

CITY OF  
WOLVERHAMPTON  
C O U N C I L

# Governance and Ethics Committee Meeting

Friday, 9 July 2021

Dear Councillor

## GOVERNANCE AND ETHICS COMMITTEE - FRIDAY, 9TH JULY, 2021

I am now able to enclose, for consideration at next Friday, 9th July, 2021 meeting of the Governance and Ethics Committee, the following reports that were unavailable when the agenda was printed.

<b>Agenda No</b>	<b>Item</b>
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9	<b>Code of Conduct Matters (Pages 3 - 14)</b>
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[To receive an update on Code of Conduct Matters - Report to follow]

If you have any queries about this meeting, please contact the Democratic Services team:

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<b>CITY OF WOLVERHAMPTON COUNCIL</b>	<b>Governance and Ethics Committee</b> 9 July 2021
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**Report title**

Code of Conduct Update

**Cabinet member with lead responsibility**

Councillor Paula Brookfield  
Cabinet Member for Governance and Equalities

**Accountable director**

David Pattison, Director of Governance

**Originating service**

Governance

**Accountable employee**

David Pattison	Director of Governance
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**Report to be/has been considered by**

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**Recommendations for decision:**

The Governance and Ethics Committee is recommended to:

1. Provide comments on the Social Media Protocol.
2. Agree revisions to hearing procedure attached at appendix 1 to this report.

## **1.0 Purpose**

- 1.1 This report outlines a number of proposed changes now that the Council has adopted a revised Code of Conduct linked to that Code. The Committee's views are sought and once received the approach will then be adopted at the next meeting.

## **2.0 Background**

- 2.1 The Council adopted a revised Code of Conduct in May 2021 based on the LGA Model Code of Conduct. This sets out clearly expectations on behaviour for elected members and has the advantage of being clearer on a number of fronts, both in the behaviour and in the rules on declaring interests.
- 2.2 The Code remains based on the Nolan principles of behaviour namely:

### **1.1 Selflessness**

*Holders of public office should act solely in terms of the public interest.*

### **1.2 Integrity**

*Holders of public office must avoid placing themselves under any obligation to people or organisations that might try inappropriately to influence them in their work. They should not act or take decisions in order to gain financial or other material benefits for themselves, their family, or their friends. They must declare and resolve any interests and relationships.*

### **1.3 Objectivity**

*Holders of public office must act and take decisions impartially, fairly and on merit, using the best evidence and without discrimination or bias.*

### **1.4 Accountability**

*Holders of public office are accountable to the public for their decisions and actions and must submit themselves to the scrutiny necessary to ensure this.*

### **1.5 Openness**

*Holders of public office should act and take decisions in an open and transparent manner. Information should not be withheld from the public unless there are clear and lawful reasons for so doing.*

### **1.6 Honesty**

*Holders of public office should be truthful.*

### **1.7 Leadership**

*Holders of public office should exhibit these principles in their own behaviour. They should actively promote and robustly support the principles and be willing to challenge poor behaviour wherever it occurs.*

2.3 The Code is split into a number of key types of activity and commitments not to carry out certain behaviour. As the Committee is aware the current legislative arrangements relating to the Code of Conduct are limited and only allow very limited sanctions for breach of the Code of Conduct.

### **3.0 Next steps**

3.1 Across the Country a large number of authorities have found issues with the use of social media and have adopted an approach on social media a protocol that supports the Code of Conduct setting out expectations on behaviour regarding use of social media. It is recommended that the Committee, on behalf of the Council, adopts such an approach. This would set clear parameters on the expected behaviour and enable further training to be given to seek to prevent issues from arising in the first place.

3.2 The proposed protocol is below:

#### ***Guidance on Councillors' use of Social Media and Mobile Devices***

*This guidance applies to Councillors, it is also general good practice for professional conduct.*

*Social media is a positive tool to communicate and engage with your constituents and many councillors are increasingly using it to do just that. This guide is therefore not designed to put you off using social media, but rather to help you avoid its pitfalls.*

*The Council's Corporate Communications Team and the Democratic Services Team are available to help you with any questions you might have about social media.*

*What is the purpose of this guidance?*

*The purpose of this guidance is to provide parameters for Councillors' appropriate use of social media and mobile devices.*

*Improper use of social media and mobile devices could be used as grounds for challenging a contentious decision or result in complaints of breaching the Councillors' Code of Conduct, for a failure to show respect for others or bringing the Council or the office of Councillor into disrepute.*

*Good practice on the use of social media and mobile devices, popular social media platforms include Facebook, Twitter, LinkedIn, YouTube, Instagram, TikTok and blogs (web logs). Types of mobile devices include smartphones, tablets and laptops.*

*Councillors may use these and other platforms in their official capacity, but should remember that the public may still perceive them as acting in that capacity even when that is not their intention.*

*A general rule of thumb is that if you wouldn't say something in a public meeting, do not say it on social media.*

*Councillors should:*

- *consider whether they need to set appropriate privacy settings for any blog or networking site – especially if it is a private, non-political blog;*
- *keep an eye out for potentially defamatory, untrue or obscene posts from others and remove them as soon as possible to avoid the perception that they condone such views;*
- *be careful about any connection with service users who are vulnerable adults or children, as this could be regarded as a safeguarding issue;*
- *ensure they use Council facilities appropriately;*
- *be aware that by publishing information that they could not have accessed without their position as a Councillor, they will be seen as acting in their official capacity;*
- *be careful about being too specific or personal if referring to individuals; and*
- *be aware that the libel laws and other legislation cover blogs, social media and other forms of digital content publication.*

*Councillors should not:*

- *place images or text on their site from a copyrighted source (for example extracts from publications or photos) without permission;*
- *post comments that they would not be prepared to make face to face;*
- *refer in a blog to any information identified by the Council as confidential or exempt;*
- *disclose information given to them in confidence by anyone or information acquired by them which they believe or are aware is of a confidential nature;*
- *publish personal data of individuals except with express written permission to do so;*
- *give the impression that they are expressing the views of the Council where it is not appropriate to do so; and*
- *if they are involved in determining planning or licensing applications or other quasi-judicial decisions, publish anything on their blog that might suggest they do not have an open mind about a matter they are involved in determining.*

*The Use of Social Media and Mobile Devices at Meetings*

*Use mobile devices sparingly, discreetly and with common sense at meetings, considering the impression they are giving to others. Councillors should remember that*

*most meetings are now recorded. There may be occasions when texting or emailing between Councillors during meetings on matters relevant to the debate at hand may be valuable (on the same basis as circulating paper notes to other Councillors). Mobile devices also enable Councillors to manage their busy lives when time is at a premium.*

*However, frequent use of these devices during meetings may give the public the impression that the Councillor is not paying full attention to an item that is being discussed in a debate on a decision that is to be made.*

*Examples of acceptable use:*

- reading and annotating meeting papers and background information relevant to that meeting;*
- communicating with others at the meeting on matters relevant to the debate at hand*
- sending and receiving communications to/from home relating to domestic circumstances (e.g. childcare arrangements), within reason and with common sense.*

*Avoid the following:*

- using social media during quasi-judicial meetings or during the consideration of confidential or exempt items of business at meetings; and*
- frequently checking emails and messages that are not related to the meeting;*
- taking and sending electronic images of proceedings; and*
- extended periods of use that suggests that insufficient attention is being paid to the meeting.*

*The LGA (Local Government Association) has developed some background information on the use of social media for Councillors which is available to access [here](#). Further support and guidance such as do's and don'ts when using social media are also available from the LGA and available to access [here](#).*

- 3.3 The Council currently has one independent person, Ray Tomkinson, appointed by the Council, it is intended to follow best practice and appoint a further independent person. Details of the proposals for appointment of a further Independent person(s) will be brought to the next meeting.
- 3.5 A report will be brought to the meeting on 3 September 2021 with an annual report on the Code of Conduct complaints received.

3.6 It is anticipated that some hearings will be taking place shortly. The details cannot be discussed in this report to avoid prejudicing the outcome of the matters. As such we need to update the hearings procedure which has been amended at appendix 1.

#### **4.0 Financial implications**

4.1 There are no financial implications arising from the recommendations in this report.  
[AS/08072021/C]

#### **5.0 Legal implications**

5.1 There are no legal implications arising from the recommendations in this report.  
[DP/07072021/A]

#### **6.0 Equalities implications**

6.1 There are no equalities implications arising from the recommendations in this report.

#### **7.0 All other Implications**

7.1 There are no other implications arising from the recommendations in this report.

#### **8.0 Schedule of Background Papers**

8.1 Changes to the Constitution, Governance Committee, 23 April 2021

#### **9.0 Appendices**

9.1 Appendix 1 – Revised Hearing Procedure

## **WOLVERHAMPTON CITY COUNCIL GOVERNANCE AND ETHICS STANDARDS COMMITTEE**

### **HEARING PROCEDURES**

The Hearing Sub-Committee will comprise three Members of the Governance and Ethics Standards ECommittee and will be chaired by an independent Member of the Standards Committee.

#### **INTERPRETATION**

“Subject Member” means the Member of the Authority who is the subject of the allegation being considered by the Standards Committee, unless stated otherwise. It also includes the Members nominated representative.

“Investigator” means the Monitoring Officer or Ethical Standards Officer and includes their nominated representative.

“Committee” also refers to a Sub-Committee

“Legal Adviser” means the officer responsible for providing legal advice to the Standards Committee. This may be the Monitoring Officer, another legally qualified officer of the authority, or someone appointed for this purpose from outside the authority.

#### **PUBLIC/PRIVATE SESSION**

The hearing will take place in private session and will remain private unless there is a finding against the Member concerned, if there is a finding against the member the note of the hearing will be published.

#### **REPRESENTATION**

The subject Member may be represented or accompanied during the meeting by a Solicitor, Counsel or, with the permission of the Committee, another person.

#### **LEGAL ADVICE**

The Committee may take legal advice in private, if necessary, from its legal adviser at any time during the Hearing or while they are considering the outcome. The substance of any legal advice given to the Committee should be shared with the subject Member and the investigator if they are present.

#### **SETTING THE SCENE**

After all the Members and everyone involved have been formally introduced, the Chair will explain how the Committee is going to run the Hearing referring to the Order of Procedure below.

## HEARING SUB-COMMITTEE ORDER OF PROCEDURE

### Introductions

### Explanation of Procedure to be adopted at hearing

### Preliminary Issues/Matters arising from Pre-hearing process

#### 1. **Consideration of Facts Contained in Investigators Report**

- Representations of Investigator
- Questions by Subject Member
- Questions by Sub-Committee
- Representations by Subject Member
- Questions by Investigator
- Questions by Sub-Committee

Investigator and Subject Member withdraw from hearing while Sub-Committee makes its decision on the facts.

Chair announces findings of fact

#### 2. **Consideration as to Whether the Subject Member Failed to follow the Code of Conduct**

- Representation by Subject member
- Questions by Investigator
- Questions by Sub-Committee
- Representations by Investigator
- Questions by Subject Members
- Questions by Sub-Committee
- Summing up by Investigator
- Summing up by Subject Member

Investigator and Subject Member withdraw from the hearing while Sub-Committee makes its decision as to whether subject member has failed to follow the code.

Chair announces decision

#### 3. **Consideration as to Sanction**

- Representation by Investigator
- Questions by Subject Member
- Questions by Sub-Committee
- Representations by Subject Member
- Questions by Investigator
- Questions by Sub-Committee

Investigator and Subject Member withdraw from the hearing while Sub-Committee decides whether to impose a sanction on the Subject Member and, if so, what sanction it should be.

## **PRELIMINARY PROCEDURAL ISSUES**

The Committee will resolve any issues or disagreements about how the Hearing will continue which have not been resolved during the pre-Hearing process.

## **MAKING FINDINGS OF FACT**

After dealing with any preliminary issues, the Committee will move to consider whether there are any significant disagreements about the facts contained in the investigator's report.

If there is no disagreement about the facts, the Committee will move to the next stage of the Hearing.

If there is a disagreement, the investigator, if present, will be invited to make any necessary representations to support the relevant findings of fact in the report. With the Committee's permission, the investigator may call any necessary supporting witnesses to give evidence. The Committee may give the subject Member an opportunity to challenge any evidence put forward by any witness called by the investigator.

The subject Member will have the opportunity to make representations to support their version of the facts and, with the Committee's permission, to call any necessary witnesses to give evidence.

At any time, the Committee may question any of the people involved or any witnesses, and may allow the investigator to challenge any evidence put forward by witnesses called by the Member.

If the subject Member disagrees with most of the facts, the investigator will start by making representations on all the relevant facts, instead of discussing each fact individually.

If the subject Member disagrees with any relevant fact in the investigator's report, without having given prior notice of the disagreement, they must give good reasons for not mentioning it before the Hearing. If the investigator is not present, the Committee will consider whether it would be in the public interest to continue in their absence.

After considering the Member's explanation for not raising the issue at an earlier stage, the Committee may then;

- continue with the Hearing, relying on the information in the investigator's report
- allow the subject Member to make representations about the issue, and invite the investigator to respond and call any witnesses, as necessary.
- postpone the Hearing to arrange for appropriate witnesses to be present, or for the investigator to be present if they are not ready.

The Committee will consider representations and evidence in private.

The Chair will announce the Committee's findings of fact.

### **DID THE SUBJECT MEMBER FAIL TO FOLLOW THE CODE OF CONDUCT?**

The Committee will consider whether, based on the facts, it has found, the subject Member has failed to follow the Code.

- The subject Member will be invited to give reasons why the Committee should decide that they have not failed to follow the Code
- The Committee will then consider any verbal or written representations from the investigator
- The Committee may, at any time, question anyone involved on any point they raise on their representations
- The subject Member should be invited to make any final relevant points
- The Committee will consider the representations in the absence of the parties.

The Chair will announce the Committee's decision as to whether the subject Member has failed to follow the Code.

### **IF THE SUBJECT MEMBER HAS NOT FAILED TO FOLLOW THE CODE OF CONDUCT**

If the Committee decides that the subject Member has not failed to follow the Code, the Committee will consider whether it should make any recommendations to the Authority.

### **IF THE SUBJECT MEMBER HAS FAILED TO FOLLOW THE CODE OF CONDUCT**

If the Committee decides that the subject Member has failed to follow the Code, it will consider any verbal or written representations from the investigator and the subject Member as to:

- Whether the Committee should apply a sanction
- What form any sanction should take

The Committee may question the investigator and Member, and take legal advice, to make sure they have the information they need in order to make an informed decision.

The Committee will then deliberate in private to consider whether to impose a sanction on the subject Member and, if so, what sanction it should be.

On their return the Chair will announce the Committee's decision.

## **RECOMMENDATIONS TO THE AUTHORITY**

After considering any verbal or written representations from the investigator, the Committee will consider whether it should make any recommendations to the Authority, with a view to promoting high standards of conduct among Members.

## **THE WRITTEN DECISION**

The Committee will announce its decision on the day and provide a short written decision on that day. It will also need to issue a full written decision shortly after the end of the Hearing.

The decision will be made public if there is a finding against the Member concerned but will remain private if there is no finding against the Member.

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