



TRAFFORD  
COUNCIL



# The Standards Regime in Trafford

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# The Framework

- The framework is based upon the model Code of Conduct developed on the implementation of the 2011 Localism Act and was adopted, as required by that Act, by the full council.
- It is based on 7 principles: selflessness; integrity; objectivity; accountability; openness; honesty; leadership
- The framework also establishes the arrangements for investigating allegations of breach and what decisions to make about breaches



# The Framework

## Independent person

- Required to be appointed under the legislation;
- Views must be sought before decision on breach and sanction taken;
- May be consulted by members individually;
- Role in relation to considering disciplinary matters in relation to the council's statutory officers.



# The Register

- Must be available for inspection and on the council's website
- Current interests of current members only
- Sensitive interests – ones the MO agrees could lead to violence or intimidation – can be excluded from copies made publicly available



# The Register

- Member has 28 days after being elected to register declarable pecuniary interests
- If re-elected member only has to register new interests



# Interests

## 3 types

- disclosable pecuniary interests (dpi)
- personal interests
- prejudicial interests



## Limitations if member has a dpi

- Cannot participate in any discussion or any vote (offence)
- If the interest is not registered, it must be disclosed to the meeting. (offence)
- Member must also notify the Monitoring Officer (MO) within 28 days of disclosure. (offence)
- Executive Member with a dpi must notify the MO and must not take any steps or further steps in the matter. (offence)



## Other offences

- Fail to notify MO of any dpi within 28 days of election
- Knowingly or recklessly providing information about a dpi to the MO or a meeting that is false or misleading
- **Max fine - £5,000 and disqualification for up to 5 years.**





# Dispensations

- Standards committee or MO can grant a dispensation to participate and/or vote for up to 4 years
- General dispensations to participate and vote has been granted:-
  - Schools, allowances, housing and setting the council tax.



# Personal Interests

- Normally a member must disclose the “nature and extent” of an interest when the relevant discussion starts or when it becomes apparent.
- Public body type interests only need to be disclosed if speaking.



# Prejudicial Interests

These are a type of personal interest.

- one which a member of the public with knowledge of the relevant facts would reasonably regard as so significant that it is likely to prejudice your judgement of the public interest AND that business -
- affects your financial position or the financial position of a person or body close to you OR
- relates to the determining of any approval, consent, licence, permission or registration in relation to you or any such person or body



# Conduct

## Scope of the Code of Conduct:-

- Code applies to members whenever they conduct the business of the Council or give the impression they are acting as a representative of the Council.
- Code only applies when members are acting in an official capacity.

# General Obligations

## Members must not :-

- do anything which may knowingly cause the Council to breach the Equality Act 2010;
- bully or be abusive to any person;
- intimidate or attempt to intimidate any person who is or is likely to be:
  - (i) a complainant,
  - (ii) a witness, or
  - (iii) involved in the administration of any investigation or proceedings, in relation to an allegation that any member has failed to comply with his or her authority's code of conduct
- do anything which compromises or is likely to compromise the impartiality of those who work for, or on behalf of, the Council; or
- Disclose confidential information except where:-
  - consent given; required by law to do so; or disclosure is in public interest, disclosure is in good faith and in compliance with the reasonable requirements of the Council



# General Obligations (cont'd)

## Members must not:

- Conduct themselves in a manner which could reasonably be regarded as bringing the office or the Council into disrepute

Use or attempt to use their position as a member improperly to confer on or secure for themselves or any other person, on advantage or disadvantage

## Members must:

- use Council resources in accordance with the Council's reasonable requirements and ensure that resources are not used improperly for political purposes
- have regard to the Code of Publicity
- have regard to any relevant advice given by the Chief Finance Officer and Monitoring Officer
- give reasons for all decisions in accordance with any statutory requirements and any reasonable additional requirements imposed by the council



# Complaints Procedure

- Complaints must be made in writing by post or e-mail to the Monitoring Officer (MO)
- MO must acknowledge complaint within 5 days and at same time notify the subject member with details of the allegations;
- Subject member has 5 days in which to make written representations to the MO which must be taken into account in determining how the complaint should be dealt with

# Initial Assessment of Complaint

- The Monitoring Officer will review the complaint and, following consultation with the Independent Person take a decision (**initial assessment**) as to whether it merits investigation, or another course of action. This decision will normally be taken within 20 working days of receipt of a complaint.
- The complaint will be rejected if;
  - The complaint is not against one or more named members or co-opted members of the council or a parish or town council within its district;
  - The subject member was not in office at the time of the alleged conduct.
  - The complaint, if proven, would not be a breach of the Code of Conduct under which the subject member was operating at the time of the alleged misconduct.
- If the complaint is not rejected on the above grounds the MO must then consider whether the complaint should be accepted for investigation, dealt with informally or rejected





# Initial Assessment (cont'd)

- In making the decision as to how to deal with the complaint the MO must apply the following criteria:-
  - Whether a substantially similar allegation has previously been made by the complainant to Standards for England, or the Standards Committee, or the complaint has been the subject of an investigation by another regulatory authority;
  - Whether the complaint is about something that happened so long ago that those involved are unlikely to remember it clearly enough to provide credible evidence, or where the lapse of time means there would be little benefit or point in taking action now;
  - Whether the allegation is anonymous;
  - Whether the allegation discloses a potential breach of the Code of Conduct, but the complaint is not serious enough to merit any action and
    - i. The resources needed to investigate and determine the complaint are wholly disproportionate to the allegations and
    - ii. Whether in all the circumstances there is no overriding public benefit in carrying out an investigation.



# Initial Assessment (cont'd)

## Criteria cont'd:-

- Whether the complaint appears to be malicious, vexatious, politically motivated or tit for tat;
  - Whether the complaint suggests that there is a wider problem throughout the authority;
  - Whether it is apparent that the subject of the allegation is relatively inexperienced as a member or has admitted making an error and the matter would not warrant a more serious sanction;
  - Whether training or conciliation would be the appropriate response.
- 
- The MO will consult with the Independent Person and then give his/her decision on how the complaint will be dealt with.
  - The MO may in exceptional circumstances refer the question of how to proceed to a sub-committee of the Standards Committee.



## Initial Assessment (cont'd)

- The MO may require additional information to come to a decision and may request information from the subject member.
- In appropriate cases, the MO may seek to resolve the complaint informally, without the need for an investigation.
- Such informal resolution may involve the subject member accepting that his/her conduct was unacceptable and offering an apology, or taking other steps.
- Where the subject member makes a reasonable offer of local resolution, but it is rejected by the complainant, the MO will take account of this in deciding whether the complaint merits formal investigation.
- If the complaint identifies criminal conduct or breach of other regulations by any person, the MO is authorised to report this to the police or other prosecuting or regulatory authority, in addition to any action taken pursuant to the Code.



# Investigation

- The MO will appoint an investigating officer where a complaint merits formal investigation. The investigating officer may be a council officer, an officer from another council, or an external investigator.
- The investigating officer will follow any guidance issued by the MO on the investigation of complaints. The guidance will be based on principles of proportionality and the cost effective use of council
- The Investigating Officer will ensure that the subject member receives a copy of the complaint – subject to the MO deciding on confidentiality.
- At the end of their investigation, the investigating officer will produce a report and will send a copy of that report to the MO. The investigating officer may, before that, produce a draft report and send copies to the complainant and to the subject member, for comments. The investigating officer will take such comments into account before issuing their final report to the MO



# Outcome of Investigation

- Where the investigating officer's report finds that the subject member has not failed to comply with the Code of Conduct, the MO (in consultation with the Independent Person) will review the investigating officer's report and if satisfied, will confirm the finding of no failure to comply with the Code of Conduct.
- If the MO is not satisfied that the investigation has been conducted thoroughly, the investigating officer may be asked to reconsider the report and the conclusions.
- Where the investigating officer's report finds sufficient evidence that the subject member has failed to comply with the Code of Conduct, the MO will review it and consult with the Independent Person
- The MO will then either send the matter for local hearing before the hearings panel or seek local resolution.



# Local Resolution

- If the MO considers that the matter can reasonably be resolved without the need for a hearing, they will consult with the Independent Person and the complainant and seek to agree a fair resolution.
- Such resolution may include the subject member accepting that their conduct was unacceptable and offering an apology, and/or other remedial action.
- If the member accepts the suggested resolution, the MO will report the outcome to the Standards Committee for information, but will take no further action.
- If the complainant or the subject member refuses local resolution in principle or to engage with the agreed outcome, the MO will refer the matter for a local hearing without further reference to the complainant or the subject member.



# Local Hearing

- Where, in the opinion of the MO, local resolution is not appropriate or the complainant and/or subject member refuses to co-operate, then the MO will report the investigating officer's findings to the hearing panel which will conduct a local hearing before deciding whether the subject member has failed to comply with a Code of Conduct and, if so, what action (if any) to take in respect of the subject member.
- The Council has agreed a procedure for local hearings
- The Hearing Panel will be a sub committee of members of the Standards committee
- The Independent Person will be invited to attend all meetings of the Hearing Panel and their views must be sought and taken into consideration before it takes any decision on whether the subject member's conduct constitutes a failure to comply with the code of conduct and as to any action to be taken following a finding of failure to comply with the code.



# Sanctions

- Where a Hearing Panel find that a subject member has failed to comply with the code of conduct, has powers to take such action in respect of subject members as may be necessary to promote and maintain high standards of conduct. Accordingly, the Hearing Panel may –
  - Publish its findings in respect of the subject member’s conduct;
  - Report its findings to Council (or to the parish or town council) for information;
  - Recommend to Council that the subject member be censured;
  - Recommend to the subject member's group leader (or in the case of ungrouped members) recommend to Council) that he/she be removed from any or all committees or sub committees of the council;





## Sanctions (cont'd)

- Recommend to the Leader of the Council that the subject member be removed from the Executive, or removed from their portfolio responsibilities;
- Instruct the MO to arrange training for the subject member;
- Recommend to Council that the subject member be removed from all outside bodies, appointments to which they have been appointed or nominated by their council;
- Withdraw facilities provided to the subject member by the council such as a computer, website and/or e-mail and internet access); or
- Placing such restrictions on the subject members access to staff which may be reasonable in the circumstances

# Appeals

- Subject to judicial review or a decision of a Local Government Ombudsman, there is no right of appeal against the decision of a Monitoring Officer or of the hearing panel.

# Questions

