

# Agenda

## Standards and Ethics Committee

**Wednesday, 24 October 2018, 10.00 am**  
**County Hall, Worcester**

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## DISCLOSING INTERESTS

There are now 2 types of interests:  
**'Disclosable pecuniary interests'** and **'other disclosable interests'**

### WHAT IS A 'DISCLOSABLE PECUNIARY INTEREST' (DPI)?

- Any **employment**, office, trade or vocation carried on for profit or gain
- **Sponsorship** by a 3<sup>rd</sup> party of your member or election expenses
- Any **contract** for goods, services or works between the Council and you, a firm where you are a partner/director, or company in which you hold shares
- Interests in **land** in Worcestershire (including licence to occupy for a month or longer)
- **Shares** etc (with either a total nominal value above £25,000 or 1% of the total issued share capital) in companies with a place of business or land in Worcestershire.

**NB Your DPIs include the interests of your spouse/partner as well as you**

### WHAT MUST I DO WITH A DPI?

- **Register** it within 28 days and
- **Declare** it where you have a DPI in a matter at a particular meeting
  - you must **not participate** and you **must withdraw**.

**NB It is a criminal offence to participate in matters in which you have a DPI**

### WHAT ABOUT 'OTHER DISCLOSABLE INTERESTS'?

- No need to register them but
- You must **declare** them at a particular meeting where:
  - You/your family/person or body with whom you are associated have a **pecuniary interest** in or **close connection** with the matter under discussion.

### WHAT ABOUT MEMBERSHIP OF ANOTHER AUTHORITY OR PUBLIC BODY?

You will not normally even need to declare this as an interest. The only exception is where the conflict of interest is so significant it is seen as likely to prejudice your judgement of the public interest.

### DO I HAVE TO WITHDRAW IF I HAVE A DISCLOSABLE INTEREST WHICH ISN'T A DPI?

Not normally. You must withdraw only if it:

- affects your **pecuniary interests** **OR** relates to a **planning or regulatory** matter
- **AND** it is seen as likely to **prejudice your judgement** of the public interest.

### DON'T FORGET

- If you have a disclosable interest at a meeting you must **disclose both its existence and nature** – 'as noted/recorded' is insufficient
- **Declarations must relate to specific business** on the agenda
  - General scattergun declarations are not needed and achieve little
- Breaches of most of the **DPI provisions** are now **criminal offences** which may be referred to the police which can on conviction by a court lead to fines up to £5,000 and disqualification up to 5 years
- Formal **dispensation** in respect of interests can be sought in appropriate cases.

**Standards and Ethics Committee**  
**Wednesday, 24 October 2018, 10.00 am, County Hall,**  
**Worcester, WR5 2NP**

**Membership:** Mr R C Adams, Mr R M Bennett, Ms P A Hill, Dr A J Hopkins,  
 Mr S J Mackay (Chairman), Dr K A Pollock, Mr R M Udall and  
 Mr R P Tomlinson

Independent Members (Non-voting): Dr M Mylechreest, Mr C Slade and  
 Dr P Whiteman

## Agenda

Item No	Subject	Page No
1	<b>Apologies and Named Substitutes</b>	
2	<b>Declarations of Interest</b>	
3	<b>Public Participation</b> Members of the public wishing to take part should notify the Director of Resources in writing or by e-mail indicating both the nature and content of their proposed participation no later than 9.00am on the working day before the meeting (in this case 23 October 2018). Enquiries about this can be made through the telephone number/e-mail address listed below.	
4	<b>Confirmation of Minutes</b> To confirm the Minutes of the meeting held on 25 April 2018. (previously circulated – pink pages)	
5	<b>Code of Conduct - Complaints Update</b>	1 - 4
6	<b>Local Government Ethical Standards - Stakeholder Consultation</b>	5 - 6

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To obtain further information or a copy of this agenda contact Simon Lewis, Committee Officer on 01905 846621, [slewis@worcestershire.gov.uk](mailto:slewis@worcestershire.gov.uk)

All the above reports and supporting information can be accessed via the Council's website at <http://www.worcestershire.gov.uk/cms/democratic-services/minutes-and-agenda.aspx>

Date of Issue: Monday, 15 October 2018

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**STANDARDS AND ETHICS COMMITTEE**  
**24 OCTOBER 2018****CODE OF CONDUCT – COMPLAINTS UPDATE**

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**Recommendation**

1. **The Head of Legal and Democratic Services recommends that the Committee:**
  - (a) **notes the formal complaints that have been made about the conduct of County Councillors; and**
  - (b) **considers what, if any, further action should be taken to ensure members are aware of and comply with their obligations under the Code of Conduct.**

**Summary**

2. This report is to update the Committee on formal complaints about the conduct of councillors which have been dealt with since the last report in April 2018. The Committee has delegated to the Monitoring Officer the responsibility of filtering complaints received, in consultation with the Chairman and/or Independent person as may be appropriate, and so the MO reports to the committee on the decisions taken.

**Background**

3. The Council receives a relatively small number of formal complaints concerning the conduct of county councillors. None of these have progressed to formal investigation but have been resolved informally one way or the other through the facilitation of the Monitoring Officer. This particular period brought an unusually high number of complaints, which are summarised below.

**Complaint 03/18**

4. The complainant was involved in ongoing contentious matters with officers of the Council, and did not agree with the Council's interpretation of the situation. The complainant complained to the MP about the Council. The Cabinet Member with Responsibility for the service area became involved in the response to the MP. The complainant then complained that the CMR had provided incorrect and libellous information in that response to the MP.
5. Preliminary enquiries were made by the MO into the circumstances, including consultation with outgoing and incoming chairmen. The Monitoring Officer considered the filtering guidelines set by the Committee and decided that the matter would not be further investigated as no breach was disclosed. The CMR had passed on information from officers in good faith; the fact that the complainant disputed the Council's position did not make it a conduct matter for the CMR. The MO encouraged the complainant to co-operate with Council officers to progress the substantive issue behind the complaint.

### **Complaint 04/18**

6. A councillor from another authority complained about a County Councillor's comments on Facebook about a local issue which were critical of the complainant's political performance and called for the complainant's resignation.
7. The MO made preliminary enquiries, and consulted with Chairman and an Independent Member. The MO considered the filtering guidelines set by the Committee and decided that the matter would not be further investigated. The complaint potentially disclosed a breach through disrespect but the exchange was part of the cut and thrust of politics on a local political matter with freedom of speech issues between political opponents and so any potential breach did not warrant pursuing more formally. The Code applied as the Facebook comments were being made as county councillor, not in a private capacity.
8. The County Councillor was reminded of Code duties whilst engaging as a councillor on social media.

### **Complaint 05/18**

9. This complaint concerned the nature of comments made by a county councillor at a public meeting (not a Council meeting). The MO made preliminary enquiries and considered the filtering guidelines. The MO concluded that it was unclear that the councillor was even there in any county councillor capacity, and so treated it as a private life matter and the Code was not applicable and NFA.
10. The Committee will be aware that the Council's Code only applies where a member acts in his or her role as a county councillor or representative of the Council. The Code has no application to actions taken in 'private life'.

### **Complaint 06/18**

11. This complaint was in effect an extension of 04/18 above. The county councillor had further criticised the performance of the 04/18 complainant (and others) in a report and called for resignation. The MO made preliminary enquiries and considered the filtering guidelines in consultation with the Chairman and Independent Member.
12. The complaint raised freedom of expression issues, with different levels of respect owed depending on the context. This was a party political matter, the comments were robust but the complaint related to another politician and the cut and thrust of politics. No further formal action was required. However, the MO provided guidance to the member on the desirability of separating party politics from any formal functions exercised as a councillor.

### **Complaint 07/18**

13. A complaint was received that a councillor had unlawfully failed to respond to an FoI request in breach of legal duties.
14. This related to a member of the public's ongoing interactions on a service matter. The MO consulted the Chairman and concluded that no potential breach was disclosed by the complaint. An individual councillor as such is not a 'public authority' for the

purposes of FoI and so no personal legal duty is owed under it, and so cannot have breached it.

15. However, although there were more direct ways of seeking FoI disclosure, the request to a councillor equated to a request to the Council. This particular one had been overlooked and so the MO ensured that the requested information was supplied to the complainant by officers in order to resolve the underlying issue.

### **Complaint 08/18**

16. A complaint was received concerning tweets from a councillor relating to female Islamic dress. It was complained that the councillor breached the Code through lack of respect for others and by causing the Council to breach its equality duties.

17. This raised significant issues, and the MO consulted with the Chairman and an Independent Person. The MO concluded that no breach was disclosed by this comment on matters of public interest (it was not a personal attack on particular persons), and case law protected freedom of expression principles.

18. The councillor was likely to be taken to be engaging on social media as a councillor as title was being used, and Twitter account clearly showed status. The councillor in making comments was not acting as or on behalf of the Council, and was not performing any functions on behalf of the Council and so the Council's equality duties were not engaged. The councillor was giving personal views on a matter of public interest (which had no connection with the Council). Others were entitled to express criticism of those views. The comments made were well within the enhanced protection of freedom of speech, and expressing them did not amount to a breach of the Code. The complainant received a detailed report in response explaining the decision to take NFA.

19. The councillor subsequently decided to make clear on his Twitter account that he was expressing views in an entirely personal capacity and not as a councillor.

### **Contact Points**

#### County Council Contact Points

County Council: 01905 763763

Worcestershire Hub: 01905 765765

#### Specific Contact Points for this report

Simon Mallinson, Head of Legal and Democratic Services

Tel: 01905 846670

Email: [smallinson@worcestershire.gov.uk](mailto:smallinson@worcestershire.gov.uk)

### **Background Papers**

In the opinion of the proper officer (in this case the Head of Legal and Democratic Services) there are no background papers relating to the subject matter of this report.

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## **STANDARDS AND ETHICS COMMITTEE**

### **24 OCTOBER 2018**

## **LOCAL GOVERNMENT ETHICAL STANDARDS – STAKEHOLDER CONSULTATION**

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### **Recommendation**

**1. The Head of Legal and Democratic Services recommends that the Committee:**

**(a) notes the visit to the Council by the National Committee on Standards in Public Life as part of its review of standards in local government; and**

**(b) notes the anticipated publication of its report in the New Year 2019.**

### **Summary**

2. The National Committee on Standards and Public Life (NCSPL, sometimes called the "Nolan Committee") invited responses to its consultation to inform its review of local government ethical standards. This consultation was reported to the Standards and Ethics Committee in April 2018, which debated the consultation issues and decided a response to be sent on behalf of the Council. In the light of that response, the NCSPL asked to visit the Council as part of its gathering of evidence of good practice in local government.

### **Background information**

3. The National Committee on Standards and Public Life (NCSPL) considers that robust standards arrangements are needed to safeguard local democracy, maintain high standards of conduct, and to protect ethical practice in local government. It is examining the structures, processes and practices in local government in England for:

- maintaining member codes of conduct
- investigating alleged breaches fairly and with due process
- enforcing codes and imposing sanctions for misconduct
- declaring interests and managing conflicts of interests, and
- whistleblowing.

4. The review will also assess whether the existing structures, processes and practices are conducive to high standards of conduct in local government, make any recommendations for how they can be improved, and to note any evidence of any intimidation of councillors.

5. The visit to the Council took place on 11 September. The delegation was led by NCSPL member Dr Jane Martin (formerly local government Ombudsman) and supported by their secretariat.

6. The NCSPL took evidence from the Chairman and other members of the Committee, representatives of each of the political groups, and an Independent Person (as well as 2 Independent members of the committee), as well as the Chief Executive and Head of Legal and Democratic Services.

7. Dr Martin was kind enough to write and say the delegation was impressed by the leadership demonstrated by senior officers and members of the Council, which has allowed the Council to cultivate a culture of high standards and a civil approach to politics. They considered it particularly insightful to see how proper governance structures have a substantial influence on the way in which ethical standards operate at the Council.

8. The Council will be informed nearer the time of the launch of the NCSPL's report and receive a copy of it, anticipated to be in the New Year.

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