. It has been reviewed and updated since first being adopted.  |
| 2 | The government should ensure that candidates standing for or accepting public offices are not required publicly to disclose their home address. The Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012 should be amended to clarify that a councillor does not need to register their home address on an authority's register of interests. | Government              | CSPL referred to WCC's Guidance note to members on Register of Interests in relation to the Council's policy on home addresses – "In accordance with the arrangements for the placing of Register of Interests on the City Council's website agreed by the Standards Committee details of members home addresses will be omitted from the version placed on the website." |
| 3 | Councillors should be presumed to be acting in an official capacity in their public conduct, including statements on publicly-accessible social media. Section 27(2) of the Localism Act 2011 should be amended to permit local authorities to presume so when deciding upon code of conduct breaches  | Government              | S27(2) In discharging its duty under subsection (1), a relevant authority must, in particular, adopt a code dealing with the conduct that is expected of members and co-opted members of the authority when they are acting in that capacity.   |

|   |  |            |   |
|---|--|------------|---|
|   |  |            | WCC has recently published a guide for members in relation to use of social media. Sets out expectations of Members when using social media accounts in their personal capacity.  |
| 4 | Section 27(2) of the Localism Act 2011 should be amended to state that a local authority's code of conduct applies to a member when they claim to act, or give the impression they are acting, in their capacity as a member or as a representative of the local authority.                    | Government | <p><b>Requires legislative change</b></p> <p>S27(2) In discharging its duty under subsection (1), a relevant authority must, in particular, adopt a code dealing with the conduct that is expected of members and co-opted members of the authority when they are acting in that capacity.</p>  |
| 5 | The Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012 should be amended to include: unpaid directorships; trusteeships; management roles in a charity or a body of a public nature; and membership of any organisations that seek to influence opinion or public policy. | Government | <p><b>Requires legislative change</b></p> <p>DPIs currently defined as:</p> <p><b>Employment, office, trade, profession or vocation</b><br/>Any employment, office, trade, profession or vocation carried on for profit or gain.</p> <p><b>Sponsorship</b><br/>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</p> |

any expenses incurred by M in carrying out duties as a member, or towards the election expenses of M.

This includes any payment or financial benefit from a trade union within the meaning of the Trade Union and Labour Relations (Consolidation) Act 1992(3).

**Contracts**

Any contract which is made between 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**

|   |  |            |  |
|---|--|------------|--|
|   |  |            | <p>Any tenancy where (to M's knowledge)—</p> <p>(a)the landlord is the relevant authority; and<br/> (b)the tenant is a body in which the relevant person has a beneficial interest.</p> <p>Securities<br/> Any beneficial interest in securities of a body where—</p> <p>(a)that body (to M's knowledge) has a place of business or land in the area of the relevant authority; and<br/> (b)either—<br/> (i)the total nominal value of the securities exceeds £25,000 or one hundredth of the total issued share capital of that body; or<br/> (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.</p> |
| 6 | Local authorities should be required to establish a register of gifts and hospitality, with councillors required to record any gifts and hospitality received over a value of £50, or totalling £100 over a year | Government | WCC's code of conduct requires Members within 28 days of receipt to register any gift, benefit or hospitality with a value in excess of £25 which they have accepted as a Member from  |

|    |  |            |  |
|----|--|------------|--|
|    | from a single source. This requirement should be included in an updated model code of conduct.   |            | any person or body other than the City Council.  |
| 7  | Section 31 of the Localism Act 2011 should be repealed, and replaced with a requirement that councils include in their code of conduct that a councillor must not participate in a discussion or vote in a matter to be considered at a meeting if they have any interest, whether registered or not, "if a member of the public, with knowledge of the relevant facts, would reasonably regard the interest as so significant that it is likely to prejudice your consideration or decision-making in relation to that matter". | Government | WCCs code of conduct provides guidance to members on deciding on whether to participate in a discussion or vote in a matter to be considered at a meeting.<br><br>This issue is covered in the Monitoring Officer's ethics in local government training for members  |
| 8  | The Localism Act 2011 should be amended to require that Independent Persons are appointed for a fixed term of two years, renewable once.   | Government | Can look to do this when recruit in the future.  |
| 9  | The Local Government Transparency Code should be updated to provide that the view of the Independent Person in relation to a decision on which they are consulted should be formally recorded in any decision notice or minutes.   | Government | WCC records the views of the IP in decision letters and investigation reports as a matter of best practice   |
| 10 | A local authority should only be able to suspend a councillor where the authority's Independent Person agrees both with the finding of a breach and that suspending the councillor would be a proportionate sanction.  | Government | Independent Persons are invited to Standards hearings and their views, which can include views on sanctions are included in investigation reports.<br><br>11.2 of arrangements "The IP may be invited to attend meetings of the committee and their views are sought |

|    |   |   |   |
|----|---|---|---|
|    |   |   | and taken into consideration before the Committee takes any decision on whether the Member's conduct constitutes a failure to comply with the Code and as to any action to be taken following a finding of failure to comply with the Code" |
| 11 | Local authorities should provide legal indemnity to Independent Persons if their views or advice are disclosed. The government should require this through secondary legislation if needed.   | Government/<br>all local<br>authorities | Requires legislative change   |
| 12 | Local authorities should be given the discretionary power to establish a decision-making standards committee with voting independent members and voting members from dependent parishes, to decide on allegations and impose sanctions.   | Government                              | Requires legislative change   |
| 13 | Councillors should be given the right to appeal to the Local Government Ombudsman if their local authority imposes a period of suspension for breaching the code of conduct.  | Government                              | Currently a Member has an opportunity to appeal against the decision by advising the MO in writing within 14 days of the Committee hearing  |
| 14 | The Local Government Ombudsman should be given the power to investigate and decide upon an allegation of a code of conduct breach by a councillor, and the appropriate sanction, on appeal by a councillor who has had a suspension imposed. The Ombudsman's decision should be binding on the local authority. | Government                              | Requires legislative change   |
| 15 | The Local Government Transparency Code should be updated to require councils to publish annually:   | Government                              | The Monitoring Officer presents an annual report to the Standards   |

|    |   |                 |   |
|----|---|-----------------|---|
|    | the number of code of conduct complaints they receive; what the complaints broadly relate to (e.g. bullying; conflict of interest); the outcome of those complaints, including if they are rejected as trivial or vexatious; and any sanctions applied. |                 | Committee in March in relation to the number of complaints investigated in the preceding 12 months and any lessons to be learnt etc |
| 16 | Local authorities should be given the power to suspend councillors, without allowances, for up to six months.   | Government      | Requires legislative change   |
| 17 | The government should clarify if councils may lawfully bar councillors from council premises or withdraw facilities as sanctions. These powers should be put beyond doubt in legislation if necessary.  | Government      | Requires legislative change   |
| 18 | The criminal offences in the Localism Act 2011 relating to Disclosable Pecuniary Interests should be abolished.   | Government      | Requires legislative change   |
| 19 | Parish council clerks should hold an appropriate qualification, such as those provided by the Society of Local Council Clerks.  | Parish Councils | Not applicable for this report  |
| 20 | Section 27(3) of the Localism Act 2011 should be amended to state that parish councils must adopt the code of conduct of their principal authority, with the necessary amendments, or the new model code.<br>Government                                 | Government      | Queens Park Community Council has adopted the Council's code of conduct   |
| 21 | Section 28(11) of the Localism Act 2011 should be   | Government      |   |

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|    | amended to state that any sanction imposed on a parish councillor following the finding of a breach is to be determined by the relevant principal authority.<br>Government  |  |   |
| 22 | The Local Authorities (Standing Orders) (England) (Amendment) Regulations 2015 should be amended to provide that disciplinary protections for statutory officers extend to all disciplinary action, not just dismissal.   | Government                                     | Requires legislative change                                 |
| 23 | The Local Government Transparency Code should be updated to provide that local authorities must ensure that their whistleblowing policy specifies a named contact for the external auditor alongside their contact details, which should be available on the authority's website. | Government                                     | This can be considered                                      |
| 24 | Councillors should be listed as 'prescribed persons' for the purposes of the Public Interest Disclosure Act 1998  | Government                                     | Requires legislative change                                 |
| 25 | Councillors should be required to attend formal induction training by their political groups. National parties should add such a requirement to their model group rules.  | Political groups<br>National political Parties | WCC has mandatory training in relation to ethical standards |
| 26 | Local Government Association corporate peer reviews should also include consideration of a local authority's processes for maintaining ethical standards.   | Local Government Association                   | This can be considered                                      |

**BEST PRACTICE RECOMMENDATIONS**

|   |   |   |
|---|---|---|
|   |   |   |
| 1 | Local authorities should include prohibitions on bullying and harassment in codes of conduct. These should include a definition of bullying and harassment, supplemented with a list of examples of the sort of behaviour covered by such a definition. | <p>Paragraph 2.9 Code of Conduct-“.....not to act in a matter that could be deemed to be bullying, harassment or intimidation”</p> <p>A definition of bullying and harassment has been added to the definitions section of the Code of Conduct (see appendix 2 of report)</p>   |
| 2 | Councils should include provisions in their code of conduct requiring councillors to comply with any formal standards investigation, and prohibiting trivial or malicious allegations by councillors.   | The Council’s arrangements for dealing with complaints alleging a breach of the Members code of conduct states that complaints will only be considered to merit formal investigation if they comply with all the criteria set out in paragraph 4.3 which includes - the complaint is not tit for tat and the complaint appears not to be politically motivated. |
| 3 | Principal authorities should review their code of conduct each year and regularly seek, where possible, the views of the public, community organisations and neighbouring authorities   | The code is reviewed annually and following any complaints investigation if there were any lessons to be learnt.  |
| 4 | An authority’s code should be readily accessible to both councillors and the public, in a prominent position on a council’s website and available in council premises.  | The code of conduct is published on the Council’s website.  |

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| 5  | Local authorities should update their gifts and hospitality register at least once per quarter, and publish it in an accessible format, such as CSV.   | Register is on line and is updated regularly  |
| 6  | Councils should publish a clear and straightforward public interest test against which allegations are filtered  |   |
| 7  | Local authorities should have access to at least two Independent Persons.  | The Council currently has two independent persons and is interviewing for a third.  |
| 8  | An Independent Person should be consulted as to whether to undertake a formal investigation on an allegation, and should be given the option to review and comment on allegations which the responsible officer is minded to dismiss as being without merit, vexatious, or trivial.  | The Council's arrangements for dealing with complaints set out that the Monitoring Officer will consult the Independent Person before coming to a final decision as to whether or not a complaint which meets the relevant criteria should be investigated. |
| 9  | Where a local authority makes a decision on an allegation of misconduct following a formal investigation, a decision notice should be published as soon as possible on its website, including a brief statement of facts, the provisions of the code engaged by the allegations, the view of the Independent Person, the reasoning of the decision-maker, and any sanction applied | The report of the Investigating Officer is published on the Council's website.<br><br>The minutes and decisions of Standards hearings will be published on the Council's website.   |
| 10 | A local authority should have straightforward and accessible guidance on its website on how to make a complaint under the code of conduct, the process for handling complaints, and estimated timescales for investigations and outcome  | The code of conduct and "Arrangements" are published on the Council's website   |

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| 11 | Formal standards complaints about the conduct of a parish councillor towards a clerk should be made by the chair or by the parish council as a whole, rather than the clerk in all but exceptional circumstances   | This has been recommended to Queens Park Community Council   |
| 12 | Monitoring Officers' roles should include providing advice, support and management of investigations and adjudications on alleged breaches to parish councils within the remit of the principal authority. They should be provided with adequate training, corporate support and resources to undertake this work.   | The Monitoring Officer and her deputies provide advice, support and management of investigations and adjudications on alleged breaches to Queens Park Community College.   |
| 13 | A local authority should have procedures in place to address any conflicts of interest when undertaking a standards investigation. Possible steps should include asking the Monitoring Officer from a different authority to undertake the investigation.  | The Monitoring Officer can appoint another officer to undertake the investigation and can also seek the views of the Monitoring Officer for Kensington And Chelsea as the legal service is a Bi-Borough arrangement. |
| 14 | Councils should report on separate bodies they have set up or which they own as part of their annual governance statement, and give a full picture of their relationship with those bodies. Separate bodies created by local authorities should abide by the Nolan principle of openness, and publish their board agendas and minutes and annual reports in an accessible place. | To be considered in the future.  |
| 15 | Senior officers should meet regularly with political group leaders or group whips to discuss standards issues  | The Leader has arranged regular meetings with the Group Whips and the Monitoring Officer to discuss standards issues.  |



## **Appendix 2**

### **Proposed amendments to the Code of Conduct following the recommendations of the Committee on Standards in Public Life**

**Yellow highlight** = requires Standards Committee approval to refer to General Purposes Committee

**Blue highlight** = Standards Committee has approved and awaiting Council approval

## **Westminster City Council - Members' Code of Conduct**

### **29.6 Application**

This Code of Conduct applies to Members and Co-opted Members whenever they are acting in a capacity as a Member or Co-opted Member of the City Council. The definitions in Appendices 1 and 2 apply to this Code. This Code is consistent with the Nolan Principles as explained in Appendix 3.

### **29.7 General Conduct**

Members must comply with the following standards of conduct/behaviour.

- (1) To act solely in the public interest and never to improperly confer or seek to confer an advantage or disadvantage on any person or act to gain financial or other material benefits for themselves, their family, friends or close associates.
- (2) Not to place themselves under a financial or other obligation to any individual or organisation that might seek to influence them in the performance of their official duties.
- (3) To make all decisions on merit when carrying out public duties, such as making public appointments, awarding contracts or recommending individuals for rewards or benefits.
- (4) To be accountable for their decisions to the public and to co-operate fully with whatever scrutiny is required.
- (5) To be open and as transparent as possible about decisions and actions and the decisions and actions of the City Council and to give reasons for those decisions and actions
- (6) To register and declare any disclosable pecuniary interests and to declare non-disclosable pecuniary interests and non-pecuniary interests, as set out in this Code.
- (7) When using or authorising the use by others of the resources of the City Council, to ensure that such resources are not used improperly

for political purposes (including party political purposes) and to have regard to any applicable Local Authority Code of Publicity made under the Local Government Act 1986.

- (8) To behave in accordance with all legal obligations, alongside any requirements contained within the City Council's policies, protocols and procedures, including on the use of the Council's resources and dealing with confidential information appropriately.
- (9) To value and respect colleagues, staff, partners and the public, engaging with them in an appropriate manner that underpins the mutual respect between them that is essential to good local government, and not to act in a manner that could be deemed to be bullying, harassment or intimidation (see Appendix 2 for definition of bullying and harassment)
- (10) To promote and support high standards of conduct through leadership and by example, including not acting in a manner which could be seen to bring the Council or the role of the Councillor into disrepute.

## **29.8 Disclosable Pecuniary Interests**

- (1) Members must
  - a) comply with the statutory requirements to register, disclose and withdraw from participating in respect of any matter in which they have a disclosable pecuniary interest, as defined in Appendix 2.
  - b) ensure their register of interests is kept up to date and notify the Monitoring Officer in writing within 28 days of becoming aware of any change in respect of their disclosable pecuniary interests.
  - c) make an oral declaration of the existence and nature of any disclosable pecuniary interest at any meeting at which they are present at which an item of business which affects or relates to the subject matter of that interest is under consideration, at or before the consideration of the item of business or as soon as the interest becomes apparent.
- (2) "Meeting" means any meeting, either formal or informal, organised by or on behalf of the City Council.
- (3) It is a criminal offence for a Member to:
  - Fail to notify the Monitoring Officer of any disclosable pecuniary interest within 28 days of election
  - Fail to disclose a disclosable pecuniary interest at a meeting if it is not on the register

- Fail to notify the Monitoring Officer within 28 days of a disclosable pecuniary interest that is not on the register that they have disclosed to a meeting
  - Participate in any discussion or vote on a matter in which they have a disclosable pecuniary interest
  - As an executive member discharging a function acting alone, and having a disclosable pecuniary interest in such a matter, to fail to notify the Monitoring Officer within 28 days of the interest.
  - To knowingly or recklessly provide information that is false or misleading in notifying the Monitoring Officer of a disclosable pecuniary interest or in disclosing such interest to a meeting
- (4) The criminal penalties available to a court are to impose a fine not exceeding level 5 on the standard scale and disqualification from being a councillor for up to 5 years.

### **29.9 Other Interests**

- (1) In addition to the requirements of Section 3, if Members attend a meeting at which any item of business is to be considered and they are aware that they have a “non-disclosable pecuniary interest” or a “non-pecuniary interest” in that item, they must make an oral declaration of the existence and nature of that interest at or before the consideration of the item of business or as soon as the interest becomes apparent.
- (2) Members have a “non-disclosable pecuniary interest” or a “non-pecuniary interest” in an item of business of the City Council where –
- (a) a decision in relation to an item of that business might reasonably be regarded as affecting their well-being or financial standing or that of a member of their family, or a person with whom they have a close association, to a greater extent than it would affect the majority of the Council Tax payers, ratepayers or inhabitants of the ward for which they have been elected, or
  - (b) it relates to or is likely to affect any of the interests listed in the Table in Appendix 1 of this Code but in respect of a member of the Member’s family (other than a “relevant person”) or a person with whom they have a close association.

### **29.10 Gifts and Hospitality**

- (1) Members must, within 28 days of receipt, notify or arrange for the Monitoring Officer to be notified in writing of any gift, benefit or hospitality

with a value in excess of £25 which they have accepted as a Member from any person or body other than the City Council

- (2) The Monitoring Officer will place the contents of the notification on the register of interests of the relevant Member.
- (3) Where the Monitoring Officer is of the view that such gift or hospitality is clearly below £25 in value they may decline to include this on the register.
- (4) In accepting any gift, benefit or hospitality Members should consider the following principles to guide them, as suggested by the Committee in Standards in Public Life:

- *“Purpose” – acceptance should be in the interests of Council departments and should further Council objectives”*
- *“Proportionality” – hospitality should not be over-frequent or over-generous. Accepting hospitality frequently from the same organisation/ individual may lead to an impression that the organization/ individual is gaining influence. Similarly, hospitality should not seem lavish or disproportionate to the nature of the relationship with the provider*
- *“Avoidance of conflict of interest” Members should consider the provider’s relationship with the Council, whether it is bidding for work or grants or being investigated or criticized, and whether it is appropriate to accept an offer from a taxpayer-funded organization”*

### **29.11 Sensitive Interests**

- (1) In cases where they have an interest and the nature of the interest is such that the Member and Monitoring Officer both consider that disclosure of the details of the interest could lead to the Member or a person connected with the Member being subject to violence or intimidation:
  - the register of interests will not include details of the interest but may state that the Member has an interest about which details have been withheld and
  - where required by this Code to declare the interest at a meeting, the Member may only be required to declare the fact that s/he has an interest in the matter.

### **29.12 Dispensations from the Restriction from Participating and Voting in Meetings**

- (1) This provision applies to a situation where a Member or Members have an interest, which prevents them from taking part in a decision but they feel they ought to be able to participate or that it is necessary to allow

them to participate in the interests of proper decision making, as explained below.

- (2) One or more Members may apply for a dispensation from the requirement not to participate in or vote in respect of a matter at a meeting by written request to the Monitoring Officer, so that they are able to participate in respect of that matter at the meeting.
- (3) The Monitoring Officer (or in his/her absence the Deputy Monitoring Officer) may agree the dispensation on behalf of the City Council, where s/he considers, after having had regard to all relevant circumstances such as follows:
  - (a) that without the dispensation the number of persons prohibited by section 31(4) of the Act 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) that 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) that granting the dispensation would be in the interests of persons living in the Council's area,
  - (d) that without the dispensation each member of the Cabinet would be prohibited by section 31(4) of the Act from participating in any particular business to be transacted by the Cabinet , or
  - (e) that it is otherwise appropriate to grant a dispensation.
- (4) If granted the dispensation will be granted by the Monitoring Officer in writing and citing the ground or grounds on which it is agreed and it will be published on the Council's website within 7 days of the decision.
- (5) The dispensation must be for a fixed time not exceeding a period beyond the next City Council elections and will normally cover only a specific matter or meeting.
- (6) A Member may seek a review of the Monitoring Officer's decision not to grant a dispensation to the Standards Committee. The Monitoring Officer may choose to refer any application for dispensation to the Standards Committee and may, in doing so, consult one of the Council's Independent Persons. The Monitoring Officer may also, if s/he chooses, consult one of the Council's Independent Persons prior to granting a dispensation referred to in 3 above.

## APPENDIX 1

### Disclosable Pecuniary Interests

The duties to register, disclose and not to participate in respect of any matter in which a member has a Disclosable Pecuniary Interest are set out in Chapter 7 of the Localism Act 2011. Disclosable Pecuniary Interests are defined in the Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012 **as** either the interest of the Member or the interest of a relevant person **and** the Member is aware that the other person has an interest as follows-

| <b><i>Interest</i></b>                            | <b><i>Prescribed Description</i></b>  |
|---|---|
| Employment, office, trade, profession or vocation | 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 M in carrying out duties as a member, or towards the election expenses of M. 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-<br>(a) Under which goods or services are to be provided or works are to be executed; and<br>(b) Which has not been fully discharged.  |
| Land  | Any beneficial interest in land which is within the area of the relevant authority.   |
| Licences  | Any license (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 M's knowledge)<br>(a) The landlord is the relevant authority; and<br>(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 –<br>(a) That body (to M's knowledge) has a place of business or land in the area of the relevant authority<br>(b) Either –<br>(i) The total nominal value of the securities  |

|  |   |
|--|---|
|  | <p>exceeds<br/>£25,000 or one hundredth of the total<br/>issued<br/>share capital of that body; or<br/>(ii) If the share capital of that body is of more than<br/>one<br/>class, the total nominal value of the shares<br/>of<br/>any one class in which the relevant person<br/>has<br/>a beneficial interest exceeds one hundredth<br/>of<br/>the total issued share capital of that class.</p> |
|--|---|

## APPENDIX 2

### Definitions

*“the Act” means the Localism Act 2011;*

*“body in which the relevant person has a beneficial interest” means a firm in which the relevant person is a partner or a body corporate of which the relevant person is a director, or in the securities of which the relevant person has a beneficial interest;*

*“bullying” may be characterised as: offensive, intimidating, malicious or insulting behaviour; or an abuse or misuse of power in a way that intends to undermine, humiliate, criticize unfairly or injure someone;*

*“director” includes a member of the committee of management of an industrial and provident society;*

*“harassment” maybe characterised as unwanted conduct which has the purpose or effect of violating an individual’s dignity or creating an intimidating, hostile, degrading, humiliating or offensive environment for an individual;*

*“land” excludes an easement, servitude, interest or right in or over land which does not carry with it a right for the relevant person (alone or jointly with another) to occupy the land or to receive income;*

*“M” means a member of a relevant authority;*

*“member” includes a co-opted member;*

*“Non-Pecuniary interest” is an interest which is not pecuniary (as defined above) but is nonetheless so significant that a member of the public with knowledge of the relevant facts, would reasonably regard to be so significant that it would materially impact upon the Member’s judgement of the public interest;*

*“relevant authority” means the authority of which M is a member;*

*“relevant period” means the period of 12 months ending with the day on which M gives a notification for the purposes of section 30(1) or section 31(7), as the case may be, of the Act;*

*“relevant person” means M or any other person referred to in section 30(3)(b) of the Act;*

*“securities” means shares, debentures, debenture stock, loan stock, bonds, units of a collective investment scheme within the meaning of the Financial Services and Markets Act 2000 and other securities of any description, other than money deposited with a building society.*

### APPENDIX 3

The following principles, commonly known as the “Nolan Principles”, do not form part of the Code of Conduct but are included as an Appendix simply to remind Members of the ethical standards expected of public office holders.

**SELFLESSNESS:** Holders of public office should act solely in terms of the public interest. They should not do so in order to gain financial or other material benefits for themselves, their family, or their friends.

**INTEGRITY:** Holders of public office should not place themselves under any financial or other obligation to outside individuals or organisations that might seek to influence them in the performance of their official duties.

**OBJECTIVITY:** In carrying out public business, including making public appointments, awarding contracts, or recommending individuals for rewards and benefits, holders of public office should make choices on merit.

**ACCOUNTABILITY:** Holders of public office are accountable for their decisions and actions to the public and must submit themselves to whatever scrutiny is appropriate to their office.

**OPENNESS:** Holders of public office should be as open as possible about all the decisions and actions that they take. They should give reasons for their decisions and restrict information only when the wider public interest clearly demands.

**HONESTY:** Holders of public office have a duty to declare any private interests relating to their public duties and to take steps to resolve any conflicts arising in a way that protects the public interest.

**LEADERSHIP:** Holders of public office should promote and support these principles by leadership and example.

## APPENDIX 4 - Declaring Interests Flowchart, Questions to ask yourself

Breaching those parts identified as a disclosable pecuniary interest is potentially a criminal offence

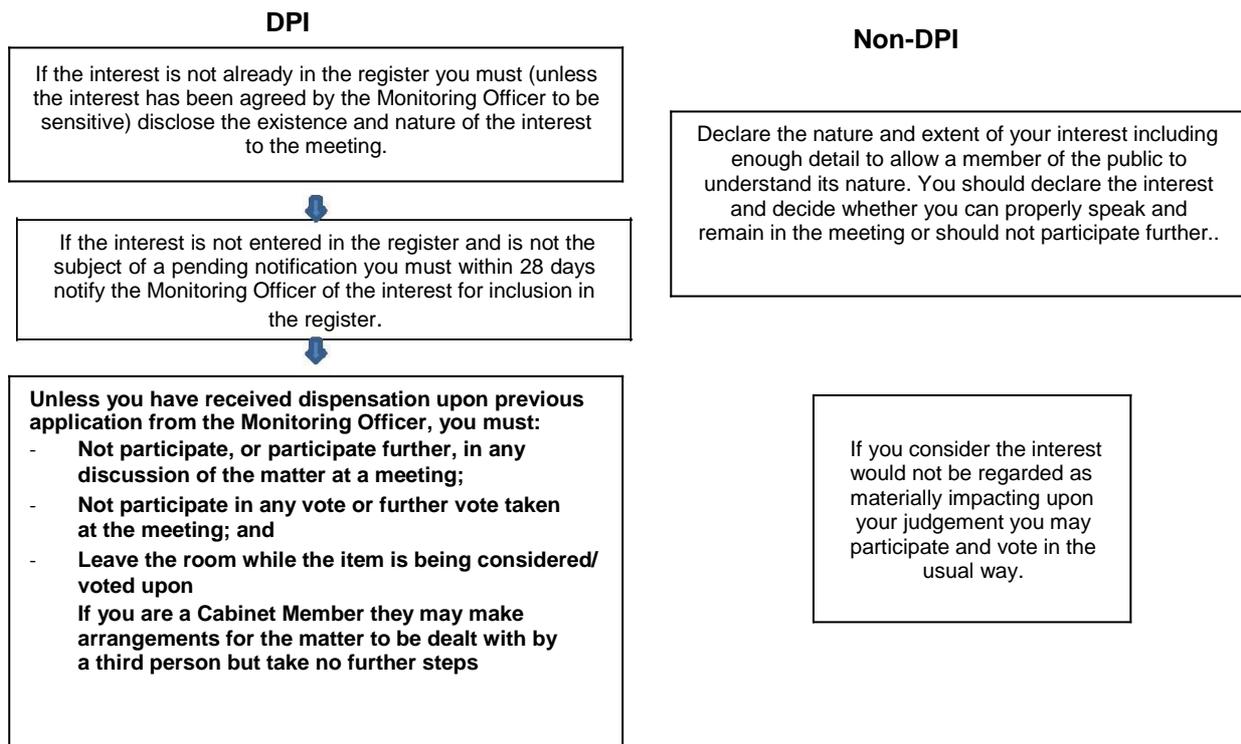
### Helpful Reminders for Members

- Is your register of interests up to date?
- In particular have you declared to the Monitoring Officer all disclosable pecuniary interests?
- Have you checked the register to ensure that they have been recorded correctly?

### When should you declare an interest at a meeting?

|   |
|---|
| <ul style="list-style-type: none"> <li>• <b>What matters are being discussed at the meeting</b> ; or</li> <li>• If you are a Cabinet Member making decisions other than in Cabinet <b>what matter is before you for single member decision?</b></li> </ul>  |
|    |
| <p><b>Does the business to be transacted at the meeting</b></p> <ul style="list-style-type: none"> <li>• <b>Relate to;</b> or</li> <li>• <b>Is likely to affect</b></li> </ul> <p><b>any of your registered interests</b> Disclosable Pecuniary Interests include your interests and those of:</p> <ul style="list-style-type: none"> <li>• Your spouse or civil partner</li> <li>• A person you are living with as husband/wife or as a civil partner</li> </ul> <p>where you are aware that this other person has the interest.<br/> <b>Please seek advice from the Monitoring Officer about disclosable pecuniary interests.</b></p> |

What is a non- disclosable pecuniary interest or a Non-Pecuniary Interest? – this is an interest which is not a disclosable pecuniary interest (as defined) but is nonetheless so significant that a member of the public with knowledge of the relevant facts, would reasonably regard to be so significant that it would materially impact upon your judgement of the public interest.



## Standards Committee

|                                   |   |
|-----------------------------------|---|
| <b>Meeting or Decision Maker:</b> | Standards Committee                               |
| <b>Date:</b>                      | 11 July 2019                                      |
| <b>Classification:</b>            | General Release                                   |
| <b>Title:</b>                     | Updating report on use of Social Media by Members |
| <b>Report of:</b>                 | Tasnim Shawkat, Monitoring Officer                |

### 1. Executive Summary

- 1.1. On 6 December 2018 the Committee was asked to consider a draft guidance note for members on the use of social media.
- 1.2. The Committee agreed the draft note and recommended the guidance was referred to a Council meeting for consideration by all Members.
- 1.3. The social media guidance was discussed at the Council meeting on 26 June 2019. Some members made suggested changes to the guidance. It was agreed that the guidance would be referred to the Committee for further discussion and in the interim all members to be invited to provide comments.

### 2. Recommendations

- 2.1. To consider any comments by members on the guidance note on the use of social media (Appendix One)

### 3. Background information

- 3.1. On 6 December 2018 the Committee approved a guidance note for members on the use of social media. The Committee recommended that the guidance note should be referred to a Council meeting.
- 3.2. The guidance was discussed at the Council meeting on 26 June 2019. Some members commented that the guidance was not as clear as it could be.

3.3. Following the Council meeting members were invited to provide comments on the social media guidance to Committee and Governance Services. A summary of the comments will be tabled for discussion at the meeting on 11 July 2019.

3.4. The Committee is invited to review the social media guidance to make sure it is fit for purpose.

#### **4. Financial Implications**

4.1. There are no financial implications for this report.

#### **5. Legal Implications**

5.1. There are no legal implications arising from this report.

#### **6. Background Papers**

<https://committees.westminster.gov.uk/documents/s30107/5a%20-%20Use%20of%20Social%20Media%20covering%20report.pdf> Report on use of social media 6 December 2018

|  |
|--|
| <p><b>If you have any queries about this report please contact: Reuben Segal<br/>Acting Head of Committee and Governance Services, Tel: 0207 641 3160<br/>Email: rsegal@westminster.gov.uk</b></p> |
|--|

## **Guidance on use of social media by Elected Members**

### **Quick guide for councillors**

Most helpful tip – don't post any message on social media that would be inappropriate to say in a public meeting.

### **Dos and Don'ts**

#### *Do*

- Be responsible and respectful at all times.
- Share other people's helpful content and links and credit other people's work.
- Use social media in the spirit in which it was intended – to engage, openly and honestly. Seek feedback from your residents (but make sure you share the results with them).
- Listen – social media is designed to be a two-way channel, just like any good conversation.
- Set and check you have the appropriate privacy settings for your blog or networking site.
- Do keep an eye out for defamatory or obscene posts on your sites and remove them as soon as possible to avoid the perception that you condone such views.
- Be aware that you will be seen as acting in your official capacity if you publish information that you could only have accessed by being an elected member.
- Do talk to Member Services if you need advice – they can consult relevant colleagues if needed.

#### *Don't*

- Don't post social media content in haste, particularly in circumstances where your judgment might be impaired; for example if you are angered by a comment or tired.
- Don't post comments that you would not be prepared to make on paper or face to face, or content which will embarrass the Council or yourself.
- Don't request or accept a Council employee or contractor providing services to the council as a "friend" on a social networking site where this suggests close personal association. For the avoidance of doubt this does not apply to sites which are intended as a neutral, professional connections registry (such as LinkedIn).
- Don't use social media in any way to attack, insult abuse, defame or otherwise make negative, offensive or discriminatory comments about Council staff, service users, their family or friends, colleagues, other professionals, other organisations or the Council. and

that social media not be used to attack or insult Council staff whether in a person's own name or anonymously

- Don't publish confidential information that you may have learned or had access to as part of your role as an elected member. This includes personal information about service users, their families or friends, contractors, council staff as well as council related information.
- Don't represent your personal views, or those of political party or interest group you belong to, as being those of the Council.
- Don't try to cover up mistakes, be honest and you'll get more respect for it in the long run.
- Don't assume that social media will look after itself – you will need to invest time, enthusiasm and energy to make it work. Social media is 24/7 – just because you leave at 5.00 pm doesn't mean the world stops or that residents won't be active. If your account is only staffed 9-5 then you should say so on your profile.
- Don't ignore legal advice, it's there to help you.

### **Further detailed guidance**

1. Westminster City Council has its own social media accounts which act as the council's official channels across Facebook, Twitter, LinkedIn, Instagram, YouTube and Snapchat.
2. You are personally responsible for what you publish on your own social media accounts – whether you do that yourself or someone does it on your behalf. It is important that you think before you publish, as words once published on social media cannot easily be retracted.
3. Be mindful if using social media during an official Council meeting or event that the use does not negatively impact on the proceedings or contravene the Constitution or other Council protocol.

### **Members code of conduct**

4. This applies to your online activity in the same way it does to other written or verbal communication. You should comply with the general principles of the Code in what you publish and what you allow others to publish.
5. You will need to be particularly aware of the following sections of the Code and their practical application:
  - (i) Treating others with respect – avoid personal attacks and any disrespectful, rude or offensive comments.

- (ii) Refraining from publishing anything you have received in confidence – avoid breaching the Code by disclosing confidential information
- (iii) Ensure all content that relates to the Council or Council business is accurate, fairly balanced, not misleading and complies with any relevant Council policy
- (iv) Ensure you do not bring the Council or your Councillor role into disrepute, as paragraph 2.10 of the Code requires every Member to “Promote and support high standards of conduct through leadership and by example”.

### **Personal use of social media**

- 6. The key to whether your online activity is subject to the Code of Conduct for Members is whether you are giving the impression that you are acting as a councillor, and that is the case whether you are in fact acting in an official capacity or simply giving the impression that you are doing so.
- 7. One way to separate your personal/private business from your activities as a councillor is to have two separate accounts - one for personal/private business and the other for councillor activities. However, even then, you still need to be careful to ensure that what you say on your personal/private business account does not compromise your position as a councillor.
- 8. If in respect of any personal use of social media you can be identified as associated with the Council by title, profile or content then the following guidance should be complied with

You should:

- (i) Expressly state (through a prominent disclaimer) on any profile or content that identifies you as a Councillor (or otherwise refers to or implies a relationship with the Council) that the stated views are your own personal views and not those of the Council.
- (ii) Ensure that readers are not misled into believing that you any material published by you is on behalf of the Council, authorised by the Council or official Council policy if it is not.
- (iii) Ensure all content that relates to the Council or Council business is accurate, fairly balanced, not misleading and complies with any relevant Council policy.
- (iv) Comply with the terms and conditions of the social media site being used.

You must not

- (v) Make any comment or post material so as to give a reasonable person the impression that you have brought your office as Councillor or the Council into disrepute.

- (vi) Present political or personal opinion as fact or as representative of the Council.
- (vii) Imply that you are authorised to speak as a representative of the Council nor give the impression that the views you express are those of the Council.
- (viii) Publish content that promotes personal/ family interests, personal financial interests or any personal commercial ventures.

## Legal considerations

9. In the main, Members have the same legal duties online as anyone else (see below), but failures to comply with the law may have more serious consequences. There are some additional duties around using a Member's website for electoral campaigning and extra care needs to be taken when writing on planning, licensing and other quasi-judicial matters.
- (i) *Libel* - If you publish an untrue statement about a person which is damaging to their reputation they may take a libel action against you. This will also apply if you allow someone else to publish something libellous on your website if you know about it and don't take prompt action to remove it. A successful libel claim against you will result in an award of damages against you.
  - (ii) *Copyright* - Placing images or text on your site from a copyrighted source (for example extracts from publications or photos) without permission is likely to breach copyright. Avoid publishing anything you are unsure about, or seek permission in advance. Breach of copyright may result in an award of damages against you.
  - (iii) *Data Protection* - Avoid publishing the personal data of individuals unless you have their express written permission.
  - (iv) *Bias and pre-determination* - If you are involved in determining planning or licensing applications or other quasi-judicial decisions, avoid publishing anything on your blog that might suggest you don't have an open mind about a matter you may be involved in determining. If not, the decision runs the risk of being invalidated.
  - (v) *Obscene material* - It goes without saying that you should avoid publishing anything in your blog that people would consider obscene as it is a criminal offence.
  - (vi) *Bullying and discriminatory comments* - Behaving in a discriminatory, bullying or harassing way towards any individual including making offensive or derogatory comments relating to sex, gender reassignment, race (including nationality), disability, sexual orientation, religion or belief or age via social media by posting images or links or comments could, in certain circumstances, result in criminal sanction.

10. While the above list is not exhaustive it does highlight some of the more obvious issues. If you are in any doubt, speak to the Monitoring Officer.

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| <b>Date:</b>                              | <b>11 July 2019</b>  |
| <b>Classification:</b>                    | <b>For General Release</b>   |
| <b>Title:</b>                             | <b>Work Options and Work Programme</b>   |
| <b>Report of:</b>                         | <b>Head of Committee and Governance Services</b>   |
| <b>Financial Summary:</b>                 | <b>There are no financial implications arising from this report</b>  |
| <b>Report Author and Contact Details:</b> | <b>Reuben Segal, Head of Committee and Governance Services</b><br><b>Tel: 020 7641 3160;</b><br><b>Email: <a href="mailto:rsegal@westminster.gov.uk">rsegal@westminster.gov.uk</a></b> |

### **1. Executive Summary**

- 1.1 Members are asked to consider the Work Options set out in the section 6 of the report, identify any other items it wishes to add to this list and which of these it wishes to include in the Committee's Work Programme.
- 1.2 An Action Tracker will be produced after each meeting to monitor any decisions/action requests.

### **2. Recommendations**

- 2.1 That, having regard to the Committee's Terms of Reference attached as appendix 1 of this report and to the Work Options set out in section 6, the Committee indicate any items it wishes to be added to its Work Programme.

### **3. Background Information**

- 3.1 The production of a work programme is to enable the Committee to review and update its forthcoming work plan at each of its meetings. The Work Options set out below is submitted for consideration and updating.
- 3.2 In order to ensure the Committee undertakes its work programme, at the request of the Chairman, 3 meetings per annum have been programmed.
- 3.3 The Action Tracker will be attached to future versions of this report.

### **4. Financial Implications**

- 4.1 There are no financial implications.

## 5. Legal Implications

5.1 There are no legal implications arising from this report.

## 6. Work Options

### 6.1 Consultations

Disqualification Criteria for Councillors and Mayors – Department of Communities and Local Government 2017

### 6.2 Protocols / Reviews

Members Rights of Access to Information  
Declarations and Register of Interests – Guidance  
Member / Officer Protocol  
Review of Arrangements for dealing with complaints against Councillors  
Practical guidance for Members handling confidential information  
Review of Registration of Interests  
Outside Bodies – Governance

### 6.3 Member Development and Training

Member Development Programme  
Update on Training for Members on Quasi-Judicial Bodies

**If you have any questions about this report, or wish to inspect one of the background papers, please contact:  
Reuben Segal, Head of Committee and Governance Services  
Tel: 020 7641 3160; [rsegal@westminster.gov.uk](mailto:rsegal@westminster.gov.uk)**

Background Papers: None.