



Walsall Council

Standards Committee

30 September 2024 at 18:00

Conference room 2 at the Council House, Lichfield Street, Walsall

Membership:

Councillor R. Martin (Chair)
Councillor A. Andrew
Councillor H. Bashir
Councillor R. Burley
Councillor I. Hussain
Councillor R. Larden
Councillor R. K. Mehmi
Councillor W. Rasab
Councillor S. Samra
Councillor K. Sears

Independent Members

Mr A. Green
Ms D. Mardner
Mr C. Magness

Quorum:

Four Members

Democratic Services, The Council House, Walsall, WS1 1TW
Contact name: Sian Lloyd Telephone: 01922 655943 Email: sian.lloyd@walsall.gov.uk
[Walsall Council Website](#)

**If you are disabled and require help to and from the meeting room,
please contact the person above**

The Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012
Specified pecuniary interests

The pecuniary interests which are specified for the purposes of Chapter 7 of Part 1 of the Localism Act 2011 are the interests specified in the second column of the following:

Subject	Prescribed description
Employment, office, trade, profession or vocation	Any employment, office, trade, profession or vocation carried on for profit or gain.
Sponsorship	<p>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 a member in carrying out duties as a member, or towards the election expenses of a member.</p> <p>This includes any payment or financial benefit from a trade union within the meaning of the Trade Union and Labour Regulations (Consolidation) Act 1992.</p>
Contracts	<p>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:</p> <p>(a) under which goods or services are to be provided or works are to be executed; and</p> <p>(b) which has not been fully discharged.</p>
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 a member's knowledge):</p> <p>(a) the landlord is the relevant authority;</p> <p>(b) the tenant is a body in which the relevant person has a beneficial interest.</p>
Securities	<p>Any beneficial interest in securities of a body where:</p> <p>(a) that body (to a member's knowledge) has a place of business or land in the area of the relevant authority; and</p> <p>(b) either:</p> <p>(i) the total nominal value of the securities exceeds £25,000 or one hundredth of the total issued share capital of that body; or</p> <p>(ii) if the share capital of that body is 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>

Schedule 12A to the Local Government Act, 1972 (as amended)

Access to information: Exempt information

Part 1

Descriptions of exempt information: England

1. Information relating to any individual.
2. Information which is likely to reveal the identity of an individual.
3. Information relating to the financial or business affairs of any particular person (including the authority holding that information).
4. Information relating to any consultations or negotiations, or contemplated consultations or negotiations, in connection with any labour relations matter arising between the authority or a Minister of the Crown and employees of, or office holders under, the authority.
5. Information in respect of which a claim to legal professional privilege could be maintained in legal proceedings.
6. Information which reveals that the authority proposes:
 - (a) to give any enactment a notice under or by virtue of which requirements are imposed on a person; or
 - (b) to make an order or direction under any enactment.
7. Information relating to any action taken or to be taken in connection with the prevention, investigation or prosecution of crime.
8. Information being disclosed during a meeting of a Scrutiny and Performance Panel when considering flood risk management functions which:
 - (a) Constitutes a trades secret;
 - (b) Its disclosure would, or would be likely to, prejudice the commercial interests of any person (including the risk management authority);
 - (c) It was obtained by a risk management authority from any other person and its disclosure to the public by the risk management authority would constitute a breach of confidence actionable by that other person.

Part 1 – Public Session

1. Apologies
2. Substitutions
To receive notice of any substitutions for a Member of the Committee for the duration of the meeting.
3. Minutes
To approve and sign the minutes of the meeting held on 15 July 2024.
(Enclosed - Page 5 to 7)
4. Declarations of Interest
5. Local Government (Access to Information) Act, 1985 (as amended):
To agree that the public be excluded from the private session during consideration of the agenda items indicated for the reasons shown on the agenda.
6. Local Government and Social Care Ombudsman Annual Report
Update on complaints referred by the Ombudsman to the Council.
(Enclosed – Page 8 to 23)
7. Member DBS Check Update
Update on the current uptake of criminal record checks by elected members.
(Enclosed - Page 24 to 26)
8. Declarations of Interest
Information on declarations of interest made by Councillors.
(Enclosed - Page 27 to 34)
9. Conduct of Councillors in Meetings
Requested update on debate at meetings of Council.
(Enclosed – Page 35 to 41)
10. Date of next meeting
The date of the next meeting will be 27 January 2025.

Minutes of the Standards Committee held in Conference Room 2, Walsall Council House

Monday 15 July 2024 at 6PM

Committee Members present:

Councillor R. Martin (Chair)
Councillor T. Jukes (Vice Chair)
Councillor A. Andrew
Councillor H. Bashir
Councillor R. Burley
Councillor R. Larden
Councillor W. Rasab
Councillor S. Samra
Councillor K. Sears

Independent Persons:

Ms D. Mardner
Mr A. Green

Officers Present:

Mr T. Cox – Director of Governance
Mr N. Picken – Principal Democratic Services Officer

29. Apologies

An apology was received from Councillor R. Mehmi.

30. Substitutions

None.

31. Declarations of Interest

There were no declarations of interest.

32. Local Government (Access to Information) Act 1985 (as amended)

There were no items to be considered in private session.

33. Minutes

A copy of the Minutes of the meeting held on the 30 January, 2024 was submitted [annexed].

Resolved

That the minutes of the meetings held 30th January, 2024, copies having been circulated in advance, be approved as a correct record.

34. Introduction to Standards Committee

The Committee received a report explaining the purpose of the Standards Committee in promoting and maintaining high standards of conduct by members and co-opted members of the authority.

The Director of Governance highlighted that the council is required by law to promote and maintain high standards of conduct by members and co-opted members of the authority. In discharging its duty, 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.

Members were advised that a working group met in 2022/2023 and reviewed the remit of the Standards Committee. This led to a number of changes as detailed within the report submitted.

Resolved

That the report be noted.

35. Members DBS Check Update

The Director of Governance presented an update report on the status of criminal record check update by Members. It was emphasized that, due to a number of changes in committee membership in the new municipal year, there were several councillors who, despite having had a DBS check in the last four years, have been requested to complete a new enhanced check to adhere with the process agreed by the Council.

Members were reminded that whilst not a legal requirement to undertake criminal record checks of all members, doing so provides Members with further accountability and protection whilst also maintaining transparency and high standards of behaviour.

Resolved

That:

- 1. the information available on the current number of complete DBS checks for Members be noted; and**

2. **the Committee receives a further update on the uptake of voluntary DBS checks by elected Members at their meeting in September, 2024.**

36. **Review of Arrangements for Dealing with Member Complaints**

The Committee received a report seeking approval to carry out a review of the Arrangements for Dealing with Complaints against Elected Members.

Members noted that the Arrangements for Dealing with Complaints against Elected Members was approved by Walsall Council at a meeting of the Council on 25th June 2012. The Arrangements have been amended slightly since that date with the most recent full review taking place in 2018. In presenting the report, the Director of Governance confirmed that a member complaint had never reached hearing stage. He also clarified that the views of an Independent Person must be taken into account before making a decision on a complaint that they have decided to investigate.

Resolved

That the Monitoring Officer be authorised to review the Arrangements for Dealing with Complaints against Elected Members.

37. **Date of next meeting**

The next meeting of the Committee is scheduled for 30 September, 2024.

There being no further business, the meeting terminated at 6.47 p.m.

Signed:

Date:

Local Government and Social Care Ombudsman – Annual Review 2023/24

Summary of report:

The report provides Members of the Committee with details relating to the role of the Local Government and Social Care Ombudsman, providing information on the number and range of complaints referred by the Ombudsman to the Council during the financial year 2023/24, and to submit for Committee's consideration the Ombudsman's annual letter for 2023/24 (Appendix 1 below).

Background papers:

None.

Recommendation:

1. To note the content of the report.

1.0 Background

The Local Government and Social Care Ombudsman (shortened in this report to LGSCO or the Ombudsman) investigates complaints escalated to them across a range of local authority functions and services, including commissioned services for example, registered adult social care providers.

1.1 Procedures

The Ombudsman's involvement in a complaint usually has 2 stages:

1.1(i) Assessment - including Initial Enquiry and Initial Investigation

Complaints received by the Ombudsman are considered initially by an assessment team, who try to establish whether the complaint has already been responded to via the council's own procedures and whether that internal complaint process has reached a conclusion.

The Ombudsman will expect a prompt response to any assessment stage enquiries, usually within 5 working days.

At this stage, the ombudsman would also consider the following:

- Is the issue something that the law allows them to investigate?
- Is there good reason for the Ombudsman to formally investigate the complaint?

Below are the outcomes which can occur at the assessment stage, which will be shared with both the complainant and the council:

- **Invalid or incomplete** – Ombudsman was not given enough information to consider the issue.
- **Advice given** – Ombudsman provided the complainant with early advice or explained where to go for the right help.
- **Referred back for local resolution** – the complaint has been brought to the Ombudsman prematurely before the council was given the chance to consider it first.
- **Closed after initial enquiries** – Ombudsman assessed the complaint but decided against completing a full investigation. This might be because the law says they are not allowed to investigate it, or because it would not be an effective use of public funds for them to investigate.

1.1(ii) Detailed Investigation

If, following its assessment stage, the Ombudsman decides to move on to a full investigation of the complaint, then the council will be sent detailed enquiries relating to the case and is expected to respond to those enquiries within a set timescale, usually within 20 working days.

The Ombudsman may ask for specific documents, comments from relevant council officers or members, or answers to specific questions on the matter.

Some complaint investigations can require a significant amount of documentation to enable the investigator to fully understand the details of the complaint.

Based on the findings of the investigation, the Ombudsman will then issue a draft decision which the council and the complainant are invited to comment on. Feedback is requested within a set timeframe, usually within 10 working days.

Following this, the Ombudsman will then issue a revised final decision letter to the council and the complainant with one of two potential outcomes:

Upheld – The Ombudsman found evidence of fault or found that the council accepted fault early on.

Not upheld - a detailed investigation was carried out but did not find evidence of fault on the part of the council.

The Ombudsman decides on whether the organisation was at fault by investigating what happened, and what should have happened, according to the laws and policies in place at the time. Where the Ombudsman has 'upheld' a complaint they will include recommended actions that the council should take within the final decision letter along with set timescales to complete the actions – usually between 1 and 3 months.

Some possible recommended actions / remedies that can be suggested are:

- An apology to the complainant.
- Financial payments – for time and trouble, or to reflect the impact of council service failure.
- A review of policies and procedures.

- Staff training.

The Ombudsman's decisions are published on their website 3 months after a case is closed and all recommended actions have been carried out. These decision notices will identify the council concerned, but otherwise are written to maintain the confidentiality of the complainant and other parties whose actions are described in the notice.

The LGSCO may, on rare occasions, issue a formal report, referenced as being in the 'public interest'. In cases where a formal report is issued, it must be considered by the Council, as set out in the Council's constitution.

Further details on how the LGSCO works can be found in the *Manual for Councils* issued to assist particularly in respect of the day to day working relationship between Ombudsman staff and each council's designated 'link officer'. This manual is available on the Ombudsman's website via this link: [Manual for Councils - Local Government and Social Care Ombudsman](#)

1.2 National and Local Context 2023/24

1.2.1 National Context:

Annually, the Ombudsman pulls together the national picture of trends and common issues that arise from LGSCO complaints. The [Annual Review of Local Government Complaints for 2023/24](#) highlighted the following key points nationally:

- 17,939** national complaints and enquiries were received in 2023/24, an increase of 16% on the 15,488 received in 2022/23.
- 17,126** complaints were decided, up from 15,845 in 2022/23.
- 80%** of investigated complaints were upheld (74% in 2022/23).
- All authorities, regardless of type, size, or geography, are facing sizeable issues, but some concerns stand out as systemic; in particular, the strain on Special Educational Needs (SEN) and Disability Services.
- LGSCO casework is dominated by complaints about special educational needs provision. Education complaints made up 26% of all the complaints received in 2023/24 and were 42% of all the cases upheld. The LGSCO found fault in 92% of the education cases it investigated, and the numbers are increasing rapidly.
- Adult social care services continue to be in significant demand. In 2023/24, 14% of all the complaints received by the Ombudsman were about adult social care and 80% of these complaints that were investigated were upheld.
- 27 Public Interest reports on local authorities were issued about cases that raised serious issues or highlighted matters of public interest that are given extra prominence.
- Compliance with the Ombudsman's recommendations in final decisions was at 99.5%, compared with 99.3% in 2022/23.
- New content in the 2023/24 annual letter highlights where there have been delays in responding to an investigator's requests for information. This aspect of activity has not been referenced previously.

During 2023/24, the LGSCO consulted on and published their [Complaint Handling Code](#) (the Code). This sets out a process that allows organisations to respond to complaints consistently, effectively and fairly. The Ombudsman have issued this

code as “advice and guidance” for all local councils in England under section 23(12A) of the Local Government Act 1974 and expect it to be followed when dealing with all non-statutory complaints and will start considering the Code as part of their processes from April 2026. Currently the Ombudsman is working with 20 Councils that are involved in the implementation pilot to understand the impact of the Code which will provide further guidance to the sector. The Council’s Customer Experience Centre is leading on the Council’s implementation of the Code.

1.2.2. Local Context:

- a. Walsall Council experienced a slight reduction in the number of complaints received and determined during the year, compared with 2022/23.
- b. As in 2022/23, the SEND service has experienced a rise in the number of complaint enquiries, in line with national trends. Locally there has been the additional factor of increased complaint activity from a locally based advocate for parents of SEND children. Of the 18 complaints upheld in 2023/24, 14 were in the area of Education and Children’s Services.
- c. Walsall’s performance against three key indicators used by the Ombudsman in its Annual Report is positive comparatively nationally and regionally in terms of compliance with the carrying out remedial actions and identifying remedies locally to avoid a formal investigation.
- d. Walsall Council’s comparative performance against the rate of upheld complaints following full investigation indicates that Walsall is higher than the overall national average, metropolitan borough council average, and West Midlands councils’ average.
- e. For the 10th consecutive year since the Ombudsman introduced its annual letter, Walsall Council was not the subject of a published report (public interest report), indicating no serious concerns about any service or complaint issues in the Council.

In the annual letter for Walsall Council, the Ombudsman has detailed that in nearly 60% of cases where they made enquiries there were delays in the council providing the requested information and in some instances information was incomplete. In part this has been related to the large volume of information being requested by the LGSCO, the steps required to ensure only the information requested is being provided, the complexity of information requested and where it is held (e.g. health, schools etc.) and the time taken for the information to be provided and quality assured before it is submitted. Link Officer responsibilities sit with the Assurance Team who are currently reviewing the processes for collation of information for an Ombudsman investigation to improve this performance.

1.3 Detail of Complaints received and determined in 2023/24

The Annual Review Letter is attached as Appendix 1. The Ombudsman also produces an interactive map which shows the performance details for all councils [Walsall Metropolitan Borough Council - Local Government and Social Care Ombudsman](#)

Headlines from this year’s annual letter:

- Overall, the Ombudsman received 56 complaints relating to Walsall Council, down by 3 from 2022/23.

- In 2023/24 95% of complaints that were fully investigated were upheld (18 out of 19) compared to 84% (12 out of 14) in 2022/23.
- The Ombudsman recorded 100% satisfaction with the council's compliance in the cases where they recommended a remedy (based on 17 compliance outcomes).

Complaints received during 2023/24

The Committee will note that there were 56 complaints received by the LGSCO relating to Walsall Council in 2023/24, a reduction from 59 complaints in 2022/23. These were categorised as per the following table:

Category	Numbers received 2023/24 (2022/23)
Adult Care Services	9 (7)
Benefits & Tax	4 (7)
Corporate and Other Services	2 (3)
Education and Children's Services	20 (16)
Environment Services	8 (4)
Highways & Transport	1 (3)
Housing	2 (2)
Planning and Development	9 (17)
Other	1(0)
Total	56 (59)

Members should note that the categories used here by the Ombudsman may not match exactly how the Council allocates different functions to service areas or directorates.

A significant drop was seen in the number of complaint enquiries received by the LGSCO relating to Planning issues; the 2 areas of notable increase are Environment Services (4 more) and Education & Children's Services (4 more).

Complaints determined during 2023/24

During 2023/24 the Ombudsman determined 59 complaints (54 in 2022/23) relating to Walsall Council. The outcomes of the Ombudsman's decision are set out in the table below.

Category (Determinations)	2023/24 (2022/23)
Advice Given	1(0)
Incomplete or invalid	2(1)
Referred for local resolution	18(20)
Closed after Initial Enquiries	19 (19)
Detailed Investigations – Not Upheld	1(2)
Detailed Investigations - Upheld	18 (12)
Total Determinations	59 (54)
Uphold Rate	95% (84%)

Note: The totals shown in the received and determined tables do not match as there will be some cases determined in one year which were received in the previous year.

1.4 Upheld Complaints

The **18** (12 in 22/23) complaints that were categorised as 'upheld' in **2023/24** related to:

- Adult Care services **2** (3),
- Education and children's services **14** (5)
- Planning Services **1** (2),
- Corporate **1** (1),
- Highways and Transport **0** (1)

One upheld complaint (23-012-946) related to where the Council was seen to have already put things right prior to an Ombudsman investigation. These are still categorised as 'upheld' by the Ombudsman despite having already been satisfactorily addressed.

The Ombudsman has introduced a new measure in its performance data this year that provides the number of upheld decisions per 100,000 residents. Walsall had 6.3 upheld decisions per 100,000 residents compared to a national rate of 4.4%.

Details relating to the **18** complaints which were categorised as 'upheld' are set out below. The full decision notices are available on the relevant complaint link provided and on the Ombudsman's website. All notices are written in a way which protects the confidentiality of individuals concerned.

a) [21-017-943](#) 15 May 2023 - SEND

Summary: Mrs B complained that the Council did not deal with her daughter's education properly. The Council did not consider the provision of alternative education, failed to ensure Special Educational Needs (SEN) provision was made and did not fulfil its responsibilities regarding an annual review. Mrs B suffered avoidable distress, time and trouble. Her daughter missed educational and SEN provision.

Remedies: The Council agreed to apologise, pay Mrs B £2,550 in relation to lost education for her daughter, pay Mrs B £100 for avoidable distress and time and trouble, to provide guidance to staff relating to the EHCP annual review process and to provide a report to the Ombudsman following the director level review of the case.

b) [22-001-540](#) 21 May 2023 - SEND

Summary: Mrs B complained the Council did not deal with her daughter D's education properly. The Council did not properly consider the provision of alternative education and did not deal with Mrs B's complaints properly. D missed education provision and Mrs B suffered avoidable time and trouble complaining three times.

Remedies: The Council agreed to apologise, pay Mrs B £1,800 for D's lost education provision, pay Mrs B £100 for avoidable time and trouble and provide guidance to staff.

c) [22 016 805](#) 04-Jun-2023 - Other

Summary: Ms X complained the Council shared information about her noise complaint with the perpetrator, resulting in increased noise and distress. Further, it delayed addressing her complaint.

Remedies: Pay Ms X £100 for distress, £100 for time and trouble and write to Ms X explaining its delay and any action to prevent recurrence.

d) [22 011 832](#) – 06 June 2023 SEND

Summary: Ms X complained the Council failed to communicate its decision on her child's (Y)'s Education, Health and Care (EHC) plan following an annual review. The Council acknowledged fault.

Remedies: apologise to Ms X, provide the decision regarding Y's EHC plan annual review, make a payment of £400 in recognition of the frustration, uncertainty, time and trouble and to make service changes including implementing an improved process and system.

e) [22-013-875](#) – 20 June 2023 - Alternative Education Provision

Summary: Ms X complained the Council failed to provide any education for their child for 13½ weeks following exclusion from school; that their child missed free school meals during this time. Ms X also complained the Council failed to secure provision from their child's EHC Plan.

Remedies: The Council agreed to apologise to Ms X and pay her £100 for the distress, inconvenience and frustration caused, pay £1,350 for her child's missed education and £181.50 for missed free school meals.

f) [22-013-229](#) – 12 Oct 2023 SEND

Summary: Mrs X complained the Council unreasonably delayed amending Child Y's EHCP on separate occasions. She complained this meant Child Y did not have access to the provision they were entitled to.

Remedies: Apologise and pay the following financial remedies: pay child Y £1800 for the lost OT provision and the lost sensory support provision. Pay child Y £100 to acknowledge the impact of a missed holiday box; and pay Mrs X £300 for the distress and uncertainty caused to her and her child.

g) [23-001-803](#) – 08 Nov 2023 ASC Finance/Charging

Summary: The Council acknowledged it delayed issuing an invoice for Mrs X's care due to an error in its system; however, there is ample evidence the Council had explained charges would be made.

Remedies: The Council offered a payment plan and also the sum of £500 in recognition of the distress caused by its error.

h) [23-001-242](#) – 12 Dec 2023 SEND

Summary: Mr B complained the Council did not secure the provision in his son's, education, health, and care plan, delayed issuing a final plan, and did not tell him about his son's (C's) personal budget. Mr B said C missed provision and this impacted his health and his behaviour. We found the Council delayed the education,

health, and care plan review process and did not secure the physiotherapy provision in C's plan.

Remedies: Pay Mr B £500 for the uncertainty created by the Council's failure to secure physiotherapy input and pay £300 for the frustration caused by the Council's delay in the EHC plan review process. Also, the Council were to review procedures to ensure it meets its duties around EHC plan timescales and to issue schools with guidance about inviting all professionals/services named in EHC plan to review meetings and ensuring these meetings are minuted.

i) [23-002-105](#) [23-002-103](#) – 12 Jan 2024 SEND

Summary: Miss X complained the Council had not dealt properly with her daughter Y's special educational needs and delayed issuing Y's EHCP. It delayed Y's personal budget and did not make reasonable adjustments for Miss Y. Miss X and Y suffered avoidable distress. Y suffered loss of SEN provision.

Remedies: The Council should pay Miss X and Y £250 each for distress, pay Miss X £1,800 for missed SEN provision, produce an action plan to address meeting statutory timescales and review policy.

Members should note the LGSCO issued two decisions on the one complaint which included the same remedies.

j) [23-010-532](#) – 31 Jan 2024 School Transport

Summary: Miss X complained about the Council's decision to refuse free school transport for her daughter. There was fault in how the Council considered Miss X's appeal, but this did not result in a flawed decision.

Remedies: The Council's fault caused Miss X avoidable frustration, for which it will apologise. The Council will also remind staff of the test they should apply when considering free school transport appeals.

k) [23-005-518](#) – 01 Feb 2024 SEND

Summary: Mrs X complained about delays in the education, health and care plan process and lack of communication. This caused significant stress to Mrs X and her son was out of education.

Remedies: To apologise, make payments of £3,000 for missed education provision and £300 for distress caused and to remind staff of the relevant guidance.

l) [23-012-946](#) – 01 Feb 2024 ASC Domiciliary Care

Summary: The Ombudsman did not investigate this complaint about adult social care at home. The Council accepted failures in care support and in delaying its response to the complaint. The Council apologised and waived the care fees. It was unlikely an Ombudsman investigation would achieve anything further.

m) [23-008-852](#) - 02 Feb 2024 Alternative Education Provision

Summary: Ms X complained the Council failed to put in place alternative provision of education when her child was out of education and about the Council telling the school to treat her child's absence as truancy.

Remedies: The Council agreed to provide an apology to Ms X for its fault and pay her £750 for her child's missed education.

n) [23-004-716](#) - 29 Feb 2024 SEND

Summary: Mrs X complained about the time taken to provide her daughter with an Education, Health and Care Plan (EHC Plan) and for a lack of educational provision. There was fault by the Council - the EHC process was delayed, and Mrs X's daughter was not provided with a suitable education while she was not able to attend school.

Remedies: The Council to apologise, make a payment of £3000 to reflect the impact of missed education and £300 for distress caused.

o) [23-004-475](#) - 01 Mar 2024 SEND

Summary: Miss X complained about the Council's handling of her son's (S's) Education, Health and Care Plan assessment. The Council failed to issue his plan within the statutory timescale and to deliver alternative provision to him. This fault caused injustice.

Remedies: Apologise, pay £750 for lack of provision, £600 for distress caused by delaying the issue of a plan and review its policies.

p) [22-012-545](#) - 15 Mar 2024 Alternative Education Provision

Summary: Ms X complained about how the Council dealt with her child's (Y), Education, Health and Care Plan annual review. There were faults by the Council with its delays in dealing with her annual review and with issuing her final Plan and in dealing with the complaint.

Remedies: Apologise and make a symbolic amount of £500 to recognise uncertainty caused by the Council's delay in holding an annual review meeting and in issuing an amended final EHC Plan and handling the complaint. Also remind staff of relevant procedures and the requirement to comply with them.

1.4.1 Compliance with remedies

The Ombudsman monitors whether councils have fulfilled the terms of recommended actions and remedies resulting from a complaint investigation. Annual Review Letters indicate where a council has complied with remedies within the Ombudsman's set timescale, is late complying, or where a council has not complied with the remedy.

In Walsall's case, there were 17 complaints where a remedy was set out for the council to carry out during 2023/24. The Annual Letter indicates that in **all cases**, the Ombudsman was satisfied that the council had implemented their recommendations, and that **all** were carried out within timescale.

1.5 Comparative figures and statistics

Data provided by the Ombudsman - [Local government complaint reviews - Local Government and Social Care Ombudsman](#) - as part of its Annual Report enables comparison to be made between Walsall and national outturns and with other local authorities. The comparative figures relating to neighbouring West Midland authorities are taken from the national and regional data in the link and are set out below.

Some of the headline comparisons for Walsall in 2023/24 taken from the LGSCO data are:

National:

- 80% of complaints upheld nationally compared with **95%** for Walsall. [80% for all similar authorities – Metropolitan Borough Councils].
- In 14% of upheld cases, councils had already offered a suitable remedy before the complaint was made to the Ombudsman; the comparable figure for Walsall was **6%**.
- Compliance with recommendations remains high at 99.5% nationally (**100% for Walsall**).

West Midlands:

- Walsall received fewer complaints and enquiries in 2023/24 than all West Midland authorities below except for Wolverhampton and Solihull.
- The percentage of complaints investigated and upheld by the Ombudsman was higher than all West Midland authorities except for Sandwell.
- The equivalent figures for the WM councils were:

	B'ham	Cov	Dudley	Sandwell	Solihull	Wolv	Walsall
Received	493	80	94	93	52	50	56
Investigated	142	8	22	14	5	7	19
Upheld	115	3	13	18	5	6	18
% Uphold rate	87%	38%	59%	78%	100%	86%	95%
Upheld per 100,000 residents	9.9	0.8	4.0	4.1	2.3	2.2	6.3

1.6 Good Practice

Committee is asked to note that the Ombudsman also has an important role in identifying, from the complaints that it receives from citizens and service users across the country and from its interaction with councils, particular issues and areas of concern which it shares with councils generally via bulletins, news releases and in particular specific focus reports. Focus Reports and Good Practice Guides collate case studies from our investigations to highlight either our most serious concerns or more specialist practitioner advice.

In 2023/24, the LGSCO issued the following:

- Parent Power – Personal Budgets in EHC Plans (Nov 2023)

- 'Not in my Backyard' – Local People and the Planning Process (Aug 2023)
- 'Out of Order' – learning lessons from complaints about anti-social behaviour (Aug 2023)
- 'Unsuitable temporary accommodation' (May 2023)

These, and other focus reports published in previous years and in the current year, are available for downloading on the LGSCO's website <https://www.LGSCO.org.uk/information-centre/reports>

- In addition, the LGSCO circulates a weekly list of decisions published that week in five service areas: benefits and taxation, adult social care, children and education, housing and planning.

2.0 Resource and legal considerations:

There are no specific financial implications arising from this report. In some cases, the local settlement of particular complaints may include a financial element, for the complainant's 'time and trouble' in pursuing the matter, and in appropriate cases the payment of sums reflecting the impact of the council's failings on the complainant. Details of any financial redress recommended by the Ombudsman and agreed by the relevant service is provided alongside the summary of upheld complaints in **Section 1.4** above.

The Ombudsman service operates in accordance with provisions in the Local Government Act 1974, as amended by subsequent legislation. As noted above, the LGSCO has issued a new manual for councils setting out operational matters relating to its procedures available on its website.

3.0 Performance and Risk Management issues:

The Ombudsman's annual letter and annual report provides details relating to the number of complaints received, and the outcome of complaints. See www.LGSCO.org.uk/information-centre

The Annual Letter no longer provides figures for the average time taken to provide a response to the Ombudsman's enquiries. The council's LGSCO link officer works with services to ensure that responses to Ombudsman enquiries are quality assured and made within expected timescales.

4.0 Equality Implications:

Details relating to the Ombudsman service are available on the council website. The Ombudsman no longer produces its own complaint leaflets, contact details and methods are set out on its website. Where appropriate, council complaint responses include information regarding the right of complainants to approach the LGSCO and their contact information.

5.0 Consultation:

There is no requirement to consult on this report.

Author:

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Resources & Transformation Directorate



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17 July 2024

By email

Ms Bennett
Chief Executive
Walsall Metropolitan Borough Council

Dear Ms Bennett

Annual Review letter 2023-24

I write to you with your annual summary of complaint statistics from the Local Government and Social Care Ombudsman for the year ending 31 March 2024. The information offers valuable insight about your organisation's approach to complaints, and I know you will consider it as part of your corporate governance processes. As such, I have sought to share this letter with the Leader of your Council and Chair of the appropriate Scrutiny Committee, to ensure effective ownership and oversight of complaint outcomes, which offer valuable opportunities to learn and improve. In addition, this year, we have encouraged Monitoring Officers to register to receive the letter directly, supporting their role to report the decisions we uphold to their council.

For most of the reporting year, Paul Najsarek steered the organisation during his tenure as interim Ombudsman, and I was delighted to take up the role of Ombudsman in February 2024. I look forward to working with you and colleagues across the local government sector to ensure we continue to harness the value of individual complaints and drive and promote systemic change and improvement across the local government landscape.

While I know this ambition will align with your own, I am aware of the difficult financial circumstances and service demands that make continuous improvement a challenging focus for the sector. However, we will continue to hold organisations to account through our investigations and recommend proportionate actions to remedy injustice. Despite the challenges, I have great confidence that you recognise the valuable contribution and insight complaints, and their swift resolution, offer to improve services for the public.

Complaint statistics

Our statistics focus on three key areas that help to assess your organisation's commitment to putting things right when they go wrong:

Complaints upheld - We uphold complaints when we find fault in an organisation's actions, including where the organisation accepted fault before we investigated. We include the total number of investigations completed to provide important context for the statistic. This year, we also provide the number of upheld complaints per 100,000 population.

Compliance with recommendations - We recommend ways for organisations to put things right when faults have caused injustice and monitor their compliance with our recommendations. Failure to comply is rare and a compliance rate below 100% is a cause for concern.

Satisfactory remedy provided by the authority - In these cases, the organisation upheld the complaint and we agreed with how it offered to put things right. We encourage the early resolution of complaints and give credit to organisations that accept fault and find appropriate ways to put things right.

Finally, we compare the three key annual statistics for your organisation with similar authorities to provide an average marker of performance. We do this for County Councils, District Councils, Metropolitan Boroughs, Unitary Councils, and London Boroughs.

Your annual data, and a copy of this letter, will be uploaded to our interactive map, [Your council's performance](#), on 24 July 2024. This useful tool places all our data and information about councils in one place. You can find the detail of the decisions we have made about your Council, read the public reports we have issued, and view the service improvements your Council has agreed to make as a result of our investigations, as well as previous annual review letters.

Your organisation's performance

During the year, there were occasions when our investigations were delayed by your Council's failure to respond in a timely way to our requests for information; there was delay in nearly 60% of cases where we made enquiries. We request information is provided within 20 working days; in several cases the Council took over 30 days to provide its response. In one case we had to remind the Council of our power to issue a witness summons before we received the information we required.

In addition to the delays, there were instances of poor-quality and incomplete responses. This makes it difficult to progress investigations and increases the likelihood that we need to ask for more information.

I ask that you take action to improve responses to our enquiries; both in terms of timeliness and quality. It is important we are provided with the information we have asked for promptly, and that, where you encounter delays, you keep us informed. If there is any support my office can provide to help improve the situation, please do let me know.

Supporting complaint and service improvement

In February, following a period of consultation, we launched the [Complaint Handling Code](#) for councils, setting out a clear process for responding to complaints effectively and fairly. It is aligned with the Code issued to housing authorities and landlords by the Housing Ombudsman Service and we encourage you to adopt the Code without undue delay. Twenty councils have volunteered to take part in an implementation pilot over the next two years that will develop further guidance and best practice.

The Code is issued to councils under our powers to provide guidance about good administrative practice. We expect councils to carefully consider the Code when developing policies and procedures and will begin considering it as part of our processes from April 2026 at the earliest.

The Code is considered good practice for all organisations we investigate (except where there are statutory complaint handling processes in place), and we may decide to issue it as guidance to other organisations in future.

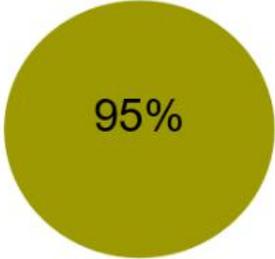
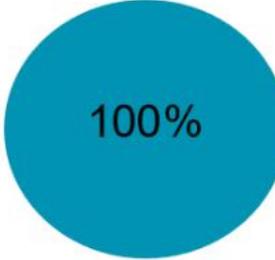
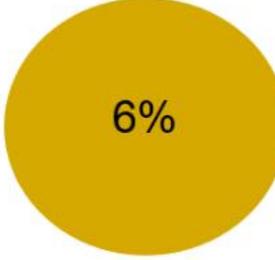
Our successful complaint handling training programme continues to develop with new modules in Adult Social Care and Children's Services complaint handling available soon. All our courses include practical interactive workshops that help participants develop their complaint handling skills. We delivered 126 online workshops during the year, reaching more than 1,700 people. To find out more visit www.lgo.org.uk/training or get in touch at training@lgo.org.uk.

Returning to the theme of continuous improvement, we recognise the importance of reflecting on our own performance. With that in mind I encourage you to share your view of our organisation via this survey: <https://www.smartsurvey.co.uk/s/ombudsman/>. Your responses will help us to assess our impact and improve our offer to you. We want to gather a range of views and welcome multiple responses from organisations, so please do share the link with relevant colleagues.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'Amerdeep Somal', followed by a horizontal line.

Amerdeep Somal
Local Government and Social Care Ombudsman
Chair, Commission for Local Administration in England

Complaints upheld		
	<p>95% of complaints we investigated were upheld.</p> <p>This compares to an average of 80% in similar organisations.</p>	<p>18 upheld decisions</p> <p>This is 6.3 upheld decisions per 100,000 residents.</p> <p>The average for authorities of this type is 4.4 upheld decisions per 100,000 residents.</p> <p>Statistics are based on a total of 19 investigations for the period between 1 April 2023 to 31 March 2024</p>
Compliance with Ombudsman recommendations		
	<p>In 100% of cases we were satisfied the organisation had successfully implemented our recommendations.</p> <p>This compares to an average of 99% in similar organisations.</p>	<p>Statistics are based on a total of 12 compliance outcomes for the period between 1 April 2023 to 31 March 2024</p>
<ul style="list-style-type: none">Failure to comply with our recommendations is rare. An organisation with a compliance rate below 100% should scrutinise those complaints where it failed to comply and identify any learning.		
Satisfactory remedy provided by the organisation		
	<p>In 6% of upheld cases we found the organisation had provided a satisfactory remedy before the complaint reached the Ombudsman.</p> <p>This compares to an average of 14% in similar organisations.</p>	<p>1 satisfactory remedy decision</p> <p>Statistics are based on a total of 18 upheld decisions for the period between 1 April 2023 to 31 March 2024</p>

Member Criminal Record Checks

1. Aim

- 1.1 To provide an updated position on the uptake of criminal record checks for elected members since its last discussion at Standards Committee on 15 July 2024.

2. Summary

- 2.1 At the time of writing 51 Members had a valid basic or enhanced criminal record check and the remaining 9 Members had been contacted by Democratic Services to advise what steps they would need to take to complete their check.
- 2.2 Due to changes in committee memberships 11 of the above-mentioned Members holding a valid criminal record check have been requested to complete a new enhanced check to adhere to the process agreed by Council.

3. Recommendations

That:

- 3.1 the information available on DBS checks for Members be noted; and
- 3.2 the Committee receives a further update on the uptake of voluntary DBS checks by elected Members at their meeting in January.

4. Report Detail - Know

- 4.1 As part of a desire to maintain transparency and high standards of behaviour Council agreed at its meeting on 25th May 2016 to ask all Members to undergo criminal record checks at least every 4 years and to make an annual declaration to the Monitoring Officer on any changes to their criminal record. This decision was made following a recommendation of the Standards Committee which had investigated methods to improve accountability and protection of Members because of concerns that arose out of multiple national abuse enquiries.
- 4.2 Dependant on their committee membership Members are asked to either complete a basic disclosure or an enhanced DBS (Disclosure and Barring Service) check. It was originally agreed by Council that members of a committee or panel or portfolio holders that manage issues relating to children

should have further accountability and protection through the enhanced process.

- 4.3 On 18th September 2023 Council approved the recommendation made by Standards Committee that members of the Health and Wellbeing Board, the Social Care and Health Overview and Scrutiny Committee and Portfolio Holders managing issues relating to adults should all undertake an enhanced adult DBS check. It has also been agreed that the Cabinet will all undertake enhanced DBS checks covering both children's and adult's barred lists.
- 4.4 The criminal record check process consists of completing an online form and providing 3 forms of identification from a list of acceptable ID which is circulated to all Members by email when requesting that they complete the check. The identification is to be scanned or brought into the Democratic Services Team to be scanned and verified. If it is not provided within 6 months of the online form being completed the form expires and a new form will have to be completed.
- 4.5 Members are required to complete a DBS check every four years. As of 13 September 2024 there are 51 Members who have a valid basic or enhanced criminal record check which has been registered by the Monitoring Officer.
- 4.6 There are a further 9 Members who do not have a valid DBS check or their DBS check on record has expired. All of these Members have been contacted by Democratic Services and support has been offered to assist them to complete the process.
- 4.7 Despite them holding a valid basic DBS check there are 11 Councillors who have also been invited to complete a new enhanced check due to changes in their committee memberships now requiring them to undertake a higher level of check to adhere with the above-mentioned process agreed by Council.
- 4.8 This gives a total of 20 Members who are currently being supported through the process of applying for and receiving their new DBS check.
- 4.9 Members are also asked to confirm, in the form of an annual declaration, if there have been any changes to their criminal record since their last check was conducted. Since this paperwork was distributed on 10 June 2024 Democratic Services have received declarations from 8 Members.
- 4.10 Members are requested on a six-monthly basis to take any required action in relation to their criminal record check. The last such emails were sent out on 10 June 2024.
- 4.11 If Members require any further assistance with the process Democratic Services Officers can respond to any queries by phone or email or schedule an appointment to complete the online form with the Member.

4.12 Once the criminal record check has been successfully completed the certificate is sent to the Member at their home address. This process can take up to 15 working days.

5. Financial information

5.1 A single basic disclosure check costs £24.47 and an enhanced disclosure check costs £40.22.

6. Legal implications

6.1 The Council is not legally required to undertake criminal record checks of all Members but as stated above doing so provides Members with further accountability and protection whilst also maintaining transparency and high standards of behaviour. It has also been identified as best practice in a recent independent review of the Disclosure and Barring Service commissioned by the Home Office.

7. Decide

7.1 The committee is asked to review the information available and is invited to comment upon any improvements that could be made to assist Members in completing the process.

8. Respond

8.1. The Monitoring Officer and Democratic Services team will continue to request Members complete any required actions in relation to their criminal record checks on a six-monthly basis. The Monitoring Officer will register all criminal record checks received.

9. Review

9.1 It is recommended that the committee continues to monitor the status of Members' criminal record checks.

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Declarations of Interest

1. Aim

- 1.1 To explain the requirements in relation to the declaration of interests by Councillors. This is a statutory requirement under the Localism Act 2011, and The Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012. Section 29 Localism Act 2011 requires the Monitoring Officer to establish and maintain a register of interests of members and co-opted members of the authority. The Monitoring Officer must ensure that a copy of the authority's register is available for inspection at a place in the authority's area at all reasonable hours, and that the register is published on the authority's website. This is to ensure openness and transparency in decision-making.

2. Summary

- 2.1 The local authority has a register of interests which is available as required by the legislation for public inspection and is published on the authority's website. The requirements of disclosure of interests are set out by statute, and the process for publishing and disclosable pecuniary interests was agreed by full Council when the Council Code of Conduct was updated in September 2021. The requirements surrounding disclosure of interests are set out in the Councillor Code of Conduct.

3. Recommendations

- 3.1 That the committee note the report.
- 3.2 That the committee re-establish a Working Group to look at the issue of disclosable and non-disclosable interests and receive a report back from this Group once it has concluded its work.

4. Report Detail - Know

- 4.1 The local authority has a register of interests which is available as required by the legislation for public inspection and is published on the authority's website. The requirements of disclosure of interests are set out by statute, and the process for publishing and disclosable pecuniary interests was agreed by full Council when the Council Code of Conduct was updated in September 2021. The requirements surrounding disclosure of interests are set out in the Councillor Code of Conduct.
- 4.2 There are three types of interest referred to in the Councillor's Code of Conduct :- Disclosable Pecuniary Interests; Other Registerable Interests and non-registerable interests. The council's code in relation to interests follows the Model Code of Conduct created by the LGA. The relevant provisions of the Council Code of Conduct relating to interests is set out in Appendix 1 below.

4.3 Disclosable pecuniary interests are defined by regulation referred to above as:-

- (a) Employment, trade, profession or vocation of a relevant person* for profit or gain
- (b) Sponsorship –payment or provision of any other financial benefit (other than by the Council) within the 12 months prior to giving notice for inclusion in the register in respect of expenses incurred by you in carrying out duties as a member or towards your election expenses (including payment or financial benefit from a Trade Union).
- (c) Undischarged contracts between a relevant person* (or a firm in which they are a partner or a body corporate in which they are a director, or in the securities of which they have a beneficial interest) and the Council for goods, services or works.
- (d) Beneficial interests in land in the borough.
- (e) Licence to occupy land in the borough for one month or more.
- (f) Corporate tenancies – any tenancy, where to the member’s knowledge, the Council is landlord and the tenant is a firm in which the relevant person* is a partner, a body corporate in which they are a director, or in the securities of which they have a beneficial interest.
- (g) Beneficial interest in securities of a body where:- (a) that body to the member’s knowledge has a place of business or land in the borough; and (b) either (i) the total nominal value of the securities exceeds £25,000 or 1/100 of the total issued share capital of that body; or (ii) if the share capital of that body is of more than one class, the total nominal value of the shares of any one class in which the relevant person* has a beneficial interest exceeds 1/100 of the total issued share capital of that class.

*A relevant person is the member, their spouse or civil partner, or a person with whom they live as spouse or civil partner.

4.4 Other registerable interests the Walsall Code of Conduct requires members also to register include the following:- Any interest in any activity which is or could be related to the business of the Council. These include: a) any position (for example, as trustee, governor, or unpaid director) that may have influence in any charitable or voluntary organisation, including: b) any to which you are nominated or appointed by the Council; and c) any position of whose principal purposes includes the influence of public opinion or policy (including any political party or trade union).

4.5 Non-registerable interest - Where a matter arises at a meeting which directly relates to a Councillor’s financial interest or well-being (and is not a Disclosable Pecuniary Interest set out in Table 1) or a financial interest or well-being of a relative or close associate, the Councillor must disclose the interest. The Councillor may speak on the matter only if members of the public are also allowed to speak at the meeting. Otherwise they must not take part in any

discussion or vote on the matter and must not remain in the room unless they have been granted a dispensation.

- 4.6 Where a matter arises at a meeting which affects – a: the financial interest or well-being of a Councillor; or b: a financial interest or well-being of a relative, or close associate of a Councillor; or c: a financial interest or well-being of a body included in those to be disclosed under Other Registrable Interests as set out in Table H; then the Councillor must disclose the interest. In order to determine whether a Councillor can remain in the meeting after disclosing an interest (as per paragraph above) the following test will be applied by the Councillor, who may seek advice from the Chair of the meeting, and/or any Legal or Democratic Services Officer present in the meeting:-
- a: to a greater extent than it affects the financial interests of the majority of inhabitants of the ward affected by the decision; and
- b: a reasonable member of the public knowing all the facts would believe that it would affect the Councillor's view of the wider public interest, or be perceived as a conflict of interest; then
- c: the Councillor may speak on the matter only if members of the public are also allowed to speak at the meeting. Otherwise they must not take part in any discussion or vote on the matter and must not remain in the room unless they have been granted a dispensation.
- 4.7 Standards Committee have previously received a report on the current registration system, and the guidance and training given to Councillors in respect of the same. A Working Group was agreed in July 2023 to discuss this which did not meet in that municipal year. It is proposed that the membership of the Working Group be re-agreed to allow this work to be completed.
- 4.8 The disclosure of non-registerable interests are often the most difficult to determine and this will form part of the working group's remit and will be the subject of updated training. This includes the decision as to whether or not the Member can remain in the meeting and vote on an item.
- 4.9 Non-registerable interests - Occasions may arise when a matter under consideration would or would be likely to affect the well-being of a member, their family, friend or close associate more than it would affect the well-being of those in the local area generally, but which is not required to be registered in the Register of Members' Interests (for example a matter concerning the closure of a school at which a Member's child attends).
- 4.10 There are special provisions relating to sensitive interests. These are interests the disclosure of which would be likely to expose the member to risk of violence or intimidation where the Monitoring Officer has agreed that such interest need not be registered. Members with such an interest are referred to the Code and advised to seek advice from the Monitoring Officer in advance. Case law in the First Tier Tribunal decision of Bristol CC v Information Commissioner <https://www.bailii.org/uk/cases/UKFTT/GRC/2023/878.html> resolved that Sensitive information on the register of members' interests is subject, under the

Localism Act 2011, to the discretion of the Monitoring Officer, and thus ‘this operates as a statutory bar’ to disclosure under section 44 FOIA.

- 4.11 To date, the Monitoring Officer has always required that a member wishing to withhold their address from publication in the register provide some evidence of threat of violence and intimidation. However, the direction of opinion on this is turning and the Committee on Standards in Public Life (CSPL) 2019 recommended that Councillors should not be required to register their home addresses. In addition, since 2019 there is no longer a requirement for candidates for Council elections to have their home address published on the ballot paper. This brings such candidates into line with parliamentary MPs. Recently, the DLUHC Minister for Local Government wrote to all Council CEOs and Monitoring Officers encouraging Monitoring Officers to look sympathetically at accommodating requests for the withholding of home addresses from published versions of the Register of Interests where there are legitimate concerns of violence or intimidation.

5. Financial information

- 5.1 None contained within this report.

6. Legal implications

- 6.1 The council must promote and maintain high standards of conduct by members and co-opted members of the authority. In discharging its duty under subsection, 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. The disclosure of member interests is an important part of openness and transparency in decision making.
- 6.2 The requirements of the Localism Act 2011 requires that the Monitoring Officer must establish and maintain a register that is public and available for inspection and the public. This register must be published online.

7. Decide

- 7.1 The committee is asked to note the report and establish a working group as set out in the recommendations.

8. Respond

- 8.1 That the Monitoring Officer brings a report back to Standards Committee following the completion of the work being undertaken by the working group in respect of disclosure of interests. Councillors should be provided further training in relation to the registration and declaration of interests.

9. Review

- 9.1 That this issue is kept under review and considered as part of any wider review of standards of conduct by Councillors.

Background Papers:

Appendix 1

Tony Cox Director of Governance

Email: Anthony.Cox@walsall.gov.uk

APPENDIX 1

Registration of Interests Extract

2. Within 28 days of election and re-election or appointment and re-appointment Councillors must register with the Monitoring Officer the interests which fall within the categories set out in Table 1 (Disclosable Pecuniary Interests) which are as described in "The Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012". Councillors should also register details of their other personal interests which fall within the categories set out in Table 2 (Other Registerable Interests).

3. Councillors must register their interests so that the public, Council employees and fellow Councillors know which interests might give rise to a conflict of interest. The register is a public document that can be consulted when (or before) an issue arises. The register also protects Councillors by allowing them to demonstrate openness and a willingness to be held accountable. Councillors are personally responsible for deciding whether or not to disclose an interest in a meeting, but it can be helpful for them to know early on if others think that a potential conflict might arise. It is also important that the public know about any interest that might have to be disclosed by Councillors when making or taking part in decisions, so that decision making is seen by the public as open and honest. This helps to ensure that public confidence in the integrity of local governance is maintained.

4. Councillors should note that failure to register or disclose a disclosable pecuniary interest as set out in Table 1, is a criminal offence under the Localism Act 2011.

5. "Disclosable Pecuniary Interest" means an interest of a Councillor, or of their partner if they are aware of their partner's interest, within the descriptions set out in Table 1 below.

6. "Partner" means a spouse or civil partner, or a person with whom the Councillor is living as husband or wife, or as a civil partner.

7. Councillors must ensure that their register of interests is kept up-to-date and within 28 days of becoming aware of any new interest, or of any change to a registered interest, notify the Monitoring Officer.

8. A 'sensitive interest' is as an interest which, if disclosed, could lead to the Councillor, or a person connected with the Councillor, being subject to violence or intimidation.

9. Where a Councillor has a 'sensitive interest' she/he must notify the Monitoring Officer with the reasons why they believe it is a sensitive interest. If the Monitoring Officer agrees she/he will withhold the interest from the public register. Non-participation in case of disclosable pecuniary interest

10. Where a matter arises at a meeting which directly relates to a Disclosable Pecuniary Interests as set out in Table 1, Councillors must: - disclose the interest; and - not participate in any discussion or vote on the matter; and - not remain in the room unless they have been granted a dispensation. Dispensation may be granted in limited circumstances, to enable Councillors to participate and vote on a matter in

which they have a disclosable pecuniary interest. Where there is a 'sensitive interest', Councillors must disclose they have an interest but should not disclose the nature of that interest.

11. Where a Councillor has a disclosable pecuniary interest on a matter to be considered or is being considered by them as a Cabinet member in exercise of their executive function, they must notify the Monitoring Officer of the interest and must not take any steps or further steps in the matter apart from arranging for someone else to deal with it. Disclosure of Other Registerable Interests

12. Where a matter arises at a meeting which directly relates to an Other Registerable Interests (as set out in Table 2), Councillors must disclose the interest. Councillors may speak on the that matter only if members of the public are also allowed to speak at the meeting but otherwise must not take part in any discussion or vote on the matter and must not remain in the room unless they have been granted a dispensation. Where there is a 'sensitive interest', Councillors must disclose they have an interest but should not disclose the nature of that interest. Disclosure of Non-Registerable Interests

13. Where a matter arises at a meeting which directly relates to a Councillor's financial interest or well-being (and is not a Disclosable Pecuniary Interest set out in Table 1) or a financial interest or well-being of a relative or close associate, the Councillor must disclose the interest. The Councillor may speak on the matter only if members of the public are also allowed to speak at the meeting. Otherwise they must not take part in any discussion or vote on the matter and must not remain in the room unless they have been granted a dispensation. Where there is a 'sensitive interest', Councillors must disclose they have an interest but should not disclose the nature of that interest.

14. Where a matter arises at a meeting which affects – a: the financial interest or well-being of a Councillor; or b: a financial interest or well-being of a relative, or close associate of a Councillor; or c: a financial interest or well-being of a body included in those to be disclosed under Other Registrable Interests as set out in Table 2; then the Councillor must disclose the interest.

15. In order to determine whether a Councillor can remain in the meeting after disclosing an interest (as per paragraph 14 above) the following test will be applied by the Councillor, 8 who may seek advice from the Chair of the meeting, and/or any legal or democratic services officer present in the meeting. a: to a greater extent than it affects the financial interests of the majority of inhabitants of the ward affected by the decision; and b: a reasonable member of the public knowing all the facts would believe that it would affect the Councillor's view of the wider public interest, or be perceived as a conflict of interest; then c: the Councillor may speak on the matter only if members of the public are also allowed to speak at the meeting. Otherwise they must not take part in any discussion or vote on the matter and must not remain in the room unless they have been granted a dispensation. Where there is a 'sensitive interest', Councillors must disclose they have an interest but should not disclose the nature of that interest.

16. Where a Councillor has a personal interest in any business of the Council and has made an executive decision in relation to that business, he/she must make sure that

any written statement of that decision records the existence and nature of that interest.
Disclosure of Interests at Overview and Scrutiny Meetings

17. If a Councillor you is the Chair of an Overview and Scrutiny meeting they should not preside over the scrutiny of a relative. Section 28(10) Localism Act 2011 defines a relative as: a) a spouse or civil partner, b) someone they are living with as husband and wife or as if they were civil partners, c) a grandparent d) a lineal descendant of grandparent, e) a parent, sibling or child of a person within paragraph a) or b), f) the spouse or civil partner of a person within paragraph c),d),e), or g) living with a person within paragraph c), d), or e) as husband and wife or as if they were civil partners.

18. Scrutiny has a role to play in holding decision-makers accountable therefore if a Councillor was previously a Cabinet Member they should not scrutinise decisions that were taken when they were a part of the Cabinet. This means they should leave the room during the discussion of the item. This is particularly pertinent upon the initial changing of roles but, depending on the issue, can still have significance after a substantial period of time. A discussion with the Monitoring Officer should be sought if there is an item on an agenda that Councillors think they may have an interest in.

Conduct of Councillors in Meetings

1. AIM

- 1.1 To consider how elected member behaviour can be improved in Council meetings.

2. Summary

- 2.1. At the Standards Committee meeting on the 15th July 2024 some Councillors expressed concerns regarding the content of debate in relation to councillor's speeches in committee meetings. It was asked whether or not the council could adopt a voluntary protocol to regulate how Members treated each other during council debates.
- 2.2 It was acknowledged that the primary standard against which behaviour should be judged was the Councillor Code of Conduct. Councillors are fundamentally responsible for the standards that they set in debate. The role of the chair of meeting is also fundamental to controlling Councillor behaviour in meetings.
- 2.3 Council's constitution at Part Four, Rules of Procedure does provide various rules for dealing with unruly or disruptive member behaviour. There are rules that allow the person presiding (chair) to move that a Member may not be heard further. This would be subject to a vote by the meeting itself. If a Member were to continue to behave improperly after such a motion was carried the person presiding may move that either the Member leaves the meeting or that the meeting stand adjourned for a specified period. This would again be subject to a vote.

3. Recommendations

- 3.1 That the Committee note the report.
- 3.2 That the Committee request the Monitoring Officer to discuss the issue of a voluntary protocol in relation to Councillor behaviour in meetings with the Group Leaders.

4. Report Detail - Know

- 4.1. Councillors will be acting in their official capacity when they attend council meetings and as such they have to abide by the Councillor Code of Conduct whilst in those meetings. The council is obliged to promote and maintain high standards of conduct by Members and 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. The Councillor Code of

Conduct is underpinned by the Nolan Principles of selflessness; integrity; objectivity; accountability; openness; honesty; leadership.

- 4.2 The main provisions of the Councillor Code of Conduct relevant to conduct in council meetings by Members are for councillors not to bully any person; not to harass any person; not to unlawfully discriminate against any person; not to conduct themselves in a manner as a Councillor that is likely to bring the Council into disrepute; not to treat other councillors and members of the public with disrespect, nor local authority employees, employees and representatives of partner organisations and those volunteering for the local authority and respecting the role they fulfil.
- 4.3 It has to be remembered that Councillors are very much responsible for their own behaviour in fulfilling their roles. This applies to how they conduct themselves in meetings.
- 4.4 In the first instance if a Councillor were to misbehave in a meeting it would be for the Chair of the meeting to address that behaviour.
- 4.5 It is accepted that at times things may become heated in meetings due to the passionate nature of politics. The Standards Board for England which used to deal with complaints about Member behaviour accepted that “during the course of heated debate, Members can sometimes get carried away and resort to name-calling, abusive, heckling and other disruptive or disrespectful behaviour.” They felt the best way to avoid this was for elected members to concentrate on ideas and arguments rather than attacking individuals. They also recognised the importance of firm chairing of meetings to prevent low-level misconduct recurring, or even escalating into more serious incidents. This is still relevant in today’s politics.
- 4.6 In determining whether or not to investigate allegations regarding behaviour in debate the Standards Board for England said that “Members must expect to encounter occasional ill-considered or rude commentary in the course of their duties. As fellow politicians, they have a public platform on which to defend themselves and their ideas and have the opportunity to respond in the appropriate forums. Allegations of simple name-calling, political point scoring or mild rude and inappropriate language would not be serious enough to refer for investigation by an ethical standards officer. The Standards Board for England believes that such behaviour should be controlled by the chair of the meeting.”
- 4.7 There is also a higher threshold regarding Member behaviour in the course of conducting political debate which has been upheld in the courts and under the Convention on Human Rights. The right to freedom of expression is protected in common law and under Article 10 of the European Convention on Human Rights. There is increased protection afforded to political speech to ensure political speech or debate is not restricted. This means that even offensive statements by politicians may be protected. In the case of *Redmond-Bate v Director of Public Prosecutions* Lord Justice Sedley stated:

“Free speech includes not only the inoffensive but the irritating, the contentious, the eccentric, the heretical, the unwelcome and the provocative. ... Freedom only to speak inoffensively is not worth having. ...”

- 4.8 This was also confirmed by the European Court of Human Rights in *Handyside v United Kingdom* who stated:

“Freedom of expression constitutes one of the essential foundations of such a society, one of the basic conditions for its progress and for the development of every man. ... it is applicable not only to ‘information’ or ‘ideas’ that are favourably received or regarded as inoffensive or as a matter of indifference, but also to those that offend, shock or disturb the State or any sector of the population. Such are the demands of that pluralism, tolerance and broadmindedness without which there is no ‘democratic society’

- 4.9 Whilst there is a higher level of latitude in relation to political speech this does not mean that Councillors can say whatever they like and personally abusive or insulting statements may fall short of being protected. So there are occasions where behaviour may be referred for investigation. This is particularly the case where behaviour tips over into malicious abuse, persistent or disruptive behaviour, accompanied by threats of violence, or where a Member abuses council officers or members of the public who do not have the same platform to defend themselves as councillors do. Complaints should also be considered more seriously if there is a clear pattern of misconduct that is damaging to the public reputation of the authority.
- 4.10 Some Councils do have voluntary Codes governing councillor behaviour in meetings but the issue is whether or not this is required over and above the existing Councillor Code of Conduct. An example of one such code is at Appendix 1.

5. Financial information

- 5.1 None contained within this report.

6. Legal implications

- 6.1 The council must promote and maintain high standards of conduct by Members and co-opted members of the authority. In discharging its duty, 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.

7. Decide

7.1 The committee is asked to approve the recommendations as set out in Paragraph 3.

8. Respond

8.1 That the Monitoring Officer discusses this issue with the relevant Group Leaders of the council and report back to the Standards Committee.

9. Review

9.1 That this issue is kept under review and considered as part of any wider review of standards of conduct by Councillor at the Council.

Background Papers:

Appendix 1

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APPENDIX 1

Informal protocol – Conduct of Members during meeting

Council meetings and committees are formal events, not social occasions. They have a clear purpose – to make decisions – and can be observed by members of the public and the press. Inappropriate or unprofessional behaviour by members, or perceived conflict between individuals or political parties, can damage the council's reputation and all the good work it does.

Members are subject to the following relevant provisions of the Members' Code of Conduct whilst attending meetings and committees of the Council.

“1.1 I treat other councillors and members of the public with respect.”

“2.1 I do not bully any person”

“5.1 I do not bring my role or local authority into disrepute”

This informal protocol has been requested by and agreed between the political parties and covers particular points they believe need addressing. It provides some practical guidance on how councillors engage with each other in order to help them observe the Code of Conduct.

1. General behaviour

- 1.1 Members should conduct themselves in a business-like manner at all times. They should not try and score points off fellow councillors and must never engage in personal attacks.
- 1.2 Members should not need to raise their voices in order to make their point. They should also refrain from interrupting others, making noises or gesticulating, as a way to show their disagreement with what is being said.
- 1.3 Where members of the public have taken the time and trouble to contribute to a meeting, members should be particularly respectful towards them.
- 1.4 In order to avoid disrupting a meeting the Chair will remind members that all electronic devices (such as mobile phones, laptops and iPads) must be switched to silent or vibrate during meetings, and if there are exempt agenda items that the use of social media is not permitted during those items.

2. Respecting the Chair (the Mayor)

- 2.1 The office of Chair is created by legislation, and the person in that role is in charge during council meetings. Chairs have a duty to ensure that council meetings run smoothly, that all business is properly understood and considered, and all councillors who wish to speak can do so. It is good practice for the Chair to refer to the Clerk for advice.
- 2.2 Where councillors, the clerk and Chair work together as a team they can combine knowledge and skills to deliver real benefits to the community they serve. Good working relationships, mutual respect and an understanding of their different roles are vital. Apparent conflict between these key roles, especially during meetings in front of the press or public, rarely goes unnoticed and is unprofessional.

3. Member contributions

- 3.1 Council meetings should be formal and dignified. Councillors wishing to speak should catch the Chair's eye or raise their hand.
- 3.2 The expectation of the public is that members will concentrate on the business in hand at meetings. It is therefore important that Members listen to debates and comments and are not distracted by other non-work-related activities, or by the task of accessing electronic papers. Members may be disrespecting others or considered to be bringing their office or authority into disrepute by their behaviour if they do not pay proper attention. This applies whether or not the meeting is being webcast.
- 3.3 During debate, members should ensure they:
- Keep their contributions short and to the point, and always make them via the Chair.
 - Only raise well thought out questions.
 - Are mindful of the number of questions being raised. If the number of questions being raised generally is considered by any political party to be too high, the Governance & Ethics Committee may consider limiting the number of questions permitted to one per political group.
 - Use closure motions when necessary.
- 3.4 "Substantive" amendments to motions are to be provided 48 hours in advance to each political party. It is for the political parties to determine what they consider to be substantial, and they should keep this under review and raise any concerns with the Monitoring Officer.

4.0 Ongoing improvement and monitoring

- 4.1 The Chair will undertake mandatory training in relation to rules of debate and application of the rules, to help support them in their pivotal role. Training and support to other members will also be available on request.
- 4.2 The behaviour of members is to be a permanent agenda item for political group meetings and any ongoing issues must be reported to the Monitoring Officer.
- 4.3 As respect for fellow councillors extends beyond the duration of meetings, consideration will be given by the Monitoring Officer to keep cameras on after the webcast has ended, for the purpose of local recording.
- 4.4 The need for and content of this protocol will be kept under review by the Monitoring Officer.

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