

## AGENDA FOR

## STANDARDS COMMITTEE

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**To: All Members of Standards Committee**

**Councillors:** T Pickstone (Chair), R Bernstein, S Butler, M Hayes, T Rafiq, Y Wright, L Smith, G Staples-Jones and M Whitby

Dear Member/Colleague

### Standards Committee

You are invited to attend a meeting of the Standards Committee which will be held as follows:-

<b>Date:</b>	Monday, 15 November 2021
<b>Place:</b>	Council Chamber, Bury Town Hall
<b>Time:</b>	6.30 pm
<b>Briefing Facilities:</b>	If Opposition Members and Co-opted Members require briefing on any particular item on the Agenda, the appropriate Director/Senior Officer originating the related report should be contacted.
<b>Notes:</b>	

## **AGENDA**

**1 APOLOGIES FOR ABSENCE**

**2 DECLARATIONS OF INTEREST**

**3 MINUTES** (*Pages 3 - 6*)

The minutes of the meeting on 13<sup>th</sup> September are attached for information.

**4 REPORT OF THE INDEPENDENT REMUNERATION PANEL** (*Pages 7 - 62*)

Report attached.

**5 CODE OF CONDUCT** (*Pages 63 - 178*)

Report attached.

**6 COUNCIL CONSTITUTION** (*Pages 179 - 266*)

Report attached.

**7 URGENT BUSINESS**

**8 FUTURE MEETING DATES**

17<sup>th</sup> January 2022 Councillor Complaints / Ethical Governance within the Council / Member training

1<sup>st</sup> March 2022 – Items to be confirmed

<b>Minutes of:</b>	<b>STANDARDS COMMITTEE</b>
<b>Date of Meeting:</b>	13 September 2021
<b>Present:</b>	Councillor T Pickstone (in the Chair) Councillors S Butler, R Bernstein, M Hayes, G Staple Jones, L Smith, M Whitby and Y Wright
<b>Also in Attendance:</b>	Jacqui Dennis – Council Monitoring Officer Julie Gallagher – Head of Democratic Services
<b>Apologies:</b>	Councillor Rafiq
<b>Public Attendance:</b>	No members of the public were present at the meeting.

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## **1 APOLOGIES FOR ABSENCE**

Apologies for absence were submitted by

## **2 DECLARATIONS OF INTEREST**

There were no declarations of interest.

## **3 MINUTES**

### **It was agreed:**

That the minutes of the meeting held on the 13<sup>th</sup> January 2021 be approved.

## **4. MATTERS ARISING**

### **A) CODE OF CONDUCT**

Jacqui Dennis, Council Monitoring Officer updated Members on the development of a revised Code of Conduct. The Monitoring Officer reported that the Local Government Association had issued updated guidance on a new model code of conduct, most recently in July 2021.

Colleagues from across Greater Manchester have agreed to look to adopt a Code of Conduct across all ten Greater Manchester Authorities, including the Combined Authority. It is envisaged that a draft code of conduct will be considered at the next meeting of the Standards Committee for onward consideration at Council on 24<sup>th</sup> November 2021.

### **B) FEEDBACK FROM STANDARDS HEARING PANEL**

Following the recently undertaken Standards Hearings Panel Members were asked for their feedback and the following issues were raised:

- Following the appeal to inform members of the public; the decision notice on the Council's website, must include an appropriate level of information including details of the complaint as well as any sanctions imposed
- A system for ensuring that a Member sanctions has been complied with and regular update reports are considered at the Standards Committee.
- The standards regime needs greater power with regards to sanctions.
- Members of the public and Elected members need to have confidence and trust in the system

Responding the Council Monitoring Officer reported that a report will be presented to a future meeting of the Standard's Committee providing details of ongoing standards complaints; the report will include details of the complaints received, if they have been resolved, and at what stage.

The Monitoring Officer reported that if a Councillor fails to comply with the sanctions that has been administered by the Panel this may result in a further complaint to the Standards Committee.

### **It was agreed, that**

An Elected Member Complaints Reports will be considered at the Standards Committee scheduled to be held in January 2022.

## **5 LOCAL GOVERNMENT OMBUDSMAN ANNUAL REPORT**

The Monitoring Officer presented a verbal update in relation to the Local Governments Ombudsman Annual review, an accompanying report had been circulated to Members in advance of the meeting providing details of;

- Statistics on the number of complaints upheld against the Council.
- Complaints per service area
- Annual Review Letter
- Future developments

Responding to a Member's question, the Monitoring Officer reported that work is underway across the Council to strengthen the Council responses at Stage 2 of the complaints process. It is hoped that this will lead to more rigour and oversight of complaints at this stage and thus preventing and avoid escalation of complaints to the Local Government Ombudsman.

The Monitoring Officer reported that a detailed breakdown down of complaints for each service area of the Directorates can be provided to Elected Members.

### **It was agreed,**

- (a) That the content of the Ombudsman's Annual Review Letter to the Council be noted
- (b) That the complaints made to the Local Government Ombudsman referred to the Council during 2020/21 and their outcomes be note

## **6 ESTABLISHMENT OF THE INDEPENDENT REMUNERATION PANEL**

The Monitoring Officer reported following discussions at the March Council meeting in which the Council agreed to establish an Independent Remuneration Panel, she provided further information on the proposals to recruit new members of the Panel to advise on a Scheme of Allowances for 2022/23 ahead of the all-out May 2022 Local Elections.

An accompanying report which provided details of the terms of reference and methodology for undertaking the review was circulated to Members ahead of the meeting.

The Monitoring Officer shared with Members a suggested itinerary which included details of those Members and Officers identified for interview as well as a questionnaire that will be shared with all Members.

In discussions that followed the following issues were raised:

- Members wanted to ensure that the times available for interview were flexible
- Could the Panel look if remuneration is a barrier to women becoming Councillors?
- Could the review panel look at maternity/paternity pay
- The Council have been unable to recruit an independent person to the Audit Committee – is this due to the remuneration?

### **It was agreed, that**

The issues raised above by Members of the Standards Committee will be forwarded on to The Chair of the Independent Remuneration Panel for their consideration.

## **7. SUGGESTED ITEMS FOR CONSIDERATION AT FUTURE MEETINGS OF THE STANDARDS COMMITTEE**

### **It was agreed, that**

The Following items would be considered at future meetings of the Standards Committee:

15.11.2021 - Constitution update / Code of Conduct

17.1.2022 - Councillor Complaints / Ethical Governance within the Council / Member training

**COUNCILLOR T PICKSTONE**  
**Chair**

**(Note: The meeting started at 6.00 pm and ended at 6.50 pm)**

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<b>Classification</b>	<b>Item No.</b>
<b>Open</b>	

<b>Meeting:</b>	Democratic Arrangements Forum Standards Committee Council
<b>Meeting date:</b>	15 <sup>th</sup> November 2021 24 <sup>th</sup> November 2021
<b>Title of report:</b>	Report from the Independent Remuneration Panel – Review of the Member Allowance Scheme
<b>Report by:</b>	The Monitoring Officer
<b>Decision Type:</b>	<b>Council</b>
<b>Ward(s) to which report relates</b>	<b>All</b>

### **EXECUTIVE SUMMARY:**

This report is a synopsis of the deliberations and recommendations made by the Independent Remuneration Panel (the IRP or Panel) for Bury Council to advise the Council on its Members' Allowances scheme.

The IRP report states that evidence shows that the Bury Council Members' Allowances scheme is a low paying scheme both comparatively and in real terms. Benchmarking shows that the Bury are the lowest or next to lowest in every category across all the Greater Manchester. Moreover, the SRAs are now lower than what they were in 2010.

The IRP received anecdotal evidence that the current level of allowances was acting as a barrier to the recruitment of a wide range of candidates to stand for Council. In particular, the time required to be a Member (whether this was at the most senior level or at the backbench level) was not recompensed by the current level of allowances payable.

While the Basic Allowance and SRAs were never intended to reflect the 'market value' of the workload and responsibilities undertaken by Members, they are intended to go a large way to recognising that there is a substantial time commitment and complexity

to being an elected Member that is largely unrecognised in their current remuneration. Legislative changes have increased the demands on all Members but on leading Members in particular. The current allowances payable do not reflect the increased demands made on Members.

Currently, it is the IRP's view that the Bury Council Members' Allowance scheme does not meet this core principle underpinning the purpose of establishing such schemes.

## **RECOMMENDATIONS:**

- 1. That Council notes the report of the Independent Remuneration Panel dated November 2021 (Appendix 1)**
- 2. Consider the recommendations 1- 29 as detail below: (Appendix 2)**

1. Basic allowances for Members to be reset at £10,791. Note that the Basic Allowance continues to be deemed inclusive of all in-Council travel and subsistence costs and telephone allowance and that Schedule 2 of the allowances scheme is amended to reflect this situation.
2. The Special responsibility allowance for the Leader is set at £32,733
3. The SRA for the Deputy leader is set at £19,424.
4. The Cabinet members SRA is set at £14,568, Deputy Cabinet Members SRA to be reset at £2,185.
5. SRA for the Chairs of the six main committees to be set at £8,093

Chairs of the main Committees (x6) -Overview & Scrutiny  
Committee/Children's & Young People's Scrutiny Committee/Health Scrutiny  
Committee/Planning Control Committee/Licensing & Safety Committee/Audit  
Committee

6. That Members who sit on Licensing Hearings Panels who attend more than 6 meetings in any one year are paid an SRA as follows:

Meetings over 4 hours:	£106
Meetings up to 4 hours:	£53

As per current practice this SRA should only be paid to Members who are not otherwise in receipt of an SRA.

7. The SRA for the Leader of the Main Opposition Group is reset at £10,683.
8. The SRA for the Deputy Leader only be payable if the Main Opposition Group holds 20 per cent of seats (11) on Council and is reset at £4,273.
9. The SRA for Leaders of Other Opposition Groups is reset at £5,342, where there are two or more Other Opposition Groups then the recommended SRA of £5,342 should be divided on a pro rata basis and paid accordingly to Leaders of all Other Opposition Groups.
10. The SRA for the Deputy Leader(s) of Other Opposition Groups is reset at £1,870. This is only paid when an Other Opposition Group attains 10 per cent of seats (five) on Council. Where there are two or more Other Opposition

Groups of five or more seats the SRA of £1,870 should be paid to their respective Deputy Group Leaders on a pro rata basis.

11. The Leader is paid a separate SRA of £6,000 as a Member/Portfolio Holder on the GMCA under the 2011 Order.
12. The SRA for the two Bury Members appointed to the GMTC is reset at £3,000.
13. The SRA for the two Bury Council Members appointed to the GM Waste and Recycling Committee is reset at £1,5000.
14. That the council discontinue the SRA for the Council's appointment to the GM Pension Fund.
15. The 1-SRA only rule is maintained with the exception of the additional SRAs paid under the 2011 GMCA Order.
16. That the SRA (£4,273) for the Deputy Leader of the Main Opposition Group is only payable if the size of the Main Opposition Group attains 11 Members
17. That where there are two or more Other Opposition Groups then the recommended SRA of £5,342 should be divided on a pro rata basis and paid accordingly to Leaders of all Other Opposition Groups.
18. That the SRA for the Deputy Leader(s) of Other Opposition Groups of £1,870 is only paid when an Other Opposition Group attains 10 per cent of seats (five) on Council. Where there are two or more Other Opposition Groups of five or more seats the SRA of £1,870 should be paid to their respective Deputy Group Leaders on a pro rata basis.
19. As per current practice this SRA should only be paid to Members who are not otherwise in receipt of an SRA.
20. That Shadow Portfolio Holders, Group Whips and the Council's appointee to the GM Pension Fund are not recommended an SRA is paid.
21. That the 1-SRA only rule is maintained with the exception of the SRAs paid in respect of appointments to the GMCA.
22. That the financial loss allowance is discontinued and the Audit and Standards Hearings Panel Co-optees to be paid a Co-optees' Allowance that has two elements as follows:

Standard element	£500 per year
Meetings element	
Meetings over four hours	£106 per meeting
Meetings up to four hours	£53 per meeting

23. Note that there is no change to the Mayoral Civic Allowance (£16,472) and Deputy Mayor Civic Allowance (£4,118).
24. That the current allowances paid to the Independent Members who sit on Council Education Appeals Panels are discontinued and reset as follows:
  - £106 for meetings over 4 hours
  - £53 for meetings up to 4 hours
  - Mileage/public transport reimbursement – maintain where applicable
  - Parking fee reimbursement – maintain where applicable

25. That the carers allowance is maintained but there are two types of care identified to be paid at the following maximum rates:

Child care: maximum rate paid at real living wage

(Currently £9.50)

Elderly/disabled care: maximum rate paid at the hourly rate charged by Bury Council Social Services Department for a Home Help

An annual cap be for these payments to be set at £2,000

26. That the current approved duties and conditions for which the Travel and Subsistence Allowances may be claimed outwith the Council are maintained but that the mileage reflect the full range of HMRC AMAP (Approved Mileage Allowance Payment) rates as follows:

<b>Mode of Travel</b>	<b>First 10,000 business miles in the tax year</b>	<b>Each business mile over 10,000 miles in the tax year</b>
<b>Cars and vans</b>	<b>45p</b>	<b>25p</b>
<b>Motor cycles</b>	<b>24p</b>	<b>24p</b>
<b>Bicycles</b>	<b>20p</b>	<b>20p</b>

Passenger payments – cars and vans

5p per passenger per business mile for carrying fellow Member or Council employee in a car or van

Current mileage rates are clarified to include provision that if a Member is claiming out of Council mileage by driving a hybrid or electric vehicle that the applicable mileage rates continues to be HMRC approved rates.

27. The subsistence rates for attending approved duties outwith the Council area should be based on current Officer rates as follows:

Subsistence - Breakfast	£7.31
Subsistence - Lunch	£9.74
Subsistence - Evening Meal / Networking	£18.28

28. That the allowances scheme is amended to include a statement that clarifies the continued right of remuneration for a Member when they are required to take maternity, paternity or adoption leave for up to a period of 12 months, subject to the legal attendance requirements.

29. The revised members allowance scheme is adopted from the date of the Council's Annual Meeting 2022 and that indexation is applied in accordance with the IRP recommendations.

**3. Instructs the Monitoring Officer to amend the Councils Members Allowance scheme in accordance with the decision of Full Council held on 24<sup>th</sup> November 2021.**

## **1.0 INTRODUCTION**

Each year, the Council must approve a Members' Allowances Scheme before the end of the preceding financial year. Before doing so it must consider the views of its Independent Remuneration Panel.

The Democratic Arrangement Forum gave authority in June for the Monitoring Officer to establish a new Independent Remuneration Panel (IRP) to carry out this review of all Member allowances.

## **2.0 BACKGROUND AND TERMS OF REFERENCE**

2.1 Under the Local Authorities (Members' Allowances) (England) Regulations 2003, Local Authorities must establish and maintain an Independent Remuneration Panel. The purpose of the Panel is to make recommendations to the Local Authority about the allowances to be paid to Members. Council's can not alter or update their schemes without first considering a report from an Independent Remuneration Panel.

2.2 The Regulations require that Independent Remuneration Panels should have at least three members, none of whom is a Member of the Council or of a committee or sub committee of the Council or is disqualified from being a member of the Council by virtue of s 80 of the Local Government Act 1972 and s 79 and 83 (11) of the Local Government Act 2000. Members of Panels cannot be Members of any Local Authority in respect of which the Panel makes recommendations and must be independent of the Council.

The Panel was Chaired by Dr Declan Hall who has extensive experience in Chairing IRPs across the country including Greater Manchester. The Chair was assisted by two independent members, Dr Andrew Hall Managing Director of Avoira Limited and a John Thompson Trade Union representative, Unison Branch Secretary.

2.3 It was agreed that the Panel be asked to consider the following specific issues:-

- i. The amount of basic allowance that should be payable to its elected members.
- ii. The responsibilities or duties which should lead to the payment of a special responsibility allowance (SRA) and as to the amount of such an allowance.
- iii. About other allowances including an allowance in respect of the expenses of arranging for the care of children and dependants and if it does make

such a recommendation, the amount of this allowance, travel and subsistence and phone.

- iv. The level of allowances paid to co-opted members of the Council's Audit Committee and co-opted members of the Standards Committee.
- v. The level of allowance paid to the Mayor and Deputy Mayor for the purpose of meeting the expenses of those offices (i.e., the Civic Allowances).
- vi. The implementation date for the recommendations, including whether any allowance should be backdated to the beginning of a financial year in the event of the scheme being amended.
- vii. The payment of member(s) appointed to the Greater Manchester Combined Authority (GMCA) in respect of duties and responsibilities undertaken as a member of the GMCA, and if so to specify the amount of any such allowance (in accordance with the Greater Manchester Combined Authority Order 2011 Schedule 1 - Constitution (Remuneration page 18)).
- viii. The level of Travelling, utility and Subsistence Allowances for members of the Independent Education Appeals Panels.
- ix. The consideration of a Parental Leave Policy for elected members. This item was added at the request of the standards Committee.
- x. Whether annual adjustments of allowance levels may be made by reference to an index, and, if so, for how long such a measure should run.

### **3.0 METHODOLOGY AND TIMELINE FOR UNDERTAKING THE REVIEW**

- The Panel sought views of Members both written and oral, with an opportunity for selected Members to meet the Panel (See Appendix XXX list of interviewees)
- Factual Briefings from Officers
- The Statutory Guidance on Regulation for Local Authority Allowances 2006.
- The 2003 Members' Allowances Regulations
- Roles and Responsibilities as contained within the Council's Constitution
- That recommendations should conform to existing legislation and anticipate likely future legislation so far as possible.
- The requirement for their report and recommended changes to the scheme of allowances to be easy to understand and adequately justifiable to the electorate.

To assist in its deliberations, as background information the Panel was provided with comparative information from other GM authorities.

The Panel considered each item listed in the terms of reference and have made recommendations. The supporting information is set out in their report dated 5th November 2021. Members are asked to note that in addition to the specific

recommendation relating to individual allowances the IRP also recommends that indexation should run for four years (2022-2026), which is the maximum length of time permitted by the 2003 Regulations. For authority for indexation to be extended beyond the fourth anniversary of the establishment of the new scheme of allowances the Council is required to first seek advice from the IRP.

The IRP recommends that the new scheme of allowances based on the recommendations contained in this report is adopted from the date of the Council's Annual Meeting 2022.

**Community impact/links with Community Strategy**

An up to date Member Allowance Scheme will ensure decision are taken lawfully and in an open and transparent manner.

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**Equality Impact and considerations:**

*Under section 149 of the Equality Act 2010, the 'general duty' on public authorities is set out as follows:*

*A public authority must, in the exercise of its functions, have due regard to the need to –*

- (a) eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under this Act;*
- (b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it;*
- (c) foster good relations between persons who share a relevant protected characteristic and persons who do not share it.*

*The public sector equality duty (specific duty) requires us to consider how we can positively contribute to the advancement of equality and good relations, and demonstrate that we are paying 'due regard' in our decision making in the design of policies and in the delivery of services.*

<b>Equality Analysis</b>	<i>Please provide a written explanation of the outcome(s) of either conducting an initial or full EA.</i>
<p>An up to date Member Allowance Scheme will ensure decisions contribute to the advancement of equality and good relations, and demonstrate that we are paying 'due regard' in our decision making in the design of policies and in the delivery of services. An Equality Impact Assessment has been completed</p>	

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**Assessment of Risk:**

The following risks apply to the decision:

<b>Risk / opportunity</b>	<b>Mitigation</b>
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Ensure compliance with the Under the Local Authorities (Members' Allowances) (England) Regulations 2003	Independent panel establish and report to Members for consideration
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**Consultation:**

Group Leaders and the Mayor at the Democratic Arrangements Forum and Members of the Standards Committee. The terms of reference set out members would be interviewed by the IRP and a Member survey was sent to all Members to obtain their views.

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**Legal Implications:**

The legal implications are set out in the report.

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**Financial Implications:**

The report includes a broad range of recommendations. Depending upon whether some, none or all of the recommendations are adopted the financial consequence will differ. The current budget is £753,600 for the allowances noted within the report. Adoption of all of the proposed recommendations based upon the same number of members and special responsibility allowances thereby comparing on a like for like basis would require an increase in the budget of £111,600 to create a revised budget of £865,200, representing a 14.81% increase. There would also be additional costs for independent members attendance at meetings but based upon current activity this is not anticipated to exceed £5k per annum. If the new rates were adopted from the Councils annual meeting in May 2022 there would be a part year effect in the 2022/23 financial year. Any agreed increase would be built into the Councils budget setting process which is currently underway.

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**Report Author and Contact Details:**

Jacqui Dennis, Monitoring Officer and Council Solicitor

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**A Review  
Of  
Members' Allowances  
For  
Bury Council**

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**A Report by the  
Independent  
Remuneration Panel**

**Declan Hall PhD (Chair)  
Dr Andrew Roberts  
John Thomson**

**November 2021**

## Executive Summary – Recommendations

The Table below sets out the Panel's recommendations for the Basic Allowance and SRAs (2022/23), including total number of SRAs and maximum amounts payable. In reality the total paid out in SRAs is likely to be less due to the 1-SRA only rule.

Bury November 2021 Review	Recommended Maximum Payable 2022/23			
POSITION	Nos Paid	Basic Allowance	Total P/Mbr (BA+SRA)	Sub Total Per Category
<b>BASIC ALLOWANCE</b>	51	£10,791		£550,341
<b>SPECIAL RESPONSIBILITY ALLOWANCES</b>		<b>SRA annual</b>		
<b>EXECUTIVE</b>				
Leader	1	£32,373	£43,164	£32,373
Deputy Leader	1	£19,424	£30,215	£19,424
Other Cabinet Members	6	£14,568	£25,359	£87,407
Deputy Cabinet Members	7	£2,185	£12,976	£15,296
<b>OVERVIEW AND SCRUTINY (O&amp;S)</b>				
Chairs O&S Committees	3	£8,093	£18,884	£24,280
<b>REGULATORY</b>				
Chair Audit Committee	1	£8,093	£18,884	£8,093
Chair Planning Control Committee	1	£8,093	£18,884	£8,093
Chair Licensing & Safety Committee	1	£8,093	£18,884	£8,093
<b>OPPOSITION POSTS</b>				
Leader Main Opposition Group	1	£10,683	£21,474	£10,683
Deputy Leader Main Opposition Group (where Group has reached threshold of 11 members)	1	£4,273	£15,064	£4,273
Leader(s) Other Opposition Groups total payable regardless of number of Other Opposition Groups	0	£5,342	NA	NA
Leader Other (Liberal Democrat) Opposition Group	1	£2,671	£13,462	£2,671
Leader Other (Radcliffe First) Opposition Group	1	£2,671	£13,462	£2,671
Deputy Leader(s) Other Opposition Groups total payable regardless of number of Other Opposition Groups (Where Group has reached threshold of 5 Members)	0	£1,870	NA	NA
<b>Sub Total - Basic Allowance</b>	<b>51</b>			<b>£550,341</b>
<b>Sub Total - SRAs</b>	<b>25</b>			<b>£223,358</b>
<b>Total (BA+SRAs)</b>				<b>£773,699</b>
<b>SRA paid to Members appointed to GMTC</b>	2	£3,000	£13,791	£6,000
<b>SRA paid to Members appointed to GM Waste Committee</b>	2	£1,500	£12,291	£3,000
<b>Leader's SRA under GMCA Order</b>	1	£6,000	£49,164	£6,000
<b>Total BA+SRAs + GMCA SRAs</b>				<b>£788,699</b>

## **The IRP also recommends:**

### **Opposition SRAs – Deputy Leader of Main Opposition Group**

That the SRA (£4,273) for the Deputy Leader of the Main Opposition Group is only payable if the size of the Main Opposition Group attains 11 Members

### **Opposition SRAs – Leader of Other Opposition Group(s)**

That where there are two or more Other Opposition Groups then the recommended SRA of £5,342 should be divided on a pro rata basis and paid accordingly to Leaders of all Other Opposition Groups.

### **Opposition SRAs – Deputy Leader[s] of Other Opposition Group**

That the SRA for the Deputy Leader(s) of Other Opposition Groups of £1,870 is only paid when an Other Opposition Group attains 10 per cent of seats (five) on Council. Where there are two or more Other Opposition Groups of five or more seats the SRA of £1,870 should be paid to their respective Deputy Group Leaders on a pro rata basis.

### **Members who sit on Licensing Hearings Panels**

That Members who sit on Licensing Hearings Panels who attend more than six meetings in any one year are paid an SRA as follows:

- Meetings over 4 hours: £106
- Meetings up to 4 hours: £53

As per current practice this SRA should only be paid to Members who are not otherwise in receipt of an SRA.

### **Other SRAs considered but not recommended**

That Shadow Portfolio Holders, Group Whips and the Council's appointee to the GM Pension Fund are not recommended an SRA is paid.

### **Maintaining the 1-SRA Only Rule and Exceptions**

That the 1-SRA only rule is maintained with the exception of the SRAs paid in respect of appointments to the GMCA.

### **The Co-optees' Allowance**

That the financial loss allowance is discontinued and the Audit and Standards Hearings Panel Co-optees to be paid a Co-optees' Allowance that has two elements as follows:

- Standard element £500 per year
- Meetings element
  - Meetings over four hours £106 per meeting
  - Meetings up to four hours £53 per meeting

**The Civic (Mayoral) Allowances**

That there is no change to the Mayoral Civic Allowance (£16,472) and Deputy Mayor Civic Allowance (£4,118).

**The Independent Members of the Educations Appeals Panels Allowance**

That the current allowances paid to the Independent Members who sit on Council Education Appeals Panels are discontinued and reset as follows:

- £106 for meetings over 4 hours
- £53 for meetings up to 4 hours

**The Dependants' Carers' Allowance (DCA)**

That the DCA is maintained but there are two types of care identified to be paid at the following maximum rates:

- Child care: maximum rate paid at real living wage (Currently £9.50)
- Elderly/disabled care: maximum rate paid at the hourly rate charged by Bury Council Social Services Department for a Home Help

The IRP also recommends that the current annual cap be raised to £2,000 and as a matter of course all claims to be receipted.

**Travel and Subsistence Allowances - Within the Council**

That the Basic Allowance continues to be deemed inclusive of all in-Council travel and subsistence costs and that Schedule 2 of the allowances scheme is amended to reflect this situation.

**Travel and Subsistence Allowances - Outside the Council**

That the current approved duties and conditions for which the Travel and Subsistence Allowances may be claimed outside the Council are maintained but that the mileage reflect the full range of HMRC AMAP (Approved Mileage Allowance Payment) rates as follows:

<b>Mode of Travel</b>	<b>First 10,000 business miles in the tax year</b>	<b>Each business mile over 10,000 miles in the tax year</b>
<b>Cars and vans</b>	<b>45p</b>	<b>25p</b>
<b>Motor cycles</b>	<b>24p</b>	<b>24p</b>
<b>Bicycles</b>	<b>20p</b>	<b>20p</b>

Passenger payments – cars and vans

5p per passenger per business mile for carrying fellow Member or Council employee in a car or van

The IRP also recommends that the current mileage rates are clarified to include provision that if a Member is claiming out of Council mileage by driving a hybrid or electric vehicle that the applicable mileage rates continues to be HMRC approved rates.

Furthermore the IRP recommends that the subsistence rates for attending approved duties outwith the Council area should be based on current Officer rates as follows:

Subsistence - Breakfast	£7.31
Subsistence - Lunch	£9.74
Subsistence - Evening Meal / Networking	£18.28

### **The Telephone Allowance**

That the Telephone Allowance is discontinued.

### **Adopting a Parental (Maternity, Paternity and Adoption) Leave Policy**

That the allowances scheme is amended to include a statement that clarifies the continued right of remuneration for a Member when they are required to take maternity, paternity or adoption leave for up to a period of 12 months, subject to the legal attendance requirements.

### **Issues arising I – amendment of scheme paragraph 8 (1)**

That the current paragraph 8 (1) of the allowances scheme is removed.

### **Indexation**

That the following indices are applied to the allowances paid to Members and appointees of Bury Council:

- **Basic Allowance, SRAs (including those paid in accordance with the GMCA 2011 Order), Co-optees' Allowance, Civic (Mayoral) Allowances and the remuneration for Independent Members appointed to Education Appeals Panels:**
  - Indexed to the annual percentage salary increase for local government staff (at spinal column 49) as agreed each year by the National Joint Council for Local Government Services and applicable to the same year it applies to Officers but with an implementation date from the start of the municipal rather than financial year.
- **Mileage Allowance (Outwith only):**
  - Members' mileage allowances rates indexed to HMRC Approved Mileage Allowance Payment rates.
- **Subsistence Allowances (Outwith only):**
  - Subsistence allowances should continue to be indexed to the same rates that are applicable to Officers.

- **The Dependants' Carers' Allowance:**
  - **Child care:** maximum rate indexed to the real living wage (Currently £9.50 per hour)
  
  - **Elderly/disabled care:** maximum rate indexed to the hourly rate charged by Bury Council Social Services Department for a Home Help

The IRP also recommends that indexation should run for four years (2022-2026), which is the maximum length of time permitted by the 2003 Regulations

### **Implementation**

That the new scheme of allowances based on the recommendations contained in this report is adopted from the date of the Council's Annual Meeting 2022.

A Review  
Of  
Members' Allowances for Bury Council  
By the  
Independent Remuneration Panel  
November 2021

### **Regulatory context**

1. This report is a synopsis of the deliberations and recommendations made by the Independent Remuneration Panel (the IRP or Panel) for Bury Council to advise the Council on its Members' Allowances scheme.
2. The IRP was convened under The Local Authorities' (Members' Allowances) (England) Regulations 2003 (SI 1021) ("the 2003 Regulations"). These regulations, which arise out of the relevant provisions contained in the Local Government Act 2000, require all local authorities to establish and maintain an advisory Independent [Members] Remuneration Panel to review and provide advice on Members' allowances on a periodic basis.
3. All Councils are required to convene their IRP and seek its advice before they make any changes or amendments to their Members' Allowances Scheme. They must 'pay regard' to their IRPs recommendations before setting a new or amended Members' Allowances Scheme. On this particular occasion, the IRP has been reconvened under the 2003 Regulations [19. (1)], which states:

Before an authority referred to in regulation 3(1) (a), (b) or (c) [which includes a metropolitan authority] makes or amends a scheme, the authority shall have regard to the recommendations made to it by an independent remuneration panel.

4. It is this requirement that provides an opportunity for IRPs to publicly scrutinise their Councils' allowances schemes and enhance public accountability.

### **Terms of Reference**

5. The terms of reference provided to the IRP for this review were as follows:

In accordance with the 2003 Members' Allowances Regulations the IRP shall make recommendations to be considered by the Council at Full Council on 24<sup>th</sup>

November 2012 for a proposed implementation date at Annual Council 2022 regarding:-

- i. The amount of basic allowance that should be payable to its elected members
  - ii. The responsibilities or duties which should lead to the payment of a special responsibility allowance (SRA) and as to the amount of such an allowance
  - iii. About other allowances including an allowance in respect of the expenses of arranging for the care of children and dependants and if it does make such a recommendation, the amount of this allowance, travel and subsistence and phone
  - iv. The level of allowances paid to co-opted members of the Council's Audit Committee and co-opted members of the Standards Committee
  - v. The level of allowance paid to the Mayor and Deputy Mayor for the purpose of meeting the expenses of those offices (i.e., the Civic Allowances)
  - vi. The implementation date for the recommendations, including whether any allowance should be backdated to the beginning of a financial year in the event of the scheme being amended
  - vii. The payment of member(s) appointed to the Greater Manchester Combined Authority (GMCA) in respect of duties and responsibilities undertaken as a member of the GMCA, and if so to specify the amount of any such allowance (in accordance with the Greater Manchester Combined Authority Order 2011 Schedule 1 - Constitution (Remuneration page 18)
  - viii. The level of Travelling, utility and Subsistence Allowances for members of the Independent Education Appeals Panels
  - ix. The consideration of a Parental Leave Policy for elected members
  - x. Whether annual adjustments of allowance levels may be made by reference to an index, and, if so, for how long such a measure should run
6. In arriving at its recommendations the IRP shall also take into account:
- A. The views of Members both written and oral, with an opportunity for selected Members to meet with the IRP
  - B. Factual Briefings from Officers
  - C. The Statutory Guidance on Regulation for Local Authority Allowances 2006.
  - D. The 2003 Members Allowances Regulations (SI 2003/1021)
  - E. Roles and Responsibilities as contained with the Council's Constitution
  - F. That the recommendations should confirm to existing legislation and anticipate likely future legislation as far as possible

- G. The requirement for their report and recommended changes to the scheme of allowances to be easy to understand and adequately justifiable to the electorate
- H. Allowances paid in comparable councils, namely the other Greater Manchester Metropolitan Councils

### **Membership of the Independent Remuneration Panel**

7. In accordance with the decision of Bury Council on 17<sup>th</sup> March 2021, the Director of Law and Public Services in consultation with the Mayor was authorised to appointed a new IRP, consisting of the following appointees:
  - Dr Declan Hall (Chair): an independent consultant specialising in members' allowances and support and a former lecturer in local government and politics at the Institute of Local Government, The University of Birmingham.
  - Dr Andrew Roberts: A local businessman and MD of a local IT Company; Chair of Bury Business Leaders Group and a Governor of the University of Bolton
  - John Thomson: UNISON Bury Branch Secretary
8. The IRP was supported by Julie Gallagher Head of Democratic Services and Jacqui Dennis, Director of Law and Democratic Services, who were the organisational leads in facilitating and supporting the work of the IRP.

### **The Review Process and Methodology**

9. The IRP met in person at Bury Council Offices on 6<sup>th</sup> and 7<sup>th</sup> October 2021 to consider all the written evidence and data and receive factual briefings on the Council and how it operates from relevant Officers. It was during this time that a representative range of Members met with the IRP to discuss their roles and responsibilities and to raise any issues of concern. Any Member not invited but who wanted to meet with the IRP was accommodated.
10. In addition, every Member was sent a short questionnaire through which they could make their views known and raise any concerns directly with the IRP, of which 17 were received. The questionnaire also had the methodological advantage of ensuring all Members were being asked a common set of questions during the interviews, the main point being that all Members had at least one opportunity to exercise their voice during the review.
11. In compliance with the terms of reference and for benchmarking purposes the IRP also took into account the range and levels of allowances paid in comparable local authorities, namely the other Greater Manchester Councils.

12. The full range of interviewees and written information received and considered by the IRP is set out in the appendices as follows:
- Appendix 1: List of information and evidence that was included in the Information Pack for IRP Members
  - Appendix 2: Elected Members and appointees who met with the IRP
  - Appendix 3: Officers who provided a factual briefing to the IRP
  - Appendix 4: Summary of benchmarking of Bury Council Allowances against other Greater Manchester Councils

### **Key Messages – Allowances Scheme – a low paying scheme**

13. The evidence shows that the Bury Council Members' Allowances scheme is a low paying scheme both comparatively and in real terms. Benchmarking shows that the Bury are the lowest or next to lowest in every category across all of Greater Manchester. Moreover, the SRAs are now lower than what they were in 2010 and have not been fundamentally reviewed since then; the Basic Allowance has not been fundamentally reviewed since at least a few years prior to 2010.

### **The Changing roles of Members**

14. The generally low level of allowances and the fact that they have not been reviewed at all for over 11 years is in a context whereby that the roles of Members have changed dramatically since then. Legislative changes have increased the demands on all Members but on leading Members in particular. The current allowances payable does not reflect the increased demands made on Members

### **Allowances acting as a deterrent to becoming and remaining a Member**

15. The IRP received anecdotal evidence that the current level of allowances was acting as a barrier to the recruitment of a wide range of candidates to stand for Council. In particular, the time required to be a Member (whether this was at the most senior level or at the backbench level) was not recompensed by the current level of allowances payable. Moreover, the relatively high churn of Members in Bury it was argued was partially a function of the lack of support provided by the current level of allowances payable.
16. While the Basic Allowance and SRAs were never intended to reflect the 'market value' of the workload and responsibilities undertaken by Members, they are intended to go a large way to recognising that there is a substantial time commitment and complexity to being an elected Member that is largely unrecognised in their current remuneration.
17. This purpose is highlighted by the original policy underpinning the work of remuneration panels when considering the principles for establishing a Members Allowances Scheme<sup>1</sup>:

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<sup>1</sup> Modern Local Government – In touch with the People: Cm 4014 July 1998, 3.54

The financial support for Councillors must also reinforce the culture of the modern council and address, as far as possible, any disincentives to serving in local politics. People do not enter public service to make their fortune. But neither should they pay a price for serving the public.

18. Currently, the Bury Council Members' Allowances scheme does not meet this core principle underpinning the purpose of establishing such schemes.

### **Putting the Allowances scheme on a par with Greater Manchester peers**

19. A strong view that came across in both the written and oral representation made to the IRP was that the allowances paid in Bury Council should be broadly in line with that paid across the other Greater Manchester Council. The broad view expressed was it was inequitable that Bury Council should generally pay lower allowances than that in their peer authorities.
20. There was a further minority view expressed that there should be a national scheme of allowances. However, this is beyond the remit of the IRP, local discretion is in place and the IRP must work within the required legislative framework. As a result of this local discretion it has led the IRP to make Bury appropriate recommendations that have cognisance of the allowances paid across Greater Manchester but not wholly driven by them.

### **Function of this review – fundamental reform required**

21. The IRP recognises that it is never a good time to recommend increases in Members' allowances and now is a particularly difficult time to do so. However, for all the reasons outlined above the IRP has concluded that its role goes beyond that of addressing any particular anomalies arising, its role is to fundamentally modernise the scheme and to ensure it is fit for purpose.

### **The IRPs Recommendations – recalibrating the Basic Allowance**

22. In arriving at recommendations the IRP is required to pay regard to the 2006 Statutory Guidance. In considering the Basic Allowance the 2006 Statutory Guidance (paragraph 67) states:

Having established what local councillors do, and the hours which are devoted to these tasks the local authorities will need to take a view on the rate at which, and the number of hours for which, councillors ought to be remunerated.

24. The Statutory Guidance (paragraphs 68-69) expands on the above statement by breaking it down to three variables, namely
  - Time required to fulfil the role of the ordinary Member
  - Recognising public service principle
  - The rate of remuneration

### **Time to fulfil duties for which the Basic Allowance is paid**

25. The Basic Allowance is primarily a time-based payment (see 2006 Statutory Guidance paragraph 10). It is paid to compensate for workload. Obviously Members work in different ways and have varying commitments and the time spent on council duties varies. Yet, the Basic Allowance is a flat rate allowance that must be paid equally to all Members. So the time assessment is typically taken as the average time required to carry out all those duties for which the Basic Allowance is paid.
26. The most up to date information available on what is a reasonable time expectation for which the Basic Allowance is paid has been derived from the 2018 Councillors Census. In data supplied to the Chair of the IRP from the Local Government Association, it showed that Councillors in metropolitan councils who held "no positions" of responsibility put in on average hours per week "on council business"<sup>2</sup>. The LGA includes within "council business"
  - Council/committee meetings
  - Working with community groups
  - Engaging with constituents, etc.
  - Other<sup>3</sup>
27. For the purposes of recalibrating the Basic Allowance in line with the 2006 Statutory Guidance the IRP has equated 24 hours per week to 156 days per year (or the equivalent of three days per week) based on an eight hour working day as the expected time input from Members for their Basic Allowance.
28. The IRP recognises that based on the representation received some Members who hold no positions do put in more than the equivalent of 3 days per week. But that is through choice rather than requirement.

### **Recognising the Voluntary Principle – A Public Service Discount (PSD)**

29. The 2006 Statutory Guidance (paragraph 67) says that it is necessary to establish out of the time required to do the work of the ordinary Member how many of those hours "ought to be remunerated." What is meant by this is explained further in the Statutory Guidance (paragraph 68) which goes on to state

It is important that some element of the work of [elected] members continues to be voluntary – that some hours are not remunerated.

30. The element of unremunerated time often known as the 'Public Service Discount' (PSD) recognises the principle of public service. Thus, the voluntary principle is realised by discounting an element of the expected time inputs associated with the Basic Allowance. The typical range for this public service discount is between 30% - 40%, largely on the basis that is broadly in line with the proportion of time backbenchers spend on

<sup>2</sup> Information based on National Census of Local Authority Councillors 2018 (LGA), breakdown of mean weekly hours put in on council business by councillors by number of positions held and type of council, in email from S. Richards, LGA 21 October 2019.

<sup>3</sup> See LGA, National census of local authority councillors 2018, Chart 3, page 5

- Dealing with constituents
  - Attending surgeries
  - General enquiries from citizens and
  - Other constituent/ward related activities.
31. The IRP has opted for voluntary discount of 35 per cent as it is the mid-point between the typical range of 30-40 per cent that most IRPs utilise as the size of the voluntary discount utilised. It is also the most common size of voluntary discount used by IRPs in principal councils.
32. Thus, by applying a voluntary discount of 35 per cent to the expected time input of 156 days per year it produces a voluntary element of 54.6 days per year. These are the hours that are 'not remunerated', deemed to be public service, leaving 101.4 remunerated days per year.

### The rate for remuneration

33. Historically, in settling on the appropriate rate of remuneration to utilise in arriving at the recommended Basic Allowance IRPs primarily relied upon an advisory day rate published by the LGA each year to assist IRPs in setting a rate of remuneration, which by 2010 had reached £152.77 per day.<sup>4</sup>
34. However, the LGA has since stopped issuing this advice as IRPs switched to a more locally based rate of remuneration as it more closely reflects the typical earnings of elected Members' constituents. A reason for the switch was one of data availability: the Office of National Statistics started to collect and publish data on average earnings on a council by council basis about 10 years ago in its Annual Survey of Hours & Earnings (ASHE). A second reason for the switch is that by using a rate of remuneration that is based on average earnings of Members constituents it has robustness and is readily defensible.
35. In 2020, the median gross daily salary for all full time employee jobs within the area of the Bury Council was £106.42 as published by the Office of National Statistics (ONS).<sup>5</sup> Thus, for the purposes of recalibrating the Basic Allowance the IRP has adopted a rate for remuneration at £106.42 per day.
36. If the IRP updated the variables to arrive at a recalibrated Basic Allowance to take into account the most recent data available it gives the following values:
- Time required for backbencher: 156 days per year (3 days per week)
  - Public Service Discount: 35% (54.6 days)
  - Rate for Remuneration: £106.42 per day
37. By following the methodology as set out in the 2006 Statutory Guidance with the updated variables it produces the following recalibrated Basic Allowance:

<sup>4</sup> See LGA alert 62/10, Members' Allowances, 23 June 2010

<sup>5</sup> See ASHE, 2020, Table 7.1a - Media weekly pay - gross - for full time employee jobs in area of Bury Council, which is £532.10 and divided by 5 working days equals £106.42 per day, <https://www.ons.gov.uk/employmentandlabourmarket/peopleinwork/earningsandworkinghours/datasets/placeofworkbylocalauthorityasetable7>

- 156 days per year input minus 35% PSD (54.6 days)  
= 101.4 remunerated days per year multiplied by £106.42 per day  
= £10,791

## Benchmarking

38. Benchmarking<sup>6</sup> shows that the current Bury Council Basic Allowance is significantly below the average paid in peer Councils across Greater Manchester:

- |   |         |
|---|---------|
| • Benchmarking group mean Basic Allowance   | £11,368 |
| • Benchmarking group median Basic Allowance | £11,108 |
| • Bury Council 2021/22 Basic Allowance      | £8,948  |

## Representation received by the IRP

39. Finally, the third ‘corner’ of the triangulation process was the representation received from elected Members. There was an overwhelming view that the Basic Allowance was in need of revision, particularly to place it on a par with peers across Greater Manchester, although it must be acknowledged that within that view there was a minority view expressed that despite the case to do so now was not the right time to increase the Basic Allowance. However, conversely the minority view that indicated they did not wish to increase the Basic Allowance many did so not on the grounds that they felt the Basic Allowance was appropriate but rather on grounds of cost.

## Recommending the recalibrated Basic Allowance

40. By undertaking this triangulation process it produced the following potential values for the Basic Allowance

- |  |                 |
|--|-----------------|
| • Recalibrated Basic Allowance                   | £10,791         |
| • Benchmarking group mean/median Basic Allowance | £11,368/£11,108 |
| • Representation received                        | GM mean         |

41. Rather than recommend the GM average Basic Allowance the IRP has opted for the recalibrated Basic Allowance primarily because it is based on the methodology set out in the Statutory Guidance and establishes a direct link with the current median earnings of the constituents of elected Members. Furthermore, opting for a Basic Allowance slightly below the GM average it also goes some way to recognise that most meetings ordinary Members attend are in the evening, which will not be the case in most other GM Councils.

42. **The IRP recommends that the Basic Allowance is reset at £10,791.<sup>7</sup>**

## Special Responsibility Allowances - The Leader's SRA

<sup>6</sup> See Appendix Four BM1

<sup>7</sup> All recommendations relate to 2022/23, subject to any indexation that may be applicable

43. The last review (2010) to look at the SRA for the Leader increased it from £25,174 to £28,500. Through indexation the Leader's SRA currently stands at £25,503. This is a result of the Council first voluntarily then since last year as a matter of Council policy agreeing to cut all SRAs by 10 per cent as a cost cutting measure. Despite the fact that the role of Leader has undergone some of the greatest changes in the intervening years their SRA is now lower than it was 11 years ago.
44. The role of Leader has undergone significant change and it is clear that it requires a full time commitment, and certainly precludes any meaningful paid employment in the normal sense. In addition, the role of Leader had grown in responsibility with the passage of The Localism Act 2011. This Act enhanced the powers of all Leaders by requiring all Councils operating the executive model of governance to adopt the strong Leader model. Consequently the Leader now has all executive powers vested in the post and is responsible for the discharge of all executive functions, although much is delegated through the appointment of a Cabinet. The Leader also holds the portfolio for Finance and Growth, as well as currently being the Leader of the Labour Group.
45. The IRP received representation that the role of Leader continues to develop, particularly in relation to the setting up of the Strategic Commissioning Board (SCB - which involves a number of senior Members) and meets monthly, which broadly has the remit:
- To commission high quality all age health, social care and related services for the people of the Borough of Bury in order to meet assessed population, community and individual need, within the financial resources over which the Board has control.
  - To agree the Health, Social care and Well-being commissioning strategies and commissioning outcomes for Bury Council and NHS Clinical Commissioning Group (CCG) in accordance with the agreed delegations from RBC and CCG.
  - To manage all the pooled budgets established under section 75 of the National Health Service Act 2006.
  - The SCB will be replaced by the Locality Board which is currently operating in shadow form but is anticipated to be formalised from May 2022. This has the same remit as the SCB but its membership also includes representatives from the Northern Care Alliance.
46. The other aspect of the Leader's role that continues to develop is at the sub-regional level, namely at the Greater Manchester Combined Authority (GMCA) Although the Leader's responsibilities at the GMCA are addressed below, the reality is that regardless of whether there was a GMCA, the Leader of Bury Council would have a sub-regional and regional, and indeed national, dimension to their role. This was evident before the GMCA was set up in 2011 as the Leader became the key post in representing Bury at relevant forums regionally and nationally, such as the Association of Greater Manchester Authorities (AGMA) and the Local Government Association (LGA) – roles the Leader continues to carry out.
47. The representation received by the IRP was overwhelmingly of the view that the current SRA received by the Bury Council Leader was too low. It demands a full

time role and the responsibilities have increased dramatically over the years – as borne out by legislative changes since the role was last reviewed. In fact the IRP received anecdotal evidence that at least two previous Leaders had to stand down as their remuneration was insufficient to support the need to make a full time commitment. Once again, when pressed the oral representation (partially backed up the written representation) suggested that the SRA for the Leader should be on a par with the average SRA paid to Leaders of GM Councils.

48. Benchmarking shows that the SRA for the Bury Council Leader is low, with mean GM Councils Leaders/elected Mayors' SRA being £35,690 and a median SRA of £32,834. In fact, the SRA for Leader of Bury Council is the lowest across all the GM Councils.
49. In arriving at the Leader's recommended SRA the IRP has been mindful of the 2006 Statutory Guidance (paragraph 76) which states:

One way of calculating special responsibility allowances may be to take the agreed level of basic allowance and recommend a multiple of this allowance as an appropriate special responsibility allowance for either the elected mayor or the leader.

50. This is known as the factor approach and is commonly deployed by IRPs in arriving at the recommended SRA for Leaders on the basis that it is easy to understand, simple, transparent. A factor from a range of 2.75 – 3.25 is the commonly acceptable multiple of the Basic Allowances regardless of type of council (although it tends to be towards the lower range of the typical multiple range in district councils and the higher end in London Boroughs).
51. Currently, the Leader's SRA (£25,502) is a multiple of 2.85 of the current Basic Allowance, but that figure is based on the 10 per cent reduction in SRAs. If the 10 per cent reduction was not factored in the factor would be 3.14 (£8,948/£28,053). Benchmarking shows a mean Leaders' SRA of £35,690 across the GM Councils, which is also 3.14 times the mean Basic Allowance (£11,368). In order to keep it clean and simple the IRP has opted to utilise the mid-point between the current multiple (2.85) and original and benchmarked mean multiple (3.14) of the Basic Allowance/Leaders' SRA, which is a multiple of 3 times the recommended Basic Allowance (£10,791) to arrive at the recommended SRA for the Leader, which equates to £32,373).
52. **The IRP recommends that the SRA for the Leader is reset at £32,373 for 2022/23.**

### **The Deputy Leader of the Council (x1)**

53. In recommending other SRAs the IRP has in the main followed the approach laid out in the 2006 Statutory Guidance (paragraph 76) which states:

A good starting point in determining special responsibility allowances may be to agree the allowance which should be attached to the most time consuming post on the Council (this maybe the elected mayor or the leader) and pro rata downwards for the other roles which it has agreed ought to receive an extra allowance.

54. This is known as the 'pro rata' approach in that the other remunerated posts are assessed as a ratio or percentage of the Leader's role. By definition the size of the Leader's roles is 100% and other SRAs are set as a proportion of 100%. Again it has the advantage of being simple, transparent and easy to understand. The IRP has chosen to maintain this approach and adjusted the current ratio for SRAs where there is a demonstrable case to do so.
55. The Deputy Leader, current SRA £15,307 set at 60 per cent of the Leader's SRA, also has a portfolio - Children, Young People and Skills. The Deputy Leader undertakes the traditional role of attending briefings with the Leader, acting as a sounding board and stepping in for the Leader in the Leader's absence, which occurs more frequently as the Leader has had to undertake a larger GM wide role. Indeed it means that the Deputy Leader (as do most other executive members but to a lesser extent) have acquired a larger GM wide role. This includes deputizing for the Leader at the GMCA when required and being appointed to GMCA committees, e.g., the Deputy Leader with the Children, Young People and Skills Portfolio is also appointed to the GM Work and Skills Executive. The Deputy Leader will also have a national role through being one of the Council's appointees (alongside the Leader and Leader of the Main Opposition Group) onto the Local Government Association (LGA) General Assembly.
56. Benchmarking shows that the SRA for the Bury Deputy Leader SRA (£15,307) is the lowest across Greater Manchester, with the mean SRA (£20,056) and median SRA (£19,103) being paid to Deputy Leaders across the GM Councils. In terms of methodology, the mean GM Deputy Leaders' SRA is 56 per cent of the mean GM Leaders/elected Mayors' SRA, which is in line with the current ratio of 60 per cent deployed in Bury Council.
57. Although in the main there was less representation received regarding the role of other post holders (as being less visible than that of the Leader) insofar there was representation received regarding the SRA for the Deputy Leader the view expressed was that it should be on a par with that paid across the GM Councils. As such, the current ratio (60% of the Leader's SRA) is still appropriate in setting the recommended SRA for the Deputy Leader which equates to £19,424.
58. **The IRP recommends that the SRA for the Deputy Leader is reset at £19,424, which is 60 per cent of the Leader's recommended SRA (£32,373).**

### **Other Cabinet Members (x6)**

59. Currently, the Leader appoints six other Cabinet Members (Portfolio Holders), who each receive an SRA of £10,203, which is 45 per cent of the Leader's SRA. The IRP did receive some representation that questioned the need for six other Cabinet Members. It is beyond the remit of the IRP to comment on how the Council decides to organise itself. However, the IRP does note that the Local Government Act 2000 places a legal maximum of 10 Executive Members (including Leader and Deputy Leader) and Bury has at present eight Executive Members in total. The IRP was also informed that the average number of Executive Members across the GM Councils was nine; Bury has eight in total.

60. The only other (albeit limited) representation the IRP received regarding the SRAs of the other Cabinet Members was that it should be on a par with that of other Cabinet Members across the GM Councils. Benchmarking shows that the current SRA paid to other Cabinet Members in Bury Council, is the second lowest (Bolton is the lowest at £7,140 although there are eight other Cabinet Members in Bolton). The mean SRA paid to other Cabinet Members across the GM Councils is £15,246 (43 per cent of the Leaders mean SRA), with a median figure of £15,579.
61. The IRP received no evidence to revise the current ratio of 45 per cent of the Leader's recommended SRA in arriving at the recommended SRA for the other Cabinet Members, which equates to £14,568.
62. **The IRP recommends that the SRA for the six other Members of the Cabinet is reset to £14,568, which has been set at 45% of the Leader's recommended SRA.**

### **The Deputy Cabinet Members (x7)**

63. The Leader also appoints seven Deputy Cabinet Members, with five of the Executive Members having a Deputy Cabinet Member; one Cabinet Member having two Deputy Cabinet Members and two Executive Members not assigned a Deputy Cabinet Member. In effect, one of the larger portfolios (Environment, Climate Change and Operations) has the support of two Deputy Cabinet Members and two of the smaller portfolios (Culture and the Economy and Housing Services) being deemed not requiring a Deputy Cabinet Member. The SRA for this role, currently £1,338, was brought in following a very specific review in December 2013 and set at 12 per cent (now 13 per cent with indexation variation) of the SRA for the full Cabinet Members on the basis that they have role profiles (albeit very limited) as set out in current Bury Council Constitution Section 7, part one.
64. Again, the IRP received representation questioning the necessity of this non-statutory role and whether it should be remunerated. Without commenting on the requirement of the role itself as that is beyond the IRP's remit, the IRP's remit is to decide on whether the roles it has in front of it merit remuneration or not.
65. On balance the IRP is content that there is a significant responsibility to merit an SRA. They do attend all Cabinet weekly briefing meetings, chair relevant other meetings when asked by their Portfolio Holder and take the lead on relevant issues when directed. Much of their work is also carried out during the day. Moreover, an equivalent post is remunerated in eight out of the 10 GM Councils, with a mean SRA of £6,464 and a median SRA of £7,150.
66. On the other hand, they are not formal deputies to Cabinet Members and are not executive members under the Local Government Act 2000. Thus they cannot operate as formal substitutes for the Portfolio Holders, exercise any executive powers nor have assigned to them any delegated decision making. In law, they cannot vote at Cabinet meetings or make decisions on behalf of their respective Cabinet Member. There is also an element of succession planning in the role, so as to identify and train up future Executive Members.

67. While the IRP decided that the current SRA was little more than tokenistic at its current level it has chosen not to be guided by the benchmarking in arriving at the recommended SRA for the Deputy Cabinet Members as there is nothing in their roles and responsibilities to suggest such a high level of SRA. As such the IRP has simply rounded up the ratio from 13 per cent to 15 per cent of the recommended SRA (£14,568) for other Cabinet Members, which equates to £2,185.
68. **The IRP recommends that the SRA for the seven Deputy Cabinet Members is reset at £2,185, which is 15 per of the recommended SRA (£14,568) for the other Cabinet Members.**

### **Chairs of the main Committees (x6)**

- **Overview & Scrutiny Committee**
  - **Children’s & Young People’s Scrutiny Committee**
  - **Health Scrutiny Committee**
  - **Planning Control Committee**
  - **Licensing & Safety Committee**
  - **Audit Committee**
69. Currently, all the main Committee Chairs are paid the same SRA (£6,379), which has been set at 25 per cent of the Leader’s SRA. The IRP did receive some representation that there was a case to differentiate the SRA between those who chaired the larger committees. Indeed, a case can be made as some committees, such as Planning Control, meet more often than others such as Audit.
70. However, the IRP has decided to maintain the flat rate model for the SRA for main Committee Chairs as there was greater support in the representation to do so. Moreover, the flat rate SRA model for main Committee Chairs occurs in six out of the ten GM Councils, so there is a GM preference for such a model.
71. Benchmarking shows that the SRAs paid to the main Committee Chairs in Bury Council is either the lowest in two cases,, namely the Chairs of Overview & Scrutiny and Planning Control Committees and second lowest in all other cases. Specifically the mean/median SRAs payable across the GM Councils are as follows:
- |   |               |
|---|---------------|
| • Overview & Scrutiny Committee mean/median SRA | £8,016/£8,383 |
| • Other Scrutiny Committees mean/median SRA     | £8,180/£8,353 |
| • Planning Control Committee mean/median SRA    | £9,600/9,662  |
| • Licensing & Safety Committee mean/median SRA  | £8,923/£8,910 |
| • Audit Committee mean/median SRA               | £7,675/£8,114 |
72. In terms of the mean ratios (mean Chairs SRAs as a percentage of the mean Leaders SRAs) they all fall into the 22-27 per cent range, thus being on broad par with the current ratio (25 per cent) utilised to arrive at the SRA for the main Committee Chairs.
73. Consequently, the IRP has decided that in arriving at the recommended SRA for the main Committee Chairs to keep it at 25 per cent of the Leader’s recommended SRA (£32,373), which equates to £8,093.

74. **The IRP recommends that the SRA for the Chairs of the six main Committees is reset at £8,093, which is 25 per cent of the recommended SRA (£32,373) for the Leader.**

### **Attendance at meetings of Licensing Hearing Panels**

75. Currently the scheme contains provision for Members who attend more than 10 Licensing Hearing Panels per year an SRA as follows:
- £25 per full day
  - £12.50 – 2 to 4 hours
  - £6 up to 2 hours
76. The basis of these SRAs is unknown and is simply tokenistic. It is a difficult SRA to benchmark largely because only one other GM Council, Manchester, pays a similar SRA, £554 to all Members who sit on Licensing Appeals Panels.
77. However, this SRA did have continued support on the grounds that reaching the threshold of attending more than 10 Licensing Hearing Panels in any one year was deemed above and beyond the role of ordinary Member. There are a great number of Licensing Hearing Panels in Bury as taxi licensing is a major, Bury specific issue so it was perceived to be an appropriate Bury-specific SRA.
78. As such the IRP has decided to maintain this SRA but to simplify it and set it at a more realistic level. It has done this by simply reclassifying meetings that last up to and over four hours. It has also taken the rate of remuneration (£106 per day) utilised in arriving at the recommended Basic Allowance as the appropriate level. Furthermore, as all Members of Licensing are attending 11 Licensing Committee meetings per year already the qualifying threshold for this SRA should be reduced to more than six meetings per year.
79. **The IRP recommends that the SRA for Members who attend more than six Licensing Hearings Panels in any one year is reset as follows:**
- **Meetings over 4 hours:                   £106**
  - **Meetings up to 4 hours:               £53**
80. **As per current practice this SRA should only be paid to Members who are not otherwise in receipt of an SRA.**

### **Opposition SRAs – Leader of Main Opposition Group**

81. The 2003 Regulations require that where the Council is controlled by one or more political groups (defined as having a minimum of two Members) then at least one SRA must be paid to an Opposition Member. The current Bury Council allowances scheme fulfils this requirement by appointing Opposition Members to Chairs of Scrutiny Committees. Nonetheless, it is typical to remunerate the Leaders of the Main Opposition Groups at least.

82. The current SRA (£8,419) for the Leader of the Main Opposition Group has been set at 33 per cent of the Leader's SRA, which is in line with the mean ratio (32 per cent) in the benchmarking group. Benchmarking also shows that the mean SRA paid to Leaders of Main Opposition Groups across the GM Councils is £11,399, with a median SRA of £11,143.
83. The IRP received no evidence to suggest the current ratio (33 per cent) utilised in arriving at the SRA for the Leader of the Main Opposition Group required revision. The Leader of the Main Opposition Group has the prime responsibility to present alternative views to the majority group and provide critical challenge to the Leadership. They also by virtue of holding their post gain access to meetings with Officers and are appointed to a number of Council and external bodies. Thus, the IRP has arrived at the recommended SRA for the Leader of the Main Opposition Group by multiplying the recommended SRA (£32,373) for the Council Leader by 33 per cent, which equates to £10,683
84. **The IRP recommends that the SRA for the Leader of the Main Opposition Group is reset at £10,683, which is 33% of the Leader's recommended SRA.**

### **Opposition SRAs – Deputy Leader of Main Opposition Group**

85. Currently the Deputy Leader of the Main Opposition Group receives an SRA of £3,364, which has been set at 40 per cent of their Group Leader's SRA. Benchmarking shows that this role is not always remunerated elsewhere, it is a paid post in five of the ten GM Councils, with a mean SRA of £5,163 and median SRA of £5,986. Often this SRA is only paid where there is a substantial Main Opposition Group which is the case in Bury but the IRP has decided that a size criteria should be in place for this SRA to be paid, namely the Main Opposition Group would need to hold 20 per cent of Council seats, which the IRP has defined as being 11 in total, before the Deputy Leader of the Main Opposition Group. The IRP received no evidence to alter the current ratio utilised in arriving at the recommended SRA for the Deputy Leader of the Main Opposition Group. Therefore the IRP has arrived at the recommended SRA for the Deputy Leader of the Main Opposition Group by multiplying the recommended SRA (£10,683) for the Leader of the Main Opposition Group, which equates to £4,273
86. **The IRP recommends that the SRA for the Deputy Leader only be payable if the Main Opposition Group holds 20 per cent of seats (11) on Council and is reset at £4,273, which is 40 per cent of the recommended SRA for the Leader of the Main Opposition Group.**

### **Opposition SRAs – Opposition Shadow Portfolio Holders/Group Whips**

87. There was some representation received, albeit very minor, arguing that the Opposition Shadow Portfolio Holders should receive an SRA as well as the Group Whips.
88. In the current political context, extending the scope of the Opposition SRAs payable to Opposition Shadow Portfolio Holders would be disproportionate; nearly all Members of the Main Opposition Group would receive an SRA. The enhanced recommended Basic Allowance recognises that all the Opposition

Members have a spokesperson role particularly in regards to the remits of those committees that they sit on. The IRP also took the view the role of Group Whips is primarily a party political role which does not merit remuneration. It notes that such posts are not remunerated in other GM Councils.

89. **The IRP does not recommend that the Opposition Shadow Portfolio Holders or Group Whips are paid an SRA.**

### **Opposition SRAs – Leader[s] of Other (Third Largest) Opposition Group**

90. Currently, the Leaders of the Other Opposition Groups each receive an SRA of £4,210, which is 16.5 per cent of the Leader's SRA. Again benchmarking shows that this role is not always remunerated elsewhere, with six of the 10 GM Councils remunerating such a post. It is also the one SRA that is not out of synch with peers, as the mean SRA paid to Leaders of Other Opposition Groups is £4,265, with a median SRA of £2,940. Nonetheless, the IRP is content to keep the current ratio in arriving at the recommended SRA for the Leader of the Other Opposition (third largest) Group. Thus, the recommended Leader's SRA (£32,373) multiplied by 16.5 per cent multiplied equates to £5,342.
91. The IRP notes that currently the SRA for Leader of Other Opposition (Third Largest) Group is paid equally to both the Leaders of the third largest groups as they are of equal size. The IRP has taken the view that this contravenes the spirit of the original intent behind the SRA for this post and is an excessive SRA for when there are two Third Largest Groups of equal size.
92. Accordingly the IRP has taken the view that the recommended SRA (£5,342) for the Leader of the Third Largest Group should be paid to Leaders of Other Opposition Groups on a pro rata basis according to Group size. Thus no matter how many Other Opposition Groups there are the total sum paid to their respective Group Leaders will not exceed £5,342. On the current political configuration with two Other Opposition Groups each having four members each that equates to £2,671 apiece.
93. **The IRP recommends that the SRA for Leaders of Other Opposition Groups is reset at £5,342, which has been set at 16.5 per cent of the recommended SRA for the Leader. Furthermore where there are two or more Other Opposition Groups then the recommended SRA of £5,342 should be divided on a pro rata basis and paid accordingly to Leaders of all Other Opposition Groups.**

### **Opposition SRAs – Deputy Leader[s] of Other Opposition Group**

94. Currently, both the Deputy Leaders of the Other Opposition Groups receive an SRA of £1,515 apiece, which has been set at 35 per cent of their respective Group Leaders SRA. Benchmarking this SRA is difficult as only one other GM Council remunerate an equivalent post (Trafford at £2,774). The IRP has decided to maintain this SRA at its current ratio, which equates to £1,870, but to be only paid if the Other Opposition Group attains 10 per cent of the seats on Council, which is five seats. On the current political configuration this SRA would no longer be payable. Where there are two or more Other Opposition Groups that attain 10

per cent (five) of Council seats then the SRA for Deputy Leader of Other Opposition Group should be paid on a pro rata basis according to group size.

95. **The IRP recommends that the SRA for the Deputy Leader(s) of Other Opposition Groups is reset at £1,870, which is 35 per cent of the recommended SRA for Leader(s) of Other Opposition Groups. The IRP also recommends it is only paid when an Other Opposition Group attains 10 per cent of seats (five) on Council. Where there are two or more Other Opposition Groups of five or more seats the SRA of £1,870 should be paid to their respective Deputy Group Leaders on a pro rata basis.**

### **Recommended SRAs in accordance with the GMCA Order 2011**

96. The IRP has been asked to consider whether a SRA should be paid to Bury Member[s] appointed by the Council to the Greater Manchester Combined Authority (GMCA) in respect of duties and responsibilities undertaken as a member of the GMCA and any of its committees, and if so to specify the amount of any such allowance. The GMCA is prohibited from paying allowances to any of its Members or appointees to its committees. This point was made specifically in the 2015 amendment to the GMCA 2011 Order, and any remuneration in this regard has to be paid through the schemes of the constituent councils.
97. The IRP notes that there is very little consistency in the scope and level of SRAs paid to Members across the Greater Manchester Councils who are appointed to the GMCA and its committees. However, this is largely a function of the GMCA constitutional set up and historical factors.

### **Bury Leader appointed to the GMCA**

98. The rolling implementation of devolution since the previous review has created a different set of challenges for all GM Council Leaders/elected Mayor and the Bury Leader in particular. All GM Leaders/elected Mayor are full Members of the GMCA.. Each Leader on the GMCA has a particular policy lead; the Leader of Bury is the GMCA and AGMA portfolio lead for Young People and Cohesion, which also involves appointments to other relevant bodies, such as being appointed to the AGMA Draft Joint Development Plan – Places for Everyone Committee. Also the Leader, as with all Leaders/District elected Mayor on the GMCA, sits on the GM Health and Social Care Strategic Partnership.
99. The GM region is the only region thus far to take control of its combined health and social care budgets, which is more than £6 billion. More recently, through the GMCA Devolution Agreement with the Government, there has been a further significant devolution of powers and responsibilities to GMCA designed to drive economic growth and reform of public services. There was general agreement that the GMCA-related work of the Leader had increased significantly and it is an area of work that did not exist the last time the remuneration for the Leader was reviewed in 2010. As such, the IRP has decided to recognise this aspect of the Leader's workload and responsibilities by recommending a separate SRA payable under the GMCA 2011 Order.

100. The IRP notes that currently four of the 10 GM Councils make separate SRA provision for their Leader on the GMCA. The fact that it is not paid in the six other GM Councils has as much to do with the fact that their respective IRPs have not had the opportunity to review the role recently rather than being a conscious decision.
101. Although the benchmarking is limited (as only four out of the 10 GM Councils pay their Leader a GMCA SRA under the 2011 Order) it does show the following:
- Oldham Leader's GMCA SRA: £5,985
  - Rochdale Leaders GMCA SRA: £5,879
  - Trafford Leader's GMCA SRA: £10,367
  - Wigan Leader's GMCA SRA: £10,367
102. Although it is on very limited data, it produces a GMCA Leader's mean SRA of £8,121 and a median figure of £8,119.
103. In this particular instance, the IRP has taken a relatively cautious approach and has chosen to be guided by the level of SRA paid for GMCA related duties to the Leaders of Oldham and Rochdale, and rounded that indicative figure up to £6,000.
104. **The IRP recommends that the Leader is paid a separate SRA of £6,000 as a Member/Portfolio Holder on the GMCA under the 2011 Order.**

### **Bury Members appointed to the GM Transport Committee (x2)**

105. Currently, the Bury allowances scheme contains provision to pay two Members it appoints to the Transport for Greater Manchester Committee (TfGMC) an SRA of £4,272. The TfGMC was a joint GM committee to make decisions on transport issues delegated to it by the GMCA. However, the TfGMC no longer exists as the elected Mayor of the GMCA now holds all transport powers for GM.
106. As a consequence, the TfGMC has been replaced by the GMCA Transport Committee (GMTC). The GMTC is primarily an advisory committee with very limited powers. However, the residual SRA paid to Members appointed to the TfGMC that is still listed in the Bury Members' Allowances scheme has been transposed and paid to the Bury Members appointed to the GMTC, which in turn was originally set when there was a separate GM Integrated Transport Authority, with its own powers of precept. The IRP notes that this is also the case in a handful of other GM Councils as they continue to list the SRA for appointees to the TfGMC in their allowances schemes, rather than appointees to the GMTC. On the other hand, four GM Councils have completely discontinued this SRA.
107. The IRP accepts that there is a role at the GMTC for Bury Members to undertake at the GMTC. It is a joint committee of the made-up of the principal transport decision-making bodies – the ten GM Councils, the Greater Manchester Combined Authority (GMCA) and the Mayor of Greater Manchester. It is responsible for driving the delivery of 'Our Network' - the city region's vision for an integrated, efficient and reliable transport system.

108. Members of the GMTC represent residents and businesses across Greater Manchester and have a unique oversight across all aspects of Greater Manchester's transport network. It also oversees the performance of the transport system and holds rail, tram, and bus operators, TfGM, and highways authorities to account. This effectively allows the Committee to act in an advisory capacity to the Mayor and the GMCA, through the Mayor's Transport Board.
109. It has six scheduled meetings per year but has recently set up two sub-Committees (Bus Services and Metrolink & Rail) that also have at least five scheduled meetings per year. So each Bury Council appointee to the GMTC should be sitting on at least one sub-Committee and be attending up to 11 meetings per year.
110. Nonetheless, the current level of SRA payable is primarily a legacy SRA, being set in a different context. Moreover, the current SRA (£4,272) if maintained would be the equivalent of 40 per cent of the recommended Basic Allowance (£10,791). The IRP does not accept that being a member of the GMTC is 40 per cent of the size of being an ordinary Member of Bury Council. The IRP has simply taken the view that the role of Bury Council appointee on the GMTC cannot be more than half the size of the role of Bury Council Leader on the GMCA. As such, the SRA for the members appointed to the GMTC should be reset at £3,000.
111. **The IRP recommends that the SRA for the two Bury Members appointed to the GMTC is reset at £3,000, which is 50 per cent of the recommended SRA (£6,000) for Leader appointed to the GMCA.**

### **Bury Members appointed to the GM Recycling and Waste Committee (x2)**

112. Similarly the allowances scheme contains provision for an SRA (£2,364) payable to Bury Council Members appointed to the GM Waste Disposal Authority. Again, this is a legacy SRA and the Waste Disposal Authority no longer exists with responsibility for waste transferred to the GMCA. The level reflects an era when the workload and responsibility was different. It has now been replaced by the GM Recycling and Waste Committee.
113. Bury appoints two Members to the GM Recycling and Waste Committee. The GMCA has delegated powers to the GM Recycling and Waste Committee relating to the establishment and implementation of waste disposal strategies of the GMCA and oversees matters relating to the effective management of waste disposal operations including contracts and the behavioural change programme. It meets up to five times per year.
114. The IRP notes that only two other GM Council remunerate their Members appointed to the GM Recycling and Waste Committee, both at a similar level to that of Bury. Again Bury takes the view that the current SRA reflects the role in a different time and era and by definition attending up to five meetings per year is not in excess of 20 per cent of the size of the role of the Bury Council ordinary Member, which is the case when comparing current SRA (£2,364) to recommended Basic Allowance (£10,791). As such the IRP has decided to reset the SRA to reflect the changed context and on a similar basis as it has for arriving at the recommended SRA for members appointed to the GMTC it has utilised a

ratio of 25 per cent of the recommended SRA for the Leader's GMCA SRA (£6,000), which equates to £1,500.

115. **The IRP recommends that the SRA for the two Bury Council Members appointed to the GM Waste and Recycling Committee is reset at £1,500, which is 25 per cent of the recommended SRA (£6,000) for the Leader appointed to the GMCA.**

### **Bury Member appointed to the GM Pension Fund**

116. The IRP received some representation that consideration be given to pay an SRA to the Council's representative on the GM Pension Fund. Only two other GM Councils pay such an SRA (Oldham and Tameside both at £1,460. Actually the GM Councils do not appoint to the Pension Fund but the Pension Fund Management Panel which makes recommendations to the Pension Fund. However, the IRP did not during the course of the review receive enough information on the work of the Bury appointee to the Pension Fund Management Panel to make an informed judgement. It will reconsider once more at the time of the next review.

117. **The IRP is not making a recommendation for an SRA regarding the Council's appointment to the GM Pension Fund.**

### **Maintaining the 1-SRA Only Rule and Exceptions**

118. In common with most Councils<sup>8</sup> Bury Council has adopted what is known as the 1-SRA only rule; in that regardless of the number of remunerated posts held by an elected Member they can be paid 'one SRA only', excluding those SRAs paid for GM posts. No evidence was received to change this practice.

119. **The IRP recommends that the 1-SRA only rule is maintained with the exception of the additional SRAs paid under the 2011 GMCA Order.**

### **The Co-optees' Allowance**

120. Currently, the allowances scheme contains provision for those co-optees sitting on a Standards Hearings Panel to be paid "out of pocket expenses" and "loss of earnings allowance, up to a maximum of £250".

121. The 2003 Regulations do not permit the payment of a loss of earnings allowance so this should be replaced by a Co-optees' Allowance. The Constitution provides for in addition to the Standards Hearing Panel Co-optee a Co-optee to be appointed to the Audit Committee. However, the Council is unable to fill these positions and remuneration was cited as a contributory factor. As such the IRP has decided to revise the current remuneration arrangements largely based on the adopted rate of remuneration.

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<sup>8</sup> Out of the 10 GM Councils only Trafford permits the payment of more than 1 SRA. Where a Member in Trafford holds 2 remunerated posts they are paid 1.5 SRAs.

122. **The IRP recommends that the financial loss allowance is discontinued and the Audit and Standards Hearings Panel Co-optees be paid a Co-optees' Allowance that has two elements as follows:**

- **Standard element** **£500 per year**
- **Meetings element**
  - **Meetings over four hours** **£106 per meeting**
  - **Meetings up to four hours** **£53 per meeting**

### **The Civic (Mayoral) Allowances**

123. Currently, the allowances scheme contains provision for mayoral allowances as follows:

- Mayor £16,472
- Deputy Mayor £4,118

124. This allowance is paid under the provisions of the Local Government Act 1972 (s3(5) and s5(4)), which permits principal councils to pay the chair and vice chair an allowance which it thinks reasonable for the purpose of meeting the expenses of those offices. It is often known as the Civic Allowance. The Council publishes these allowances the allowances scheme for transparency purposes.

125. These allowances are outside the remit of the IRP and the 2003 Regulations. However, in the absence of any other means of external validation the Council has asked the IRP to provide view on the Civic Allowance payable. It is fairly common for Councils to ask their IRPs for such advice.

126. The IRP explored with current and past holders of the posts of Mayor and Deputy Mayor whether the current levels do indeed meet the bulk of the expenses of holding the offices of Mayor and Deputy Mayor. No representation was received to suggest that the Civic Allowance did not meet its objective.

127. **The IRP is not recommending any change to the Mayoral Civic Allowance (£16,472) and Deputy Mayor Civic Allowance (£4,118).**

### **The Independent Members of the Educations Appeals Panels Allowance**

128. Similarly, the remuneration of the Independent Members who sit on Council Education Appeals Panels is outside the remit of the IRP. However, in the absence of any other means of external validation the Council has been asked to look at their current remuneration.

129. Currently the Independent Members who sit on Council Education Appeals Panels receive a parking fee, mileage or public travel reimbursed (when meeting in person) or £5 towards utilities when meeting virtually, and £7 for lunch. They also receive a meetings allowance as follows:

- £37.50 over 6 hours
- £25 for 4-6 hours

- £12.50 for 2-4 hours
  - £6 up to 2 hours
130. The IRP made some enquiries on what was paid elsewhere and generally they were flat rate allowances ranging anywhere from £50 to £100. The IRP felt that these figures were more realistic and should be reset in line with the adopted rate of remuneration utilised in arriving at the recommended Basic Allowance, namely the median gross daily salary for all full time employee jobs within the area of the Bury Council which is £106.42, and the IRP has simply rounded that figure down to the nearest pound. Moreover, as many of these Independent Members come from outside the Council area the mileage/public transport allowance was merited.
131. **The IRP recommends that the current allowances paid to the Independent Members who sit on Council Education Appeals Panels are discontinued and reset as follows:**
- **£106** for meetings over 4 hours
  - **£53** for meetings up to 4 hours

### **The Dependants' Carers' Allowance (DCA)**

132. The 2003 Regulations give specific authority for Members to claim an allowance for care of any dependants they may have while undertaking approved duties (that are defined by statute). It was specifically introduced to enable a wider range of Members to stand and be on Council. It is known as the Dependants' Carers' Allowance (DCA).
133. The Council has provision for a DCA that is paid at a maximum hourly rate of £6 and capped at £1,200 per year. It does not distinguish between childcare and other (elderly/disabled) type of care, which is common elsewhere. The DCA is now also commonplace across all English Councils.
134. Although it is rarely claimed the IRP received almost universal support in the representation received to maintain this allowance on the principle that it helped reduce a barrier to public service from traditionally underrepresented sections of the population. Moreover, all the GM Councils now make the DCA available.
135. The IRP understands that there may be reluctance on the part of eligible Members to claim the DCA as it appears as a published expense against a Members' name in the annual statutory publication of remuneration and reimbursements received by each Member.
136. The IRP takes this opportunity to point out that this allowance was given recognition in statute and is specifically designed to reduce a potential barrier to being an elected Member for those with caring responsibilities. The IRP suggests that if it is known that a Member has caring responsibilities then the DCA is specifically brought to their attention. It should be also pointed out that the approved duties for which this allowance may be claimed is governed by statute.

137. An internal audit did raise the issue that claims for this allowance need to be receipted. Moreover, the DCA is in need of an update to recognise more realistic costs of care and to distinguish the different costs associated with different types of care.
138. **The IRP recommends that the DCA is maintained but there are two types of care identified to be paid at the following maximum rates:**
- **Child care:** maximum rate paid at real living wage (Currently £9.50)
  - **Elderly/disabled care:** maximum rate paid at the hourly rate charged by Bury Council Social Services Department for a Home Help
139. **The IRP also recommends that the current annual cap be raised to £2,000 and as a matter of course all claims to be receipted.**

### **Travel and Subsistence Allowances - Within the Council**

140. Currently the Basic Allowance is deemed to include all travel and subsistence expenses incurred by Members while carrying out council related duties within the Council area, although this is not reflected in Schedule 2 of the scheme.
141. There was some (albeit very minor) representation that argued all travel and subsistence related expenses incurred while carrying out council related duties should be reimbursed whether they are within or outside the Council area. However, it is pointed out that most of the duties which were quoted for which in-Council travel and subsistence allowances should be paid, such as undertaking ward duties or informal meetings, would not meet the standard definition of approved duties. Moreover, it is common practice across the other GM Councils to include all within authority travel and subsistence expenses in the Basic Allowance. The current Covid-19 pandemic also means that Members are not travelling to and from meetings to the same extent as they were so the logic of an in-Council travel and subsistence allowance is further weakened, particularly in the context when the IRP is recommending an enhanced Basic Allowance. The additional travel and subsistence expenses incurred by Members for undertaking in-Council, approved duties are so marginal that there is no justification to pay it, particularly considering the cost in Officer time that would be incurred in administering claims-based in-Council travel and subsistence allowances.
142. **The IRP recommends that the Basic Allowance continues to be deemed inclusive of all in-Council travel and subsistence costs and that Schedule 2 of the allowances scheme is amended to reflect this situation.**

### **Travel and Subsistence Allowances - Outwith the Council**

143. It is a different context when a Member has to travel outside the Council to represent the Council at regional and national meetings or attend conferences. In these cases Members are incurring expenses that are beyond 'incidental' and are not typically incurred through a Member's routine work.

144. Currently Members can claim out of Council Subsistence Allowances that are largely historical and do not reflect actual costs. As is common practice elsewhere subsistence rates should be updated and based on the same rates that are applicable to Officers.
145. The travel allowance is either reimbursement of public transport costs (under same conditions that apply to Officers) or where a Member uses their own vehicle to attend an out of Council approved duties then the HMRC approved mileage rate of 45p per mile is applicable. This does not reflect the full range of HMRC approved mileage rates and the mileage allowances should be amended to also include for when a Member is travelling via a hybrid or electric vehicle.
146. **The IRP received no evidence to change the current approved duties and conditions for which the Travel and Subsistence Allowances may be claimed outwith the Council and recommends that they continue but that the mileage reflect the full range of HMRC AMAP (Approved Mileage Allowance Payment) rates as follows:**

<b>Mode of Travel</b>	<b>First 10,000 business miles in the tax year</b>	<b>Each business mile over 10,000 miles in the tax year</b>
<b>Cars and vans</b>	<b>45p</b>	<b>25p</b>
<b>Motor cycles</b>	<b>24p</b>	<b>24p</b>
<b>Bicycles</b>	<b>20p</b>	<b>20p</b>

#### **Passenger payments – cars and vans**

**5p per passenger per business mile for carrying fellow Member or Council employee in a car or van**

147. Although a Member claiming mileage for out of Council approved duties while driving a hybrid or electric vehicle was not raised with the IRP the IRP decided to address the issue, if nothing else to future proof the scheme.
148. The Office of Low Emission Vehicles advises that where mileage claims are being made for the driving of hybrid and electric vehicles then the normal HMRC approved mileage rate is applicable, currently 45p per mile for first 10,000 miles and 25p per mile after 10,000 miles.
149. **The IRP recommends that the current mileage rates are clarified to include provision that if a Member is claiming out of Council mileage by driving a hybrid or electric vehicle that the applicable mileage rates continues to be HMRC approved rates.**
150. **Furthermore the IRP recommends that the subsistence rates for attending approved duties outwith the Council area should be based on current Officer rates as follows:**

<b>Subsistence - Breakfast</b>	<b>£7.31</b>
<b>Subsistence - Lunch</b>	<b>£9.74</b>
<b>Subsistence - Evening Meal / Networking</b>	<b>£18.28</b>

### **The Telephone Allowance**

151. Currently, Members can claim a Telephone Allowance at £14.99 per month. Once again the provision of this allowance is outside the remit of the IRP and the 2003 Regulations but the Council has asked the IRP to provide a view in absence of any other external means of validation.
152. This allowance is now largely an anachronism in the era of inclusive packages. Many Councils deem that a reasonable Basic Allowance is sufficient to cover the marginal costs of telephone usage that is required by being an elected Member. Indeed in the representation received many did not realise such an allowance was available and the general view was that if the Basic Allowance was at “a realistic level” then the rationale behind the Telephone Allowance was no longer supported.
153. **The IRP recommends that the Telephone Allowance is discontinued.**

### **Adopting a Parental (Maternity, Paternity and Adoption) Leave Policy**

154. The IRP has been asked to provide advice on a Parental Leave Policy for elected Members if they need to take time off to care for newly arrived infants. In particular, this request came to the IRP from the Standards Committee. Again this is outside the remit of the IRP and the 2003 Regulations. Moreover, Members are not formally employees so legally have no parental leave rights under employment legislation.
155. This does not prevent the Council from voluntarily adopting a Parental Leave Policy and many Councils have done so, although none so far in Greater Manchester. On one level, particularly in relation to the Basic Allowance the issue is somewhat of a red herring. A Member receives their Basic Allowance and where applicable their SRA by right of being an elected Member and in the case of an SRA by holding that post. The only criteria they need to meet to remain a Member is attend an approved duty once every six months, in that context they continue to receive the Basic Allowance and if still in post their SRA. This to some extent makes a Parental Leave Policy somewhat redundant.
156. However, the IRP can see the value of the Council adopting a Parental Leave Policy as it underlines the principle that the Council is supportive of Members who have acquired parental responsibilities. In addition, adopting such a policy would clarify the situation for Members who have acquired parental responsibilities..
157. **The IRP recommends that the allowances scheme is amended to include a statement that clarifies the continued right of remuneration for a Member**

**when they are required to take maternity, paternity or adoption leave for up to a period of 12 months, subject to the legal attendance requirements.**

### **Issues arising I – amendment of scheme paragraph 8 (1)**

158. The IRP notes that the current allowances scheme paragraph 8 (1) reads as follows:

The Chief Executive or Assistant Director of Legal and Democratic Services, after consultation with the Leader and Deputy Leader of the Council and the Leaders of the Minority Groups, has delegated authority to amend this scheme in respect of the levels and number and type of the various allowances payable under the scheme, subject to any financial ceilings contained in the Regulations.

159. This provision does not confirm with the 2003 Regulations 19 (1) which permits a Council to amend or change its allowances scheme on after having “regard to the recommendations made in relation to it by an independent remuneration panel.” **As such, the IRP recommends that the current paragraph 8 (1) of the allowances scheme is removed.**

### **Indexation**

160. The 2003 Regulations (10 (4) permit “for an annual adjustment of allowances by reference to such index as may be specified by the authority ....”. The 2003 Regulations 21 (1)(e) also require IRPs to make recommendations

as to whether adjustments to the level of allowances may be determined according to an index and if so which index and how long that index should apply, subject to a maximum of four years, before its application is reviewed;

161. There was overwhelming support in the representation received that the allowances continue to be indexed. Typically uplifting the allowances by an annual cost of living index means that they do not lose relative value which in turn requires substantial periodic uplifts just to maintain their relative value. Moreover, the indexation of allowances is in place in almost all of the other GM Councils.

162. The main index that that historically been utilised by Bury Council (and most other Councils) is the annual percentage increase in the salary of staff as agreed each year by the National Council for Local Government Staff, known as the NJC index. It has the advantage of being nationally agreed and ensures that Members and Officers are treated equally each year in their annual cost of living remuneration increase. The IRP received no evidence to change the current practice.

163. **The IRP recommends that the following indices are applied to the allowances paid to Members and appointees of Bury Council:**

- **Basic Allowance, SRAs (including those paid in accordance with the GMCA 2011 Order), Co-optees’ Allowance, Civic (Mayoral)**

**Allowances and the remuneration for Independent Members appointed to Education Appeals Panels:**

- Indexed to the annual percentage salary increase for local government staff (at spinal column 49) as agreed each year by the National Joint Council for Local Government Services and applicable to the same year it applies to Officers but with an implementation date from the start of the municipal rather than financial year.
  
  - **Mileage Allowance (Outwith only):**
    - Members' mileage allowances rates indexed to HMRC Approved Mileage Allowance Payment rates.
  
  - **Subsistence Allowances (Outwith only):**
    - Subsistence allowances should continue to be indexed to the same rates that are applicable to Officers.
  
  - **The Dependants' Carers' Allowance:**
    - **Child care:** maximum rate indexed to the real living wage (Currently £9.50 per hour)
    - **Elderly/disabled care:** maximum rate indexed to the hourly rate charged by Bury Council Social Services Department for a Home Help
164. The IRP also recommends that indexation should run for four years (2022-2026), which is the maximum length of time permitted by the 2003 Regulations. For authority for indexation to be extended beyond the fourth anniversary of the establishment of the new scheme of allowances the Council is required to first seek advice from the IRP.

**Implementation**

165. The IRP recommends that the new scheme of allowances based on the recommendations contained in this report is adopted from the date of the Council's Annual Meeting 2022.

**APPENDIX ONE - Information reviewed by the IRP**

1. IRP Terms of Reference
2. Report to Council, 17<sup>th</sup> March 2021 “Members’ Allowances Scheme 2021/22”, noting appointment of IRP and under of review
3. Bury Council Members' Allowances Scheme 2020/21 including full schedule of SRAs payable, travel and subsistence rates and approved duties, including the support provided to Members
4. Schedule of fees, support and other allowances provided to Members appointed to the Independent Education Appeals Panels
5. Bury Council annual statutory publication of Members’ allowances and expenses received by each Member including category sub-totals, 2020/21
6. Bury Council IRP Members’ Allowances Review Report, 18<sup>th</sup> May 2010
7. Bury Council IRP Members’ Allowances Review Report, 11<sup>th</sup> December 2013
8. Bury Council, flow diagram of Council Committees
9. Bury Council Constitution: <https://www.bury.gov.uk/index.aspx?articleid=15900>
10. Bury Council, meetings timetable
11. Bury Council, Information requested for Boundary Commission Review (September 2020) showing number of meetings and average length 2018/19, 2019/20 & 2020/21 (up to September 2021)
12. Summary of recent governance changes (establishment of the Strategic Commissioning Board and locality board and additional Scrutiny Committee as well as additional GM Committees)
13. New Council Constitutions: (Statutory) Guidance on Regulation for Local Authority Allowances, May 2006
14. The Local Authorities (Members' Allowances) (England) Regulations 2003, SI 2003/1021
15. Local Government Association, summary of hours worked (mean per week/by type of Council/by positions held) by Councillors (Census of Councillors 2018)
16. National Employers for Local Government Services, Local Government Pay Offer, 27<sup>th</sup> July 2021
17. The Greater Manchester Combined Authority Order 2011, Schedule 1, SI2011/908

18. Annual Survey of Hours and Earnings (ASHE), Table 7.1a, average earnings (gross) for all full time employee jobs within the District of Bury Council, November 2020
19. Office for Low Emission Vehicles, Ultra Low Emission Vehicles Tax Benefits 2018
20. Copy of questionnaire sent to all Councillors, including replies
21. Benchmarking - summary of allowances paid across the GM Councils 2020/21 or the latest data available
22. PowerPoint training/briefing presentation to Bury Council IRP, Reviewing Allowances: Context and the Bury Remuneration Model – Patterns, Options and Issues

**APPENDIX TWO - Member Interviewees****Members and Appointees who met the IRP (24<sup>th</sup> - 25<sup>th</sup> March 2021)**

1. Cllr R. Bernstein: Chair of Overview & Scrutiny Committee (Conservative)
2. Cllr C. Birchmore: Member Radcliffe First
3. Ian Bott: Independent Education Appeals Panel representative
4. Cllr L.J. Dean: Conservative Group Whip
5. Cllr T. Holt: Chair Health Scrutiny, Deputy Mayor and Labour Group Whip
6. Cllr N. Jones: Leader Main (Conservative) Opposition Group
7. Cllr J. Mason: Leader Other (Radcliffe First) Opposition Group
8. cllr G. McGill: Chair Planning Development Committee (Labour)
9. Cllr E. O'Brien: Leader of the Council and Labour Group, Portfolio Holder for Finance & Growth and Member Greater Manchester Combined Authority
10. Cllr K. Peel: Deputy Cabinet Member Environment, Climate Change & Operations and Bury Council representative on GMCA Transport Committee (Labour)
11. Cllr T. Pickstone: Mayor & Chair Standards Committee (Liberal Democrat)
12. Cllr M. Powell: Leader Other (Liberal Democrat) Opposition Group
13. Cllr A. Quinn: Portfolio Holder for Environment, Climate Change & Operatinos and Bury representative on GMCA Recycling & Waste Committee (Labour)
14. Cllr T. Tariq: Deputy Leader (Labour) & Portfolio Holder for Children, Young People & Skills
15. Cllr S. Walmsley: Chair of Licensing Committee & Licensing Hearing Sub-Committee (Labour)
16. Cllr M. Whitby: Chair Audit Committee (Labour)
17. Cllr S. Wright: Chair Children & Young People's Scrutiny Committee (Liberal Democrat)
18. Cllr Y. Wright: Conservative Member

**APPENDIX THREE - Officer Briefings**

Sam Evans: Section 151 (Treasurer) Officer

Jacqui Denis: Director of Law & Governance & Monitoring Officer

Julie Gallagher: Head of Democratic Services

Geoff Little OBE: Chief Executive

## APPENDIX FOUR – Benchmarking Allowances paid across the Greater Manchester Councils

BM1 Bury BM Group - Other GM Mets: BA + Exec + Scrutiny SRAs (20/21 unless indicated)										
Comparator Council	Basic Allowance	Leader or Elected Mayor	Leader Total	Deputy Leader	Executive Members	Assistant or Deputy Execs	Chair Main O&S	Chairs/Lead Scrutiny	V/Chairs Scrutiny	Chairs Scrutiny Panels/WGs
Bolton (19/20)	£11,644	£31,294	£42,938	£18,775	£7,140			£5,100		
Manchester	£17,525	£43,732	£61,257	£18,393	£18,393	£7,360		£11,048		
Oldham	£9,976	£29,929	£39,905	£20,950	£17,957	£7,482	£8,978	£8,978		
Rochdale	£11,172	£33,516	£44,688	£16,758	£15,082	£3,016	£8,379	£8,379		
Salford (19/20)	£11,043	£54,654	£65,697	£22,253	£14,253	£10,689		£8,910		
Stockport	£10,717	£32,151	£42,868	£17,683	£16,075			£6,430		£1,286
Tameside (19/20)	£12,567	£38,907	£51,474	£25,368	£21,701	£9,018		£10,345	£3,449	
Trafford	£6,940	£27,760	£34,700	£19,430	£13,879	£6,939	£8,327	£8,327	£4,163	
Wigan	£13,150	£39,450	£52,600	£25,644	£17,776	£5,866		£7,901		
Bury	£8,948	£25,503	£34,451	£15,307	£10,203	£1,338	£6,379	£6,379		
Mean	£11,368	£35,690	£47,058	£20,056	£15,246	£6,464	£8,016	£8,180		
Median	£11,108	£32,834	£43,813	£19,103	£15,579	£7,150	£8,353	£8,353		
Highest	£17,525	£54,654	£65,697	£25,644	£21,701	£10,689	£8,978	£11,048		
Lowest	£6,940	£25,503	£34,451	£15,307	£7,140	£1,338	£6,379	£5,100		
Mean Ratios	Leader = 3.14 X BA	100%		56%	43%	42%	22%	23%		

<b>BM2 Bury BM Group - Other GM Mets: Regulatory SRAs (20/21 unless indicated)</b>									
<b>Comparator Council</b>	<b>Chair of Planning</b>	<b>V/Chair of Planning</b>	<b>Chair of Licensing</b>	<b>V/Chair Licensing</b>	<b>Chairs Liquor Licensing Panels/Subs</b>	<b>Chair of Audit &amp;/or Governance</b>	<b>V/Chair Audit</b>	<b>Chair Standards</b>	<b>V/Chair Standards</b>
<b>Bolton</b> (19/20)	£8,177	£2,813	£7,740	£2,521					
<b>Manchester</b>	£11,048	£3,684	£11,048	£3,684					
<b>Oldham</b>	£8,978		£8,978			£8,978			
<b>Rochdale</b>	£11,172		Inc in Planning			£6,703			
<b>Salford</b> (19/20)	£8,910		£8,910			£8,910			
<b>Stockport</b>	£8,038		£4,823		£3,858	£3,858			
<b>Tameside</b> (19/20)	£10,345	£3,449	£6,692	£2,492	£6,692	£10,345	£3,449	£6,692	£2,492
<b>Trafford</b>	£11,104	£4,163	£11,104	£4,163	£3,470	£8,327	£4,163	£2,453	
<b>Wigan</b>	£11,849	£3,084	£14,633	£3,658		£7,901			
<b>Bury</b>	£6,379		£6,379			£6,379			
<b>Mean</b>	<b>£9,600</b>	<b>£3,439</b>	<b>£8,923</b>	<b>£3,304</b>	<b>£4,673</b>	<b>£7,675</b>			
<b>Median</b>	<b>£9,662</b>	<b>£3,449</b>	<b>£8,910</b>	<b>£3,658</b>	<b>£3,858</b>	<b>£8,114</b>			
<b>Highest</b>	<b>£11,849</b>	<b>£4,163</b>	<b>£14,633</b>	<b>£4,163</b>	<b>£6,692</b>	<b>£10,345</b>			
<b>Lowest</b>	<b>£6,379</b>	<b>£2,813</b>	<b>£4,823</b>	<b>£2,492</b>	<b>£3,470</b>	<b>£3,858</b>			
<b>Mean Ratios Leaders' SRA</b>	<b>27%</b>		<b>25%</b>		<b>13%</b>	<b>22%</b>			

BM3 Bury BM Group - Other GM Mets: Opposition & Other & GMCA SRAs (20/21 unless indicated)								
Comparator Council	Main Opposition Leader	Main Opposition Deputy Leader	Opposition Lead or Shadow Exec	Other Opposition Group Leaders	Area Chairs	GMCA Leader's SRA	GMCA SRA - Other	Other SRAs/Comments
Bolton (19/20)	£10,555	£6,333		£2,940				Chair Bolton Cares Steering Committee £8,085, Chair Bolton at Home £5,500
Manchester	£18,393	£7,360					Mbr GM Waste Comtee £2,280, Mbr TfGMC £4,149	Opposition Lead Mbr Finance £1,821, Mbr Adoption Panel £5,927, Mbr Fostering Panel + City Centre Spokesperson £7,360, Airport Group Brd Mbr £11,048, Mbrs Licensing Appeals £554
Oldham	£14,964	£5,986	£2,993		£7,182 - £5,387	£5,985	Mbrs GM Pension Fund £1,460, TfGMC £4,069	Chairs Health & Wellbeing + Miocare + Unity Partnership £8,978, Leader's discretion SRA £1,496
Rochdale	£11,731				£8,379	£5,879	£4,182 GMTC Mbrs	
Salford (19/20)	£8,910			£8,910			Mbr TfGMC £5,317	
Stockport	£9,645			£1,101 + £330 p/Mbr	£4,823			ICT Allowance £338
Tameside (19/20)	£12,168			£2,492	£10,345		Mbrs GMWDA £2,100, TfGMC £3,825, GM Pension Fund £1,460	Chair Council Business £12,701, Dep Chairs Liquor Licensing Panels £2,492, Dep Area Chairs £3,449, Cllr Mbr of Standards £1,636, >5 Standards Hearings £108 p/hearing
Trafford	£13,879	£2,774	£2,774	£2,774		£10,253		Dep Leader Minority Opposition Group £2,774, Lead Mbr Education £8,327, Shadow Lead Education £1,699, Shadow Dep Exec Mbrs £1,386, Opposition Spokesprsns (Planning & Licensing) £2,774 + Tele Allowance
Wigan	£5,328					£10,367	Chair GMTC £5.139	
Bury	£8,419	£3,364		£4,210			Mbrs TfGMC £4,272, GMWDA £2,364	<i>Deputy Leaders Other Opposition Groups £1,515, &gt; 10 Licensing Hearings £25 p/day, £12.50 2-4 hours, £6 up to 2 hours + Tele Allowance</i>
Mean	£11,399	£5,163		£4,265	£7,849	£8,121		
Median	£11,143	£5,986		£2,940	£8,379	£8,119		
Highest	£18,393	£7,360		£8,910	£10,345	£10,367		
Lowest	£5,328	£2,774		£2,492	£4,823	£5,879		
Mean Ratios to Leaders' SRA	32%			12%	22%			

## Appendix 1 - IRP Recommendations

The IRP recommends the following -

1. Basic allowances for Members to be reset at £10,791. Note that the Basic Allowance continues to be deemed inclusive of all in-Council travel and subsistence costs and telephone allowance and that Schedule 2 of the allowances scheme is amended to reflect this situation.
2. The Special responsibility allowance for the Leader is set at £32,733
3. The SRA for the Deputy leader is set at £19,424.
4. The Cabinet members SRA is set at £14,568, Deputy Cabinet Members SRA to be reset at £2,185.
5. SRA for the Chairs of the six main committees to be set at £8,093

Chairs of the main Committees (x6)  
Overview & Scrutiny Committee  
Children's & Young People's Scrutiny Committee  
Health Scrutiny Committee  
Planning Control Committee  
Licensing & Safety Committee  
Audit Committee

6. That Members who sit on Licensing Hearings Panels who attend more than 6 meetings in any one year are paid an SRA as follows:

Meetings over 4 hours:	£106
Meetings up to 4 hours:	£53

As per current practice this SRA should only be paid to Members who are not otherwise in receipt of an SRA.

7. The SRA for the Leader of the Main Opposition Group is reset at £10,683.
8. The SRA for the Deputy Leader only be payable if the Main Opposition Group holds 20 per cent of seats (11) on Council and is reset at £4,273.
9. The SRA for Leaders of Other Opposition Groups is reset at £5,342, where there are two or more Other Opposition Groups then the recommended SRA of £5,342 should be divided on a pro rata basis and paid accordingly to Leaders of all Other Opposition Groups.
10. The SRA for the Deputy Leader(s) of Other Opposition Groups is reset at £1,870. This is only paid when an Other Opposition Group attains 10 per cent

of seats (five) on Council. Where there are two or more Other Opposition Groups of five or more seats the SRA of £1,870 should be paid to their respective Deputy Group Leaders on a pro rata basis.

11. The Leader is paid a separate SRA of £6,000 as a Member/Portfolio Holder on the GMCA under the 2011 Order.
12. The SRA for the two Bury Members appointed to the GMTC is reset at £3,000.
13. The SRA for the two Bury Council Members appointed to the GM Waste and Recycling Committee is reset at £1,5000.
14. That the council discontinue the SRA for the Council's appointment to the GM Pension Fund.
15. The 1-SRA only rule is maintained with the exception of the additional SRAs paid under the 2011 GMCA Order.
16. That the SRA (£4,273) for the Deputy Leader of the Main Opposition Group is only payable if the size of the Main Opposition Group attains 11 Members
17. That where there are two or more Other Opposition Groups then the recommended SRA of £5,342 should be divided on a pro rata basis and paid accordingly to Leaders of all Other Opposition Groups.
18. That the SRA for the Deputy Leader(s) of Other Opposition Groups of £1,870 is only paid when an Other Opposition Group attains 10 per cent of seats (five) on Council. Where there are two or more Other Opposition Groups of five or more seats the SRA of £1,870 should be paid to their respective Deputy Group Leaders on a a pro rata basis.
19. As per current practice this SRA should only be paid to Members who are not otherwise in receipt of an SRA.
20. That Shadow Portfolio Holders, Group Whips and the Council's appointee to the GM Pension Fund are not recommended an SRA is paid.
21. That the 1-SRA only rule is maintained with the exception of the SRAs paid in respect of appointments to the GMCA.
22. That the financial loss allowance is discontinued and the Audit and Standards Hearings Panel Co-optees to be paid a Co-optees' Allowance that has two elements as follows:

Standard element  
Meetings element

£500 per year

- a. Meetings over four hours                      £106 per meeting
- b. Meetings up to four hours                      £53 per meeting

23. Note that there is no change to the Mayoral Civic Allowance (£16,472) and Deputy Mayor Civic Allowance (£4,118).

24. That the current allowances paid to the Independent Members who sit on Council Education Appeals Panels are discontinued and reset as follows:

- £106      for meetings over 4 hours
- £53      for meetings up to 4 hours

Mileage/public transport reimbursement – maintain where applicable

Parking fee reimbursement – maintain where applicable

25. That the carers allowance is maintained but there are two types of care identified to be paid at the following maximum rates:

- Child care:    maximum rate paid at real living wage (Currently £9.50)
- Elderly/disabled care:                              maximum rate paid at the hourly rate
  - 1. charged by Bury Council Social Services Department for a Home Help

An annual cap be for these payments to be set at £2,000

26. That the current approved duties and conditions for which the Travel and Subsistence Allowances may be claimed outwith the Council are maintained but that the mileage reflect the full range of HMRC AMAP (Approved Mileage Allowance Payment) rates as follows:

<b>27. Mode of Travel</b>	<b>28. First 10,000 business miles in the tax year</b>	<b>29. Each business mile over 10,000 miles in the tax year</b>
<b>30. Cars and vans</b>	<b>31.45p</b>	<b>32.25p</b>
<b>33. Motor cycles</b>	<b>34.24p</b>	<b>35.24p</b>
<b>36. Bicycles</b>	<b>37.20p</b>	<b>38.20p</b>

Passenger payments – cars and vans  
 5p per passenger per business mile for carrying fellow Member or Council employee in a car or van

Current mileage rates are clarified to include provision that if a Member is claiming out of Council mileage by driving a hybrid or electric vehicle that the applicable mileage rates continues to be HMRC approved rates.

27. The subsistence rates for attending approved duties outwith the Council area should be based on current Officer rates as follows:

Subsistence - Breakfast	£7.31
Subsistence - Lunch	£9.74
Subsistence - Evening Meal / Networking	£18.28

28. That the allowances scheme is amended to include a statement that clarifies the continued right of remuneration for a Member when they are required to take maternity, paternity or adoption leave for up to a period of 12 months, subject to the legal attendance requirements.

29. The revised members allowance scheme is adopted from the date of the Council's Annual Meeting 2022 and that indexation is applied in accordance with the IRP recommendations.



<b>Classification</b>	<b>Item No.</b>
<b>Open</b>	

<b>Meeting:</b>	Standards Committee
<b>Meeting date:</b>	15 <sup>th</sup> November 2021
<b>Title of report:</b>	Code of Conduct for Members
<b>Report by:</b>	The Monitoring Officer
<b>Decision Type:</b>	<b>Council</b>
<b>Ward(s) to which report relates</b>	<b>All</b>

### EXECUTIVE SUMMARY:

All Councils are required to have a local member code of conduct which sets out the requirements for holding office.

The current code in Bury entitled the 'Code of Conduct for Councillors and other Voting Representatives' contained within the Council's Constitution. It is based on the previous Model Code of Conduct and incorporates the Seven Principles of Public Life also known as the 'Nolan Principles', namely, selflessness, integrity, objectivity, accountability, openness, honesty and leadership. These are promoted by the Committee on Standards in Public Life, which is an advisory body to the government.

This report is to advise Members on recent developments regarding the LGA code of conduct, the recent review of the code by Chief Legal Officers across Greater Manchester and draw to Members attention that the Committee on Standards in Public Life ("the CSPL") report on the 1<sup>st</sup> November 2021.

**RECOMMENDATIONS:**

1. Defer consideration and recommendations regarding adoption of the LGA model code pending the receipt of central government's response the Committee on Standards in Public Life recommendations and any legislative changes
2. Request a further report on this to its next meeting and that this be added to the Committee's workplan

## 1.0 INTRODUCTION

1. The Committee on Standards in public life (CPSL) published its review of local government ethical standards on 30<sup>th</sup> January 2019. The report contained a recommendation that the Local Government Association should create an updated code of conduct in consultation with representative bodies of Councillors and all tiers of Local Government. Members received a report from the Interim Monitoring Officer on 1<sup>st</sup> July 2020 relating to the proposed Local Government Association model code of conduct. The LGA carried out a consultation and Bury members responded to the consultation.
2. The Government has not commented yet on the CSPL 2019 recommendations including the recommendations relating to strengthening sanctions for breach of the code. It is now anticipated following the Upholding Standards in Public Life (Final report of the Standards Matter 2 review) by the Committee on Standards in Public Life [Upholding Standards in Public Life - Web Accessible.pdf](#) Appendix 1) the Government will shortly respond which will be followed by a further LGA review of the model code.
3. The latest review Chaired by Lord Evans has brought forward 34 recommendations. The review examined whether the current articulation of the Seven Principles of public life lays out the right ethical expectations. Lord Evans noted that contributors voiced strong support for Lord Nolan's original seven, citing their longevity, timelessness and widespread integration into British public life however following recent issues the Committee has decided it will amend the descriptor for leadership to have a greater emphasis on treating others with respect. Leadership (new descriptor): Holders of public office should exhibit these principles in their own behaviour and treat others with respect. They should actively promote and robustly support the principles and challenge poor behaviour wherever it occurs.
4. Members were orally updated by the Monitoring officer on 13<sup>th</sup> September 2021 of a proposal that all Chief Legal Officers across Greater Manchester were meeting to review the LGA model code. The benefits of this was to attain a consistency of approach across Greater Manchester Councils in the event that stronger sanctions were to be made available for breach of the code and that Chief Legal Officers consider the adoption of the of the LGA code (either in full or with minor amendments). This report feedbacks the outcome of those meetings.
5. Key points to note from the Standards Section of the LGA model code include that it:

- aims to clarify when the code will apply
  - introduces the concept of treating other Councillors, members of the public, staff and representatives of partner organisations with 'respect' whilst acknowledging the need to be able to engage in debate in a civil manner.
  - makes it a requirement to comply with any sanction imposed following a finding that the code has been breached. At present as Members will be aware sanctions for breach of the Members Code of Conduct are very limited. The CSPL recommended the Government change the law to allow Local Authorities the power to suspend councillors, without allowances, for up to six months (exercisable only where the authority's Independent Person agrees both with the finding of a breach and that suspending the councillor would be a proportionate sanction).
  - Sets the threshold for registration of Gifts and hospitality at £50 (but makes no mention of smaller gifts adding up to £50 threshold.)
6. Several concerns were raised regarding the LGA code. In particular it was noted that it departed from narrower wording in s 31 of the Localism Act 2011 (which relates to Disclosable Pecuniary Interests (DPI's)) and introduced a distinction between things that "directly relate" to an interest and things that "affect" an interest. It was concluded that it had been assumed by the LGA the change to the law recommended by the CSPL report to repeal s 31 of the Localism Act 2011 would have taken place. The wording in the Bury code of code is consistent with the legislation as it currently stands. As Members are aware there are criminal sanctions if members fail to disclose a disclosable pecuniary interest.
7. It was noted that the since its issue the LGA code has been updated twice to clarify issues that were not covered by the earlier versions, with further guidance being issued on the LGA model code in July 2021. Whilst the current version does pick up on some of the issues it does not address the departing for the Localism Act.
8. The LGA contacted Monitoring Officers in relation to its original proposal to review the Code on an annual basis querying whether it is too early to review the code this year for the following reasons:
- It has not yet been well embedded
  - Some councils have only just considered it
  - It would be better to review it shortly before the May 2022 London Local Government elections, so that it can be considered at the annual general meeting for adopted in full/part/not at all at the annual meeting of councils

- Wait for central government response to CSPL recommendation if this is likely to be published by the end of 2021.

9. For the reasons highlighted above and because the LGA code appears to be in a state of flux it is recommended that Bury should retain its current code of conduct for now. It is recommended that this matter is reviewed at the beginning of next year once the position is clearer any change to the code at this point would be subject to a further review.

**Community impact/links with Community Strategy**

**Equality Impact and considerations:**

*Under section 149 of the Equality Act 2010, the ‘general duty’ on public authorities is set out as follows:*

*A public authority must, in the exercise of its functions, have due regard to the need to –*

- (a) eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under this Act;*
- (b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it;*
- (c) foster good relations between persons who share a relevant protected characteristic and persons who do not share it.*

*The public sector equality duty (specific duty) requires us to consider how we can positively contribute to the advancement of equality and good relations, and demonstrate that we are paying ‘due regard’ in our decision making in the design of policies and in the delivery of services.*

<b>Equality Analysis</b>	<i>Please provide a written explanation of the outcome(s) of either conducting an initial or full EA.</i>

**Assessment of Risk:**

The following risks apply to the decision:

<b>Risk / opportunity</b>	<b>Mitigation</b>
Legal Challenge	

**Consultation:**

**Legal Implications:**

As set out in the report

**Financial Implications:**

**None**

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**Background Papers**

**Appendix 2 CONSULTATION ON DRAFT MODEL CODE OF CONDUCT  
(Standards Committee 1.7.2021)**



# Upholding Standards in Public Life

## Final report of the Standards Matter 2 review

The Committee  
on Standards  
in Public Life

Selflessness  
Integrity  
Objectivity  
Accountability  
Openness  
Honesty  
Leadership

# **Upholding Standards in Public Life**

**Final report of the  
Standards Matter 2 review**

**Chair, Lord Evans of Weardale**

November 2021

## Foreword by Sir John Major

A quarter of a century ago I set up the Committee on Standards in Public Life to address current and future shortcomings in behaviour. Over that long period, the Committee – led by Lord Evans and his predecessors – has made a significant contribution to improve the quality of our public life.

This report continues that work. It makes many important recommendations that I hope will be approved by the Government – and, where necessary, Parliament – and then implemented.

The Committee will never be redundant. A minority will evade or misinterpret the rules of proper behaviour. The rules will always need regular updating to meet changing expectations in many areas: the funding of political parties may be yet one example.

We owe a debt to all Committee Members – past and present – and, on behalf of the public they serve, I offer them my profound thanks and appreciation.

**The Rt Hon Sir John Major KG CH**

# Chair's Foreword

Dear Prime Minister,

I am pleased to present the 23rd report of the Committee on Standards in Public Life.

Lord Nolan's first report, which set out the Seven Principles of Public Life, was published in 1995. Twenty-five years on, the Committee launched this review to examine the importance of high standards today, and the effectiveness of the regulators that uphold them.

We found that high standards continue to provide an important foundation to our democracy, our economic success, and our foreign policy. The Seven Principles of Public Life reflect the values the public expects holders of public office to embody, forming the basis of public confidence in our institutions. Businesses want to invest in a country where governance is stable, predictable and fair. The UK's success in countering corruption abroad depends on our reputation for high ethical standards at home.

Today, there is a more challenging environment for those committed to upholding ethical standards. The impact of social media, the coarsening of public debate and political polarisation have all contributed to increase the risk to public standards here and abroad, even before taking into account the pressures brought by EU exit and the coronavirus pandemic.

Standards arrangements require regular review and the Committee has assessed the effectiveness of our ethics regulators in these changing circumstances. We have found a particular need for reform in central government. Whereas Parliament has undergone significant reform in recent years, and local government was reviewed by this Committee in 2019, many of the arrangements in central government have not changed for over a decade.

Four areas require attention. The regulation of the Ministerial Code needs greater independence as it lags behind similar arrangements for MPs, peers, and civil servants. The scope of the Business Appointment Rules should be expanded and the rules should be enforced through legal arrangements. Reforms to the powers of the Commissioner for Public Appointments would provide a better guarantee of the independence of assessment panels. Transparency around lobbying is poor, and requires better co-ordination and more consistent publication by the Cabinet Office.

From the evidence we have taken during our review it has become clear that a system of standards regulation which relies on convention is no longer satisfactory. To address this, we recommend that ethics regulators and the codes they enforce should have a basis in primary legislation, and that government has a more thorough and rigorous compliance function.

The arrangements to uphold ethical standards in government have come under close scrutiny and significant criticism in recent months. Maintaining high standards requires vigilance and leadership. We believe our recommendations point to a necessary programme of reform to restore public confidence in the regulation of ethical standards in government.

**Lord Evans of Weardale**  
**Chair, Committee on Standards in Public Life**

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# Executive Summary

The Committee launched this review to assess the importance of high ethical standards, the continuing relevance of the Seven Principles of Public Life, and the effectiveness of the rules, regulators, policies and processes that underpin them. As the review progressed, the Committee concentrated its attention on arrangements in central government, which have not been reviewed substantively by the Committee for over 15 years.

In June 2021, the Committee published findings from this review on the areas we considered in most urgent need of reform: the Ministerial Code and the Independent Adviser on Ministers' Interests; the Business Appointment Rules and the Advisory Committee on Business Appointments; the regulation of public appointments; and transparency around lobbying. The content of those findings is included here and translated into recommendations to government, alongside several new recommendations published here for the first time.

## **The Importance of Ethical Standards**

The Seven Principles matter for our democracy, economy, and foreign policy. High ethical standards underpin public confidence in our governing institutions, attract overseas investment, and boost the UK's reputation on anti-corruption issues abroad.

However, a number of long and short term social and political trends have created a more difficult environment today for those seeking to uphold high ethical standards. Social media, intimidation, political polarisation and a more intense and immediate public debate on politicians' conduct has led to increasing risks to public standards, exacerbated by the pressures of the coronavirus pandemic and EU exit. Upholding high ethical standards in this changing context is a political and leadership challenge.

Over the past 25 years, an intricate web of commissioners and committees, rules and regulations, and policies and processes has developed to ensure that codes of conduct are upheld. These standards arrangements have to adapt to a changing world. The balance of evidence submitted to this review indicates to us that the existing standards framework is not functioning as well as it should.

Polling and focus group research carried out for this review shows that the public thinks MPs and ministers have poor ethical standards. In contrast, public perceptions of the ethical standards of those delivering public services, such as doctors, teachers, judges, and local government officials, are high. Analysis of these results found notable changes in the effect of gender and education on perceptions of standards compared to past surveys carried out by the Committee. Today, women and those with a higher level of educational attainment are more likely to think that the ethical standards of ministers and MPs are low.

This review examined whether the current articulation of the Seven Principles lays out the right ethical expectations for all those in public life. Contributors voiced strong support for Lord Nolan's original seven, citing their longevity, timelessness and widespread integration into British public life. Following the #MeToo movement and the uncovering of unacceptable levels of bullying and harassment in Parliament, the Committee has decided it will amend the descriptor for leadership to have a greater emphasis on treating others with respect.

### **Leadership (new descriptor):**

Holders of public office should exhibit these principles in their own behaviour and treat others with respect. They should actively promote and robustly support the principles and challenge poor behaviour wherever it occurs.

## **The Regulation of Ethical Standards**

The past 25 years have seen the introduction and development of a number of codes of conduct and scrutiny mechanisms, meaning there is now a broad and wide-ranging framework covering standards in public life. However, we were told that too often there are inconsistencies in the application of codes, that the quality of advice varies, and that insufficient priority is given to ethical issues. In line with the recommendation of the Boardman report, the government should take a more thorough and professional approach to ethics rules and develop a compliance function across government.

Contributors to this review also emphasised the extent to which the upholding of codes of conduct for ministers, civil servants and special advisers depends on adherence to conventions. Though conventions offer the benefit of flexibility, the processes and procedures designed to uphold high standards are too easily ignored or disregarded. The Committee's recommendations are designed to codify the most important conventions and norms around standards in government into more formal processes and rules.

The Committee assessed the independence of standards regulators in government and Parliament. It is clear to the Committee that the degree of independence in the regulation of the Ministerial Code, public appointments, business appointments, and appointments to the House of Lords falls below what is necessary to ensure effective regulation and maintain public credibility. The Committee recommends that the government gives a statutory basis to the Independent Adviser on Ministers' Interests, the Public Appointments Commissioner, and the Advisory Committee on Business Appointments, as well as to the codes they regulate, through new primary legislation. The Committee believes a statutory House of Lords Appointments Commission should be considered as part of a broader House of Lords reform agenda, which is beyond the remit of this Committee.

Though the Committee recognises that the standards landscape is complex, we do not believe that the existing ethics regulators should be consolidated into a single ethics commission.

## **The Ministerial Code and the Independent Adviser on Ministers' Interests**

The Committee believes that further reform is necessary to the Ministerial Code and the role of the Independent Adviser. First, the code's provisions on ethics and standards should be separated from those detailing the processes of cabinet governance. The Ministerial Code should be a code of conduct of ethical standards for ministers, akin to MPs' and peers' codes of conduct, based on the Seven Principles of Public Life.

Second, though the code must be owned and issued by the Prime Minister, rather than Parliament, an obligation in primary legislation for the Prime Minister to publish the Ministerial Code would grant the code a more appropriate constitutional status. The Independent Adviser should be consulted in any process of revising and reissuing the code, as has occurred in the past.

Third, now that the code is explicitly subject to a system of graduated sanctions, it should detail the range of sanctions that the Prime Minister may issue in response to a breach. We recommend that those sanctions include apologies, fines, and asking for a minister's resignation.

Fourth, the appointments process, powers, and remit of the Independent Adviser should be strengthened. The Adviser should be appointed through an enhanced version of the current process for significant public appointments, where there is a majority of independent panel members. The Adviser should be able to initiate their own investigations and have the authority to determine breaches of the code. The Adviser's findings should also be published no more than eight weeks after a report has been submitted to the Prime Minister. Meaningful independence is the benchmark for any effective form of standards regulation and current arrangements for the Adviser still fall below this bar.

## **The Business Appointment Rules and ACOBA**

Currently, there is widespread discontent around the operation of the Business Appointment Rules, reflecting a need for significant reform.

We recommend that the scope of the rules be expanded. The rules are framed to focus on any direct regulatory, policy, or commercial relationship, but an official may initiate policy or regulation sympathetic to a range of companies providing a particular service or product, with an eye to future employment, without having a direct relationship with any specific company.

ACOBA and government departments should be able to issue a lobbying ban of up to five years in cases where an official had a particularly senior role, or where contacts made or privileged information received will remain relevant after two years (the current maximum ban). The rules should be clarified to make clear that any work for lobbying firms will be treated as lobbying for the purpose of the ban.

The lack of any meaningful sanctions for a breach of the rules is no longer sustainable. Transparency alone, or proposals for the integration of the rules into the process for honours or appointments to the House of Lords, fall short of introducing a formal and credible

sanctions regime. Instead, the rules should be enforced via the relevant employment contracts for civil servants and special advisers, and by parallel legal arrangements for ministers. The government should set out what the consequences for any breach of contract will be. Possible options for sanctions may include seeking an injunction prohibiting the uptake of a certain business appointment, or the recouping of a proportion of an office holder's pension or severance payment.

Under reformed arrangements, ACOBA should take on a formal regulatory function. The Committee's decisions should be directly binding on applicants, rather than a recommendation to the relevant minister, Prime Minister, or permanent secretary. The Committee should also be able to undertake investigations into potential breaches of its decisions, or into failures to seek a ruling from it when one was required. On the finding of a breach of the rules, the Committee should submit a report to the Cabinet Office. As a breach of the rules would constitute the breaking of a contract with the government, the Cabinet Office should then decide on sanctions or remedial action, as well as any possible appeals process.

This Committee shares concerns raised by the ACOBA chair, Lord Pickles, over the lack of transparency and consistency over how the rules are applied below ACOBA level in government departments. Data on applications under the rules should be published regularly and the government should work with ACOBA to share best practice across government departments.

## **The Regulation of Public Appointments**

Lord Nolan outlined the principles that guide public appointments to this day: that ministers should have the ultimate responsibility for public appointments, but that appointments should also be made on merit. These principles manifest themselves today in a process by which assessment panels produce a list of candidates who are deemed appointable, with the final decision left to ministers. The process is defined in the government's Governance Code for Public Appointments.

Though the public appointments system has generally worked well in recent years, it is highly dependent on informal mechanisms, including the willingness of ministers to act with restraint and the preparedness of the Commissioner to speak out against breaches of the letter or the spirit of the code. It is unlikely that a system so dependent on personal responsibility will be sustainable in the long term. Of particular concern is the current provision within the Governance Code for ministers to be able to appoint candidates not deemed appointable by assessment panels. We believe such appointments should not be made, and if they are, that ministers should justify their decision in front of the relevant select committee.

Senior Independent Panel Members (SIPMs) currently provide a guarantee of independence to the defined number of significant appointments. We agree with the recommendation of the former Commissioner, Peter Riddell, that SIPMs should have a "specific duty of reporting" on the conduct of their competitions, as many already do informally. In light of the increasing risk of packed panels, we also agree with Peter Riddell's suggestion that the Commissioner be consulted on the composition of all members of assessment panels for significant appointments, to ensure a proper balance between independent and non-independent members.

There should also be a stronger guarantee of independence in the appointments process for standards regulators, whose job is to scrutinise government rather than implement government policy. Lead regulators should be appointed through a process where the assessment panel has a majority of independent members, and the chairs of standards committees should chair panels for the appointment of their independent members.

A number of direct ministerial appointments are unregulated entirely. Though it may be appropriate in some circumstances for appointments to be unregulated - for example for the heads of short-term policy reviews or some tsars or envoys - there is a lack of transparency on the number and nature of unregulated appointees, which should be rectified by departments publishing a list of all regulated and unregulated appointments. One such category of unregulated appointments are Non-Executive Directors (NEDs) of government departments. Given their role and significance, NEDs should be appointed through a regulated appointments process.

The powers of the Commissioner are currently defined in an Order in Council. The Commissioner does, therefore, have a statutory basis, but it is one that can be amended by ministers with little process or debate. A stronger statutory basis for the Commissioner is of particular importance given that much of the Commissioner's role now depends on formal or informal advice, rather than enforceable regulatory power.

### **Transparency around Lobbying**

Lobbying is an important and legitimate aspect of public life in a liberal democracy. Public trust is only undermined when lobbying is associated with money, undue influence, and secrecy. Such perceptions are preventable if all those in public life on the receiving end of lobbying - including ministers, civil servants and special advisers - act in the spirit of the Nolan Principles and uphold transparency around lobbying.

Yet the current system of transparency around lobbying is not fit for purpose. It is too difficult to find out who is lobbying government; information is often released too late; descriptions of the content of government meetings are ambiguous and lack necessary detail; transparency data is scattered, disparate, and not easily cross-referenced; and information in the public interest is often excluded from data releases completely.

Reforms are needed to the accessibility, quality, and timeliness of government data. Releases are currently published across different departmental web pages, as well as the Register of Consultant Lobbyists, meaning that any attempt to obtain a clear picture of one company or organisation's attempts to influence government is difficult and time-consuming. We believe a better approach would be for the Cabinet Office to collate all departmental transparency releases and publish them in an accessible, centrally managed and searchable database. The government should also ensure that a sufficient level of detail is provided on the subject matter of all lobbying meetings, and the Cabinet Office should publish collated releases monthly, rather than quarterly.

The scope of transparency requirements should be expanded too. Departmental transparency releases do not consistently cover senior civil servants below permanent secretary level, meaning that the lobbying of directors general and directors is not always disclosed. Transparency releases for special advisers only include details of meetings held with senior media figures. Given the influence that senior civil servants and special advisers now have, they too should be subject to the same transparency requirements for meetings as ministers and permanent secretaries.

Contributors highlighted concerns about the transparency of informal lobbying, and lobbying via alternative forms of communications, such as that via WhatsApp or Zoom. Any such lobbying should always be reported back to officials. However, such lobbying is rarely published by government as it is not classified as a meeting for the purpose of transparency releases. The categories of published information should be revised to close this loophole: either the 'meetings' category should be broadened or a fifth category should be added to include representations made to government by alternative means. Any such representations should be disclosed when the lobbying attempt is serious, premeditated, and credible, or is given substantive consideration by ministers, special advisers or senior civil servants.

Some contributors suggested reforming transparency around lobbying through an expanded lobbying register, where in-house lobbyists, including charities, campaigning groups, think tanks, trade unions, businesses, and others, would have to register. However, it remains the case that an expanded lobbying register would duplicate, and therefore potentially replace, departments' quarterly releases. Whilst the Committee recognises frustrations over the poor quality of government transparency releases, we believe the right solution is for the Cabinet Office and government departments to improve radically the quality of their transparency data. It is worth reiterating, however, that should adherence to the government's own transparency obligations continue to remain poor, the case for an expanded lobbying register would strengthen.

A number of improvements can also be made to the Register of Consultant Lobbyists in its current form. Consultant lobbyists who contact special advisers and senior civil servants below permanent secretary level (specifically directors general and directors) should be required to register. Additionally, those on the register should have to declare the date, recipient, and subject matter of their lobbying, in order to make it easier to cross-reference the Register with departmental releases.

# List of Recommendations

## **Recommendation 1**

The Civil Service should review its approach to enforcing ethical standards across government, with a view to creating a more rigorous and consistent compliance system, in line with the recommendation of the Boardman report.

## **Recommendation 2**

The government should pass primary legislation to place the Independent Adviser on Ministers' Interests, the Public Appointments Commissioner, and the Advisory Committee on Business Appointments on a statutory basis.

## **Recommendation 3**

The Ministerial Code should be reconstituted solely as a code of conduct on ethical standards.

## **Recommendation 4**

A requirement for the Prime Minister to issue the Ministerial Code should be enshrined in primary legislation.

## **Recommendation 5**

The Independent Adviser should be consulted in any process of revision to the Ministerial Code.

## **Recommendation 6**

The Ministerial Code should detail a range of sanctions the Prime Minister may issue, including, but not limited to, apologies, fines, and asking for a minister's resignation.

## **Recommendation 7**

The Independent Adviser should be appointed through an enhanced version of the current process for significant public appointments.

**Recommendation 8**

The Independent Adviser should be able to initiate investigations into breaches of the Ministerial Code.

**Recommendation 9**

The Independent Adviser should have the authority to determine breaches of the Ministerial Code.

**Recommendation 10**

The Independent Adviser's findings should be published no more than eight weeks after a report has been submitted to the Prime Minister.

**Recommendation 11**

The Business Appointment Rules should be amended to prohibit for two years appointments where the applicant has had significant and direct responsibility for policy, regulation, or the awarding of contracts relevant to the hiring company.

**Recommendation 12**

The Business Appointment Rules should be amended to allow ACOBA and government departments to issue a ban on lobbying of up to five years.

**Recommendation 13**

The lobbying ban should include a ban on any work for lobbying firms within the set time limit.

**Recommendation 14**

The government should make adherence to the Business Appointment Rules an enforceable legal requirement for ministers, civil servants, and special advisers, and set out what the consequences for a breach of contract may be.

**Recommendation 15**

ACOBA rulings should be directly binding on applicants.

**Recommendation 16**

ACOBA should have the power to undertake investigations into potential breaches of the Business Appointment Rules, and be granted additional resources as necessary. The Cabinet Office should decide on sanctions or remedial action in the case of a breach.

**Recommendation 17**

Government departments should publish anonymised and aggregated data on how many applications under the Business Appointment Rules are submitted, approved, or rejected each year.

**Recommendation 18**

The Cabinet Office should ensure the Business Appointment Rules are applied consistently across all government departments, and work with ACOBA to promote best practice and awareness of the rules.

**Recommendation 19**

The Governance Code for Public Appointments should be amended to make clear that ministers should not appoint a candidate who is deemed unappointable by an assessment panel, but if they do so, the minister must appear in front of the relevant select committee to justify their decision.

**Recommendation 20**

The Governance Code should be amended so that ministers must consult with the Commissioner for Public Appointments on the composition of all panel members for competitions for significant appointments.

**Recommendation 21**

Senior Independent Panel Members should have a specific duty to report to the Commissioner on the conduct of significant competitions.

**Recommendation 22**

The chairs of ACOBA and HOLAC, the Registrar of Consultant Lobbyists, the Commissioner for Public Appointments and the Independent Adviser on Ministers' Interests should all be appointed through the process for significant public appointments, and the assessment panel for each should have a majority of independent members.

**Recommendation 23**

Chairs of standards committees should chair assessment panels for the appointment of their independent members.

**Recommendation 24**

Government departments should publish a list of all unregulated and regulated public appointments.

**Recommendation 25**

The appointments process for Non-Executive Directors of government departments should be regulated under the Governance Code for Public Appointments.

**Recommendation 26**

The Cabinet Office should collate all departmental transparency releases and publish them in an accessible, centrally managed and searchable database.

**Recommendation 27**

The Cabinet Office should provide stricter guidelines on minimum standards for the descriptions of meetings and ensure compliance by government departments.

**Recommendation 28**

The government should publish transparency returns monthly, rather than quarterly, in line with the MPs' and peers' registers of interests.

**Recommendation 29**

The government should include meetings held between external organisations, directors general, and directors in transparency releases.

**Recommendation 30**

The government should include meetings held between external organisations and special advisers in transparency releases.

**Recommendation 31**

The government should update guidance to make clear that informal lobbying, and lobbying via alternative forms of communication such as WhatsApp or Zoom, should be reported to officials.

**Recommendation 32**

The government should revise the categories of published information to close the loophole by which informal lobbying is not disclosed in departmental releases.

**Recommendation 33**

Consultant lobbyists should also have to register on the basis of any communications with special advisers, directors general, and directors.

**Recommendation 34**

Consultant lobbyists should have to declare the date, recipient, and subject matter of their lobbying.

# Introduction

1. The Seven Principles of Public Life – selflessness, integrity, objectivity, accountability, openness, honesty and leadership – define the public service ethos of the United Kingdom. These ethical standards provide a common framework for the conduct of all those in public office, as well as those in the private sector providing public services.
2. The Seven Principles were first articulated by this Committee in 1995 under the chairmanship of Lord Nolan. Tasked by the then Prime Minister, Sir John Major, to advise on the arrangements in place to uphold standards in public life, the Nolan Committee established a three-part framework through which the Seven Principles should be upheld – codes of conduct, independent scrutiny, and education.
3. The development of the UK’s standards architecture has since followed Lord Nolan’s blueprint. Ministers, MPs, peers, civil servants, special advisers, councillors, board members of public bodies, and a range of public service professionals are now covered by codes of conduct based on the Seven Principles. Those codes are scrutinised and enforced by a range of independent regulators, advisers, and commissioners, with differing powers and remits.
4. Reflecting on 25 years since Lord Nolan’s seminal report, the Committee decided to launch this review, Standards Matter 2, in September 2020 to examine the strength and effectiveness of that regulatory framework today. Unlike most other Committee reports, which focus on one specific area of standards arrangements, the Committee believed that the time was right to assess how Nolan’s ideas have taken root across the public sector. The Committee considered the changing context around ethical standards today, and assessed what improvements need to be made to our system of ethics regulation to ensure the highest standards of conduct in public life.
5. The Committee received evidence on standards arrangements in both Houses of Parliament, central government, and local government. The Committee has no remit for standards arrangements in the devolved administrations.<sup>1</sup>
6. As the review progressed, the Committee concentrated its attention on central government. Standards arrangements in central government have not been reviewed substantively by the Committee since its ninth and tenth reports over 15 years ago. Recent Committee reports have instead examined standards arrangements for elections, local government, Parliament, regulators, and public service delivery. The Committee therefore decided that now was the right time to take a

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<sup>1</sup> The Committee can, however, report on arrangements in the devolved administrations if asked to do so by a devolved body.

closer look at some of the most prominent and longstanding standards issues in central government.

7. In June 2021, the Committee published findings from this review on the areas we considered in most urgent need of reform: the Ministerial Code and the Independent Adviser on Ministers' Interests; the Business Appointment Rules and the Advisory Committee on Business Appointments; the public appointments process; and transparency around lobbying. The content of those findings is included here and translated into recommendations to government, alongside several new recommendations published here for the first time.
8. This review spanned a period of heightened focus on ethical standards, which was reflected in an increase in complaints from members of the public and political figures, who wrote to the Committee asking it to investigate individual cases.
9. The Committee has no remit to do so, and has a longstanding policy of not commenting on individual cases. The Committee is not a regulator and does not conduct investigations. That is the role of the relevant standards body, be it the Independent Adviser, Parliamentary Commissioner for Standards, the Electoral Commission, or others. The Committee's role is to advise the Prime Minister on whether those bodies have the right powers and remit to do their jobs effectively. That is the purpose, and focus, of this report.
10. A summary of recent Committee reports relevant to this review is at Appendix 2. Further information about the Committee can be found at Appendix 3. The methodology of this review, and a list of all stakeholders who gave evidence to the Committee, is at Appendix 4. The Committee is grateful to all stakeholders and members of the public who contributed to this review.

# Chapter 1

## The Importance of High Ethical Standards

- 1.1 The Seven Principles of Public Life were set out by Lord Nolan to reflect the values deemed inherent in public service. Though formal rules and regulations have applied those principles to particular political and professional settings, the expectation has long existed that all those in public office should act in the spirit of those principles as much as the letter of any code.
- 1.2 The importance of upholding high ethical standards, as articulated in those principles, is clear. Over the course of this review, business leaders, heads of standards bodies, former senior civil servants, academics, anti-corruption experts, and members of the public made the case that high ethical standards matter for our democracy, economy and foreign policy.
- 1.3 Ethical standards reflect the values the public expects the government to embody, setting the boundaries for the legitimate use of power in public life. A democratic mandate alone is insufficient to guarantee the confidence and consent of the governed. Adherence to the Seven Principles helps ensure that elected representatives make controversial and difficult policy decisions in the public interest and that they are accepted by the majority of citizens. Confidence in democratic governance depends on citizens being reassured that the political process is legitimate, especially where they disagree with policy outcomes.
- 1.4 High ethical standards facilitate proportionate and appropriate accountability. When elected representatives embrace high ethical standards, the public can see how decisions are made, as well as who or what influenced the decision-making process. Better accountability makes for a more responsive and resilient democratic system.

**“Without trust, then you see a decline in public consent.”**

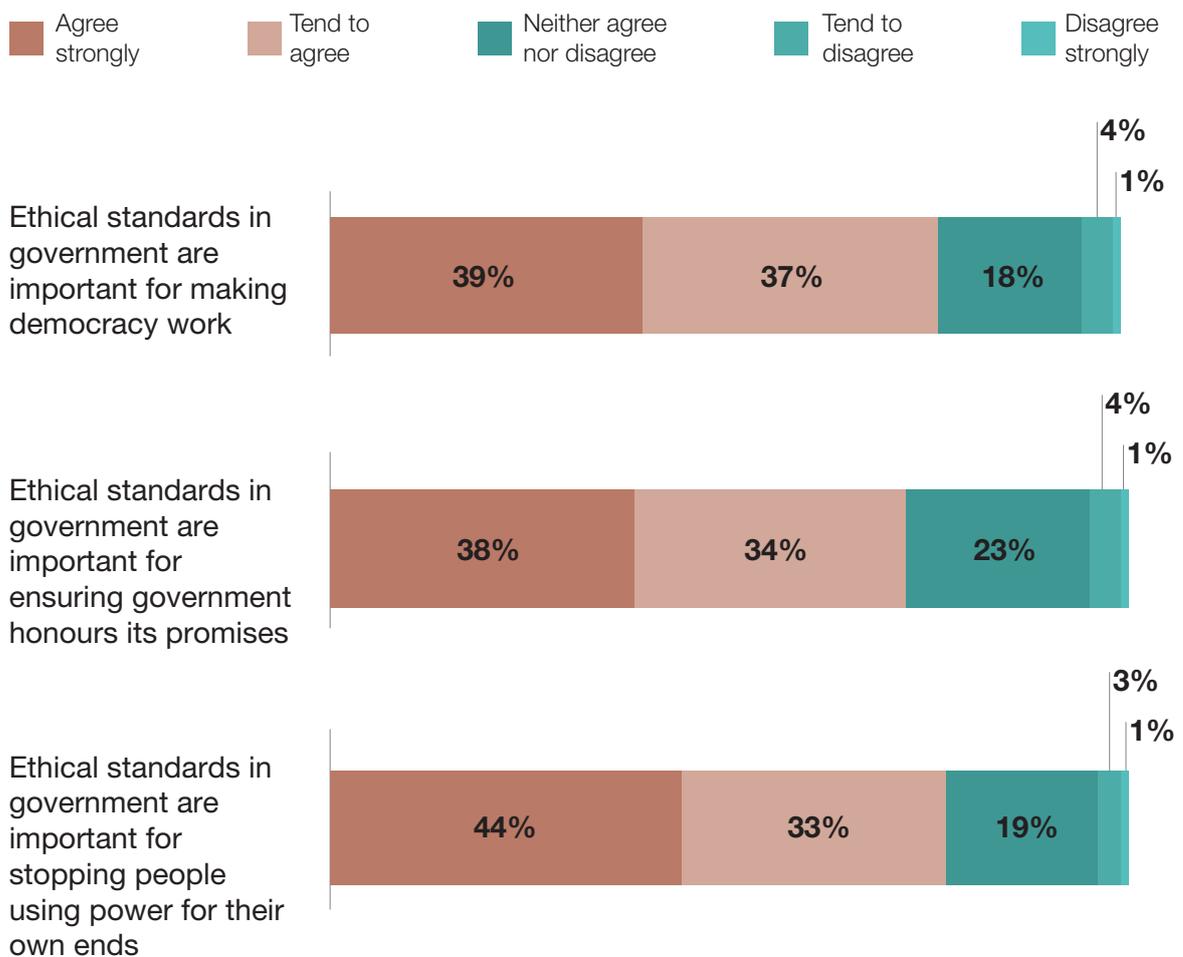
**Professor Heather Marquette, academics’ roundtable, April 2021**

**“We know that trust in government is hugely important... trust matters a lot... [trust is] about telling the truth and people believing what ministers say is actually true.”**

**Lord O’Donnell, former Cabinet Secretary, online evidence session, March 2021**

- 1.5 By significant majorities, our quantitative research shows that the public links high ethical standards to the functioning of democracy. In polling undertaken for this review, 76% of the British public agreed that ethical standards in government are important for making democracy work, and 77% agreed that ethical standards in government are important for preventing people using power for their own ends.<sup>2</sup>
- 1.6 Historic surveys of public attitudes undertaken by this Committee consistently showed that the public values high ethical standards, and that they do not believe that the upholding of high standards is in conflict with the delivery of policy objectives. These findings were replicated in polling undertaken for this review, where 75% of the public agreed that ethical standards are important for effective government, and 72% agreed that ethical standards are important for ensuring government honours its promises.<sup>3</sup>

**Public views on the importance of ethical standards**



Deltapoll survey of 1590 GB adults, 23-26 July 2021

2 Deltapoll survey of 1590 GB adults for the Committee on Standards in Public Life, 23-26 July 2021. Data available at <https://www.gov.uk/government/collections/standards-matter-2>

3 Deltapoll survey of 1590 GB adults, 23-26 July 2021

- 1.7 High ethical standards deliver a clear economic benefit to the United Kingdom too. Low levels of corruption, predictable executive decision-making, stable governance, and objective, unbiased enforcement of regulation all contribute to the UK's high ease of business rating and attracts overseas investment.

**“I was fortunate enough to visit many countries as a representative of British business and I got a pretty frank assessment of the UK environment from the outside in. I lost count of the number of times the UK was cited as an attractive place to invest because of the rule of law, its predictability, and its high public standards.”**

**Dame Carolyn Fairbairn, former Director-General of the CBI, online evidence session, March 2021**

- 1.8 Business leaders, financial services and credit rating agencies monitor British politics closely. The Committee was concerned to see that the downgrading of the UK's credit rating by Moody's in October 2020 cited “the weakening in the UK's institutions and governance”, noting that “while still high, the quality of the UK's legislative and executive institutions has diminished in recent years”.<sup>4</sup> Non-adherence to the rules and norms that have guided British governance for decades undermines the political stability that the UK's economic prosperity is built on.

**“Part of our economic strength is that overseas investors, overseas business, exporters etc. can be confident that by coming to the UK it is not only a good place to do business, but a safe place to do business... part [of that] is about predictability in our political and governance system and knowing that in the end, the rules will apply equally to everyone... it is critically important that governance is seen as part of our comparative economic advantage.”**

**Lord Sedwill, former Cabinet Secretary, online evidence session, March 2021**

- 1.9 High ethical standards at home also support the UK's advocacy against corruption abroad. The UK's reputation on domestic integrity underpins its ability to push for improvements in ethical standards overseas. Though the UK remains very highly regarded internationally on issues of ethics and corruption, this position should not be taken for granted. Should international perceptions of corruption in the UK decline, the UK's moral authority to speak against corruption abroad will suffer.

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<sup>4</sup> The Financial Times, UK credit rating downgraded by Moody's (October 2020). Accessed online August 2021: <https://www.ft.com/content/117349e4-dc95-4509-969b-26dcdede1773>

“We need to be in a position to deploy that [foreign anti-corruption strategy] from a position of authority, and if the direction of travel on our own domestic integrity and standards is the wrong one, that’s going to be incredibly difficult.”

**Daniel Bruce, Chief Executive, Transparency International UK, online evidence session, March 2021**

## The challenge to standards today

- 1.10 A number of long and short-term social and political trends have created a more challenging environment today for those seeking to uphold high ethical standards. The UK is not alone in facing a difficult and combative political environment, along with other exacerbating factors. Multiple western countries have faced similar issues and this has led to increasing risks to public standards internationally as well as domestically.
- 1.11 **Transparency:** Radical improvements in government transparency over the past 25 years have led to greater exposure of politicians’ conduct. Cases which once may not have attracted much media attention are now often debated in real time before regulatory authorities have had the chance to investigate or publish their findings. Public office holders today operate in a political climate where even inadvertent or technical breaches of codes can lead to significant media coverage and public criticism. There is today a more immediate and intense public debate on the ethical standards of public office holders than ever before.
- 1.12 **Social media:** Many stakeholders, particularly those involved in standards regulation in local government and Parliament, emphasised the difficulties resulting from increased use of social media. Social media has rapidly increased the pace of public life, leading to the expectation of an instant response to any new allegation of poor ethical standards, which regulators cannot always provide. Additionally, members of the public regularly make complaints to standards bodies regarding the conduct of elected officials online, but such matters will often be judged out of scope. The Committee recommended in its 2019 report on local government that there should be a rebuttable presumption that all public behaviour, including comments made on publicly accessible social media, should be considered as made in an official capacity. We consider that the same principle should apply to MPs and peers.
- 1.13 **Intimidation:** Social media has also contributed to the coarsening of public debate. The tone of public life has deteriorated, leading to a harsher and more vituperative debate on ethical standards. The scope and scale of political abuse led the then Prime Minister, Rt Hon Theresa May, to ask this Committee in 2017 to conduct an inquiry into intimidation in public life. We found that “a significant proportion of candidates at the 2017 general election experienced harassment, abuse and intimidation”, and that the intimidation experienced by Parliamentary candidates, and others in public life, has become a threat to the diversity, integrity, and vibrancy

of representative democracy in the UK. A clear finding of our review was that intimidation is disproportionately likely to be directed towards women, those from ethnic and religious minorities, and LGBT candidates.<sup>5</sup>

- 1.14 **Polarisation:** Political polarisation has made public debate on standards increasingly partisan and consensus harder to find. Though ethical standards have always been part of the cut and thrust of political debate, the upholding of ethical standards has always depended on a willingness to approach allegations of poor ethical standards through the merits of each case rather than party political considerations. Polarisation makes this harder to achieve.

“The political polarisation of recent years – particularly but not exclusively around the UK’s exit from the EU – has led to some leaders in public life seemingly prioritising the achievement of their political goals with less regard to expected standards. As the debate becomes more polarised, public figures are incentivised to take actions that please their side in a particular debate, rather than adhering to a common set of standards.”

**The Institute for Government, written evidence, January 2021**

- 1.15 **The coronavirus pandemic:** The impact of the coronavirus pandemic on all aspects of society has placed the government under stresses and strains not known since the Second World War. In responding to the pandemic, the government has had to act with speed and urgency, which resulted in the temporary bypassing of some regulatory restraints and the introduction of processes and practices not common to normal day-to-day governance.
- 1.16 **Brexit:** In delivering the UK’s exit from the EU, the refashioning of British politics and governance has led many to test and challenge the expectations, norms and conventions that have underpinned the British political system. Established practice on ethics and propriety has not been immune to these shifting attitudes and challenges.
- 1.17 Upholding high ethical standards in this changing context is a political and leadership challenge. Senior political and official leaders set parameters and establish the boundaries of acceptable behaviour with their own actions and words. Many contributors emphasised that when the ‘tone from the top’ fails to uphold the importance of ethical standards, either implicitly or explicitly, the rest of an organisation will often follow.
- 1.18 High standards must be regularly championed and enforced. Though the majority of those working in the public sector share a strong sense of public service, new situations and scenarios will regularly throw up ethical challenges, and reliance on

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<sup>5</sup> The Committee on Standards in Public Life, *Intimidation in Public Life: A Review by the Committee on Standards in Public Life* (2017). Accessed online August 2021: <https://www.gov.uk/government/publications/intimidation-in-public-life-a-review-by-the-committee-on-standards-in-public-life>

rules alone is not enough when circumstances fall between the lines of even the most tightly-written codes. A culture of high standards, where all public officials are encouraged to consider, discuss, and apply the Seven Principles of Public Life to their everyday work, will help ensure such situations do not lead to oversight, negligence, or errors of judgement.

**“The hope now must be that leaders will begin to accept that it is possible and indeed necessary to inculcate the right values, and consequently the right attitudes and behaviour (the best ‘culture’) into an organisation... through the sharing of ideas and experiences and through guided personal and collective reflection. The difficulty is when some attempt to do this without fully understanding that this will only be successful if the leaders are exemplifying those values themselves.”**

**Sir Bernard Jenkin MP, written evidence, March 2021**

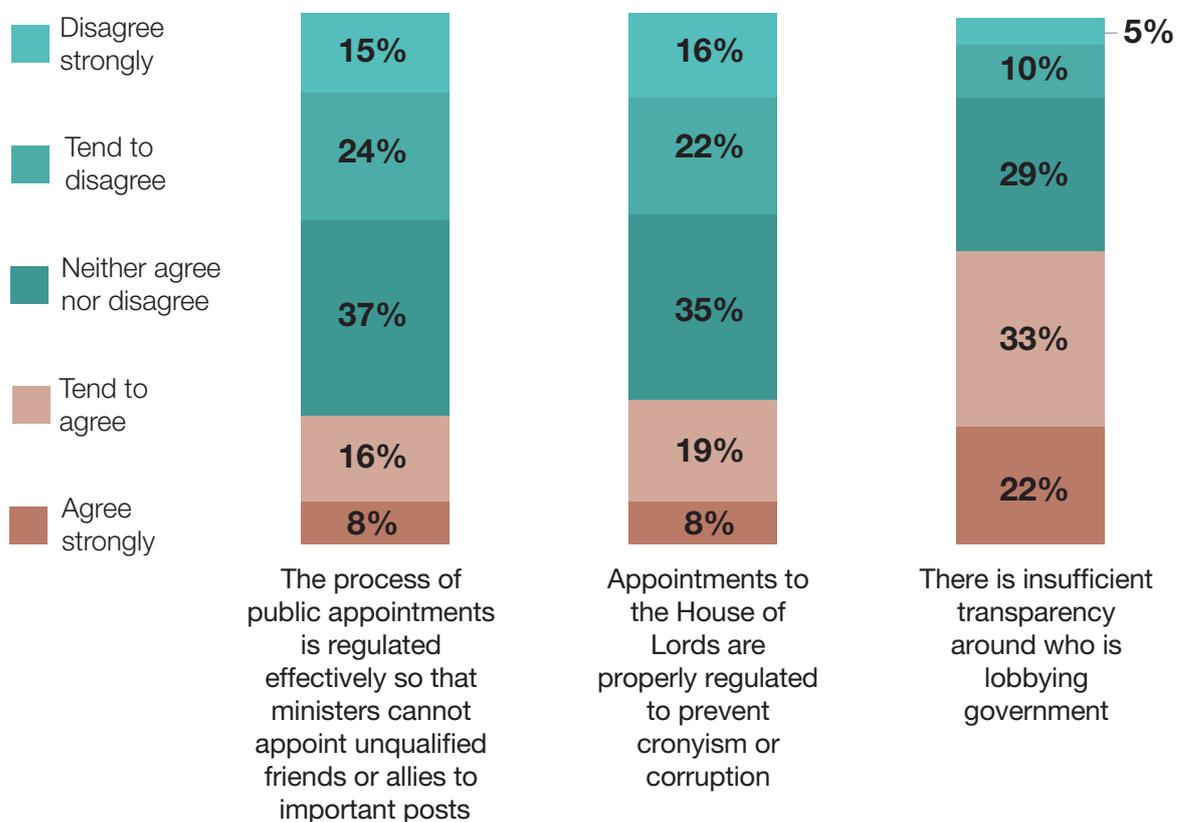
## The effectiveness of standards arrangements

- 1.19 Over the past 25 years, an intricate web of commissioners and committees, rules and regulations, and policies and processes has developed to ensure that codes of conduct are upheld. The purpose of these standards arrangements is to provide public assurance that government and Parliament operate according to the high ethical standards they expect of all elected and appointed officials. The Committee’s role is to assess how effectively these arrangements operate.
- 1.20 Standards arrangements have to adapt to a changing world and contributors voiced concerns to us that the existing framework is not robust enough under new and increasing pressures. Polling and focus group research conducted for this review shows that the public thinks that important regulatory mechanisms are not working effectively, and that there is little accountability for poor ethical standards. Overall, the balance of evidence submitted to this review indicates to us that standards arrangements are not functioning as well as they should.

**“We are concerned that the UK’s framework for regulating ethical standards for people with top executive functions in central government is not fit for purpose. The regulatory framework developed as a patchwork in response to scandals rather than as a co-ordinated, coherent system for identifying and managing risks. Successive governments have not adequately reformed the system and serious public integrity issues are not being tackled.”**

**Spotlight on Corruption, written evidence, January 2021**

### Public views on the regulation of public appointments, appointments to the House of Lords, and transparency around lobbying



Deltapoll survey of 1590 GB adults, 23-26 July 2021

- 1.21 Four areas of standards regulation were repeatedly highlighted by contributors as requiring reform: the Ministerial Code and the Independent Adviser on Ministers' Interests; business appointments and ACOBA; the regulation of public appointments; and transparency around lobbying. The recommendations of this report seek to make improvements in each area.
- 1.22 These are not the only issues cited by contributors as cause for concern. Multiple stakeholders criticised a perceived trend of dishonesty in politics. Such concerns suggest it is important for MPs and ministers to be able and willing to correct the record when they make errors or omissions. Correcting the record should be seen as a positive and proactive step to uphold high standards rather than an admission of failure or defeat. The Ministerial Code is clear that "ministers who knowingly mislead Parliament will be expected to offer their resignation to the Prime Minister".<sup>6</sup>

<sup>6</sup> Cabinet Office, Ministerial Code (August 2019), paragraph 1.3c. Accessed online August 2021: [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/826920/August-2019-MINISTERIAL-CODE-FINAL-FORMATTED-2.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/826920/August-2019-MINISTERIAL-CODE-FINAL-FORMATTED-2.pdf)

**“The frequent lack of correction of misleading remarks in the Chamber and elsewhere is getting worse. I’ve seen a degradation over the last five or six years and the Nolan principles need to be taken seriously. It’s a real harm for democracy and erodes public trust and confidence.”**

**Debbie Abrahams MP, oral evidence, May 2021**

- 1.23 Similarly, the Committee notes with concern the significant criticism from the media and transparency NGOs of government compliance with its Freedom of Information (FOI) Act obligations. Openness is one of the Seven Principles of Public Life and improvements in government transparency since the introduction of the FOI Act must not be lost. It is important that both the letter and the spirit of the law are followed.
- 1.24 Over the past two years, the Committee has taken a close interest in measures taken to combat bullying and harassment in the Houses of Parliament. The views of stakeholders were reflected in the Committee’s submission to the 18-month review of the Independent Complaints and Grievance Scheme. The Committee noted that the ICGS “is a significant improvement on past processes, but the scheme remains a work in progress, and is yet to gain the full confidence of all stakeholders. We are, however, pleased that there appears to be significant political support behind the scheme and the leadership of both Houses seems committed to ensuring its success”.<sup>7</sup>
- 1.25 Public disquiet on the propriety of appointments to the House of Lords remains a regular feature of our politics, as it has been for many decades. Part of the remit of the independent House of Lords Appointments Commission is to vet for propriety nominations for peerages. The Commission is right that “the making of a donation or loan to a political party cannot of itself be a reason for a peerage”, but that equally, “nominees should not be prevented from receiving a peerage just because they have made donations or loans”. The Commission’s approach of assessing “whether or not the individual could have been a credible nominee if he or she had made no financial contribution” is the right one.<sup>8</sup> It is critical to the credibility of appointments to the House of Lords that the Commission’s advice is followed.
- 1.26 This review covered a period which saw a number of high-profile stories on public procurement of personal protective equipment during the coronavirus pandemic, particularly via the ‘high-priority lane’ for contacts of ministers, MPs, Lords, and health officials. The Committee noted that the National Audit Office (NAO) found “specific examples where there is insufficient documentation on key decisions, or how risks such as perceived or actual conflicts of interest have been identified or managed”, and that “the lack of adequate documentation means we cannot give assurance that government has adequately mitigated the increased risks arising

7 Committee on Standards in Public Life, CSPL submission to the ICGS 18-month review (December 2020). Available online: <https://www.gov.uk/government/publications/cspl-submission-to-the-icgs-18-month-review>

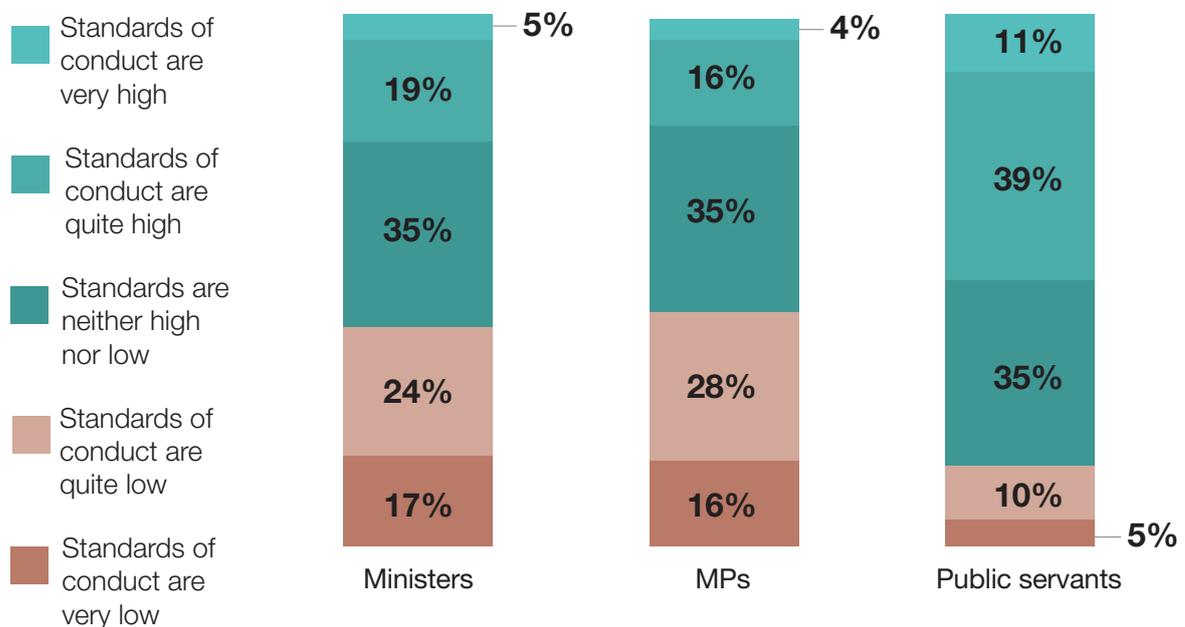
8 The House of Lords Appointments Commission, Vetting. Accessed online August 2021: <https://lordsappointments.independent.gov.uk/vetting>

from emergency procurement”.<sup>9</sup> The Committee’s contribution to the government’s consultation on transforming public procurement stated that the Committee is “increasingly concerned about the lack of transparency around buying decisions”, and that “notwithstanding what might have been considered necessary during the current crisis, it cannot become the new normal for standards not to be upheld or proper process not to be followed”.<sup>10</sup>

## Perceptions of ethical standards

- 1.27 Our polling results show public perceptions of elected politicians are often very negative. 41% rated the standards of conduct of ministers as quite low or very low, compared to 24% viewing standards as quite high or very high, a net score of -17. MPs ranked even lower, with 20% taking a positive view and 44% a negative view, a net score of -24.
- 1.28 In contrast, public perceptions of the ethical standards of those delivering public services, such as doctors, teachers, judges, and local government officials, is high. 50% of the public viewed standards here as very high or quite high, and only 15% as quite low or very low, a net score of +35.

### Public views of the standards of ministers, MPs and public servants



Deltapoll survey of 1590 GB adults, 23-26 July 2021

9 National Audit Office, Investigation into government procurement during the COVID-19 pandemic (November 2020). Accessed online August 2021: <https://www.nao.org.uk/wp-content/uploads/2020/11/Investigation-into-government-procurement-during-the-COVID-19-pandemic.pdf>

10 Committee on Standards in Public Life, CSPL Submission to Cabinet Office Consultation on Public Procurement (March 2021). Available online: <https://www.gov.uk/government/publications/cspl-submission-to-cabinet-office-consultation-on-public-procurement>

1.29 Overall, 43% of the public think standards of conduct today are worse than five to ten years ago, with 19% saying standards are higher and 37% saying standards are the same. Yet the public still believes, by a narrow margin, that ethical standards in the UK are higher than in other similar countries, such as France, Germany, or the USA.

**Public views on how standards have changed over time**



Deltapoll survey of 1590 GB adults, 23-26 July 2021

1.30 Biennial surveys held by the Committee from 2004 to 2012 found consistently lower scores as time progressed.<sup>11</sup> Research carried out for this report, however, found notable changes in the effect of gender on perceptions of standards compared to past surveys. A regression analysis found that although there is no gender effect on people’s assessment of how important standards are to them, women were more likely than men to think standards are low.<sup>12</sup> This finding chimes with recent academic literature on an increasing gender gap in political trust and engagement.<sup>13</sup> It also raises questions about how far the more intimidatory attitude to women in politics that the Committee described in its 2017 report is having serious effects in alienating many women from the political process.

1.31 Similarly, while in the past a higher level of educational attainment has been a predictor of more positive attitudes, higher educational attainment now appears to be

11 Committee on Standards in Public Life, CSPL surveys of public attitudes (2004-2013). Accessed online August 2021: <https://www.gov.uk/government/collections/cspl-surveys-of-public-attitudes>  
 12 Martha Radford Kirby, CSPL - Demographic and Political Breakdown of Attitudes (August 2021). Available online: <https://www.gov.uk/government/collections/standards-matter-2>  
 13 John Smith Centre, The Gender Gap: Women and Trust (January 2020). Accessed online August 2021: <https://www.johnsmithcentre.com/research/the-gender-gap-women-and-trust/> and King’s College London, The four sides in the UK’s ‘culture wars’ (June 2021). Accessed online September 2021: <https://www.kcl.ac.uk/policy-institute/assets/the-four-sides-in-the-uks-culture-wars.pdf>

correlated with a perception that standards are lower.<sup>14</sup> This too must be a source of concern for a healthy democratic culture.

- 1.32 A breakdown of perceptions of ethical standards by topic revealed that the public sees MPs and ministers most negatively on issues of integrity, honesty, selflessness and openness. 66% of the British public agreed that MPs and ministers are too easily influenced by the rich and powerful, and 45% disagreed that MPs and ministers act in the public interest, though such figures are perhaps to be expected in the immediate aftermath of the Greensill Capital lobbying scandal.<sup>15</sup>

<b>MPs and ministers:</b>	<b>% Total negative sentiment</b>	<b>Net negative sentiment</b>
are too easily influenced by the rich and powerful	66% agree	-55
own up when they make mistakes	58% disagree	-37
tell the truth	49% disagree	-27
act in the public interest, rather than private interests	45% disagree	-20
are open and transparent about decision-making	44% disagree	-21

- 1.33 Perceptions of low ethical standards do not trigger immediate political crises, but such figures can be a sign of a long-term deterioration of confidence in British politics. Low figures on politicians owning up to mistakes, telling the truth, and being open about decision-making indicate a troubling disconnect between the standards the public expects of its elected leaders and the standards they perceive.
- 1.34 Focus group research undertaken for this review explored the reasons behind perceptions of low ethical standards. Participants expressed discontent at what they saw as widespread cronyism in government, citing the bypassing of procurement processes, controversial public appointments and large donations to political parties as evidence of poor standards. Such sentiment was aggravated by a view that politicians should exhibit higher ethical standards than the average person, but that currently, their behaviour fell below that expected of the general public sector employee.
- 1.35 Discussions demonstrated that the principles of accountability, honesty and openness have a strong emotional resonance, and the perception that these principles are not lived up to underpinned frustration with the way politics is conducted at Westminster. Multiple participants took the view that elected office holders were not held to account for poor ethical standards, and that regulatory oversight was weak or non-existent. Worryingly, such discussions also feature a degree of resignation. Low standards, though undesirable, were seen by some to be an inevitable part of everyday politics.

14 Martha Radford Kirby, CSPL - Demographic and Political Breakdown of Attitudes (August 2021).

15 Deltapoll survey of 1590 GB adults, 23-26 July 2021

- 1.36 Stakeholder opinion on the upholding of high standards covered a wider range of views. Anti-corruption academics and NGOs expressed concern at declining standards and instances of behaviour which they deemed a breach of the Nolan Principles, while noting difficulties in providing an objective measurement of adherence to standards nationwide. Some contributors felt that a consensus around ethics in public life no longer exists as it once did.
- 1.37 Others hesitated to voice certainty on long-term trends. Some stakeholders saw pressure on ethical standards as the product of highly charged political events, and therefore a short-term by-product of the EU referendum rather than a step-change in approaches to ethical standards in politics. Contributors spoke of adherence to ethical standards going in cycles, sometimes culminating in scandal, which prompts regulatory reform and a renewed commitment to better conduct.
- 1.38 Those contributors who took a longer-term view often reflected on improvements in standards over the past 25 years, largely driven by greater transparency and the introduction of new accountability mechanisms since Lord Nolan's first report. A more positive perspective was also shared by those who emphasised that ethical standards remain high across the breadth of public service.

#### Focus group participants' views on ethical standards, August 2021<sup>16</sup>

"I think they've got a duty, whether they deliver on a policy or not, to uphold ethical standards."

"If you don't have good ethical standards from your politicians then democracy itself is damaged, it's a myth."

"The head of a business giving themselves certain privileges... is entirely different to somebody who's been voted in. They're in a role that they've earned and we've voted them in because we believe they have a social and ethical conscience."

"In the last few months things have come out about cronyism, I think that is an ethical issue more than anything. It highlights the way it's jobs for their mates and family, which is just highly unethical, the way somebody is making millions off this Covid pandemic."

"I would love to have transparency, I would love trust, and I would love ethics... but we're talking about politics here."

"I think it's wrong but we do accept it to a certain extent. We expect this is how the government runs things. That it won't be fully truthful, it won't be fully transparent, and there will be backhanders."

<sup>16</sup> Committee on Standards in Public Life, Transcripts of Focus Groups (August 2021). Available online: <https://www.gov.uk/government/collections/standards-matter-2>

### Stakeholders' views on ethical standards, October 2020 - July 2021

“UK standards in public life are in decline and at risk of declining further... there have been a number of instances at the highest levels of UK public life in recent years which appear to be unethical, or in direct contravention of the Nolan principles.”

**The Centre for the Study of Corruption (University of Sussex), written evidence, January 2021**

“[1994 was] the beginning of almost 20 years of tightening up of standards... it was consensus that we had to increase accountability... the question now though is are we at a different point, and I think we are... We never envisaged a period when the conventions that underpin public life in Britain were going to prove so fragile, and we never thought we would see people just saying that these conventions really don't matter.”

**Professor Tony Wright, online evidence session, March 2021**

“Quantifying the level of non-compliance with these standards is not a straightforward task... Generally, elite opinion considers corruption in the UK public sector less prevalent than other parts of the world... However, that does not mean conduct that falls below the standards set in the principles does not exist... There have been concerning developments in custom and practice in recent years that are undermining the integrity of our political system”

**Transparency International UK, written evidence, January 2021**

“I think the long-term trend is upwards and I think that's been helped by transparency and accountability but there are definitely cycles around that trend.”

**Lord O'Donnell, former Cabinet Secretary, online evidence session, March 2021**

“These standards continue to be broadly upheld, from our observations and conversations, most individuals in politics, the Civil Service and wider public life are committed to maintaining ethical standards. But at the same time, there are signs that some of the ethical norms that were reflected in, and reinforced by, the principles are losing their purchase.”

**The Institute for Government, written evidence, January 2021**

“I am not at all sure that we know what the long-term trends are... I lean to thinking things haven't changed that much but there are problems in relation to the political revolution we've gone through. I'm not sure a political crisis is the same as a standards crisis.”

**Lord Bew, Chair, House of Lords Appointments Commission, oral evidence, February 2021**

## The Seven Principles of Public Life

- 1.39 This review examined whether the current articulation of the Seven Principles lays out the right ethical expectations for all those in public life. Contributors voiced strong support for Nolan’s original seven, citing their longevity, timelessness and widespread integration into British public life.

“Every time I look at the Nolan Principles and read them out in various fora, I reflect on how they still feel like the right principles.”

**Simon Case, Cabinet Secretary, oral evidence, April 2021**

“The Seven Principles are iconic. They have played a magnificent role in public life.”

**Robert Behrens, Parliamentary and Health Services Ombudsman, oral evidence, April 2021**

“The Seven Principles of Public Life have stood the test of time in that they have been endorsed by successive governments and are generally seen as remaining relevant today.”

**Peter Riddell, former Commissioner for Public Appointments, written evidence, February 2021**

- 1.40 The relevance of the Seven Principles to the British public was confirmed in quantitative and qualitative testing from 2002 to 2012, which found that the principles reflected the public’s expectations of elected and appointed office holders.<sup>17</sup> Revisions to the principles’ descriptors were implemented by the Committee in 2012, to reflect the public’s intuitive understanding of the principles of honesty and integrity. Research undertaken in 2019 on the relevance of the principles to a younger cohort found strong support for the current seven amongst the sixth formers surveyed.<sup>18</sup>
- 1.41 Today, the Seven Principles have been adopted widely across public life in the UK. At the highest levels of government, the Seven Principles can be found in the Ministerial Code and in both the House of Commons and the House of Lords codes of conduct. For local government and non-departmental public bodies, the Seven Principles can be found in guidance and codes of conduct for local councils, national research bodies, regulators, NHS trusts, universities, school governors and advisory bodies. The Committee’s 2014 report *Ethics in Practice* noted that the Seven Principles “have been accepted by the public and those active in public life as appropriate determinants of behaviours, and now underpin much of the UK’s public sector ethical infrastructure.”<sup>19</sup>

17 The Committee on Standards in Public Life, CSPL surveys of public attitudes (2004-2013).

18 The Committee on Standards in Public Life, Summary of Standards and Principles Workshops (July 2020). Accessed online August 2021: <https://www.gov.uk/government/publications/summary-of-standards-and-principles-workshops>

19 The Committee on Standards in Public Life, *Ethics in Practice: Promoting Ethical standards in Public Life* (2014), 9.

- 1.42 Some contributors to this review spoke of the need for ‘respect’ to be reflected in the values and principles that guide behaviour in public life, following the #MeToo movement and the uncovering of unacceptable levels of bullying and harassment in Parliament. Discussions on conduct in public life increasingly focus on how those in positions of authority interact with each other and the public, with a greater emphasis on the need to treat others with dignity and civility. The joint statement on the conduct of political party members, produced by this Committee and The Jo Cox Foundation to combat intimidation in public life, commits signatories to “promote and defend the dignity of others, including political opponents, treating all people with courtesy and respect”.<sup>20</sup>
- 1.43 Codes of conduct in government, Parliament, and the devolved administrations have all included a greater emphasis on the idea of respect in recent years. The Ministerial Code was amended to include provisions prohibiting bullying and harassment in 2018, and Parliament adopted a new Behaviour Code, as part of the Independent Complaints and Grievance Scheme, which requires all those working on the parliamentary estate to “Respect and value everyone”.<sup>21</sup> The Senedd Standards of Conduct Committee recently proposed adding a principle of respect to the Senedd Code of Conduct; Scotland has had respect as an additional principle since 2000.
- 1.44 The Committee agrees, and thinks that the descriptor to the leadership principle should be amended to state the importance of treating individuals with respect. We think that treating others with respect is intrinsic to the idea of leadership. Though treating others with courtesy and respect has always been an implicit part of the leadership principle, it is important in today’s political climate to make the link explicit. It should also be clear that all those in public life must challenge poor behaviour, such as bullying and harassment, wherever it occurs, and so we have amended the final sentence of the descriptor to clarify this.
- 1.45 The Committee has decided it will amend the descriptor for leadership as follows:

### **Leadership**

Old descriptor:

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.

New descriptor:

Holders of public office should exhibit these principles in their own behaviour and treat others with respect. They should actively promote and robustly support the principles and challenge poor behaviour wherever it occurs.

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20 The Committee on Standards in Public Life, Intimidation in Public Life: joint statement on conduct of political party members (December 2020). Accessed online August 2021: <https://www.gov.uk/government/publications/intimidation-in-public-life-joint-statement-on-conduct-of-political-party-members>

21 UK Parliament, Behaviour Code. Accessed online August 2021: <https://www.parliament.uk/globalassets/documents/conduct-in-parliament/ukparliamentbehaviourcode.pdf>

## Chapter 2

# The Regulation of Ethical Standards

- 2.1 In line with the framework established by Lord Nolan, today ethical standards are regulated through the independent scrutiny of compliance with various codes of conduct.
- 2.2 The past 25 years have seen the introduction and development of a number of codes and scrutiny mechanisms. Some codes cover specific public offices, while others cover particular processes. The tables below outline the codes and scrutiny mechanisms in place in central government and Parliament.
- 2.3 It is important to note the progress made since Lord Nolan's first report. There is now a broad and wide-ranging framework covering standards in public life. Few roles and processes that are vulnerable to conflicts of interest remain unregulated. Many codes and regulators which were viewed with scepticism when first introduced are now accepted as an everyday part of our governing processes. For the most severe cases, MPs can be recalled by their constituents, rendering the seat vacant and triggering a by-election.<sup>22</sup>
- 2.4 In government, this regulatory system mirrors the particular circumstances of political office. Elected representatives cannot be regulated like other professions, where a license to practice is granted on the condition of adherence to a code of conduct, and those who break ethics rules can be struck off. Ethics regulation in government must be balanced with the democratic mandate granted to elected representatives, and so any system of investigation and sanction must be balanced and proportionate. The Prime Minister, ultimately, is accountable to Parliament for ethical standards in government.

**“The UK ethics system takes a principles-based approach to upholding public integrity. This approach, and the range of checks and balances which the ethics system incorporates, enables the UK to uphold and ensure government in the public interest for public good in the way most befitting our constitution and system of government.”**

**Government submission to this review, written evidence, April 2021**

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22 The Electoral Commission, Introduction to the Recall of MPs Act 2015. Accessed online August 2021: <https://www.electoralcommission.org.uk/sites/default/files/2021-05/Recall%20Act%20-%20initial%20factsheet%20-%20amended%20April%202021.pdf>

## Codes of conduct and scrutiny covering roles in central government and Parliament

Office Holder	Code of Conduct	Scrutiny
Ministers	Ministerial Code	The Prime Minister Independent Adviser on Ministers' Interests
MPs	House of Commons Code of Conduct Parliamentary Behaviour Code	Parliamentary Commissioner for Standards Independent Expert Panel
Peers	House of Lords Code of Conduct Parliamentary Behaviour Code	Lords Commissioners for Standards
Civil servants	Civil Service Code	Government departments Civil Service Commission (on appeal)
Special advisers	Code of Conduct for Special Advisers	The Prime Minister and the hiring minister Government departments

## Codes of conduct and scrutiny covering processes in central government and Parliament

Process	Affected office holder	Governance Code (or equivalent)	Scrutiny
Parliamentary salaries, allowances and expenses	MPs	The Scheme of MPs' Staffing and Business Costs	Independent Parliamentary Standards Authority (IPSA)
Public appointments	Ministers	The Governance Code for Public Appointments	Commissioner for Public Appointments
Appointments to the House of Lords	The Prime Minister	Vetting for propriety <sup>23</sup>	House of Lords Appointments Commission (HOLAC)

23 The House of Lords Appointments Commission defines propriety as i) the individual should be in good standing in the community in general and with the public regulatory authorities in particular; and ii) the past conduct of the nominee would not reasonably be regarded as bringing the House of Lords into disrepute. See The House of Lords Appointments Commission, Vetting. Available online: <https://lordsappointments.independent.gov.uk/vetting>

Process	Affected office holder	Governance Code (or equivalent)	Scrutiny
Business appointments	Ministers, special advisers, and civil servants	The Business Appointment Rules	Government departments The Advisory Committee on Business Appointments (ACOBA)
Recruitment to the Civil Service	Civil servants	Civil Service Recruitment Principles	Civil Service Commission
Lobbying	Consultant Lobbyists	Transparency of Lobbying, Non-Party Campaigning and Trade Union Administration Act 2014	The Registrar of Consultant Lobbyists
Outsourced public service delivery	Private providers of public services	Supplier Code of Conduct	Central Commercial Teams and Government Chief Commercial Officer, Cabinet Office
Elections and political donations	Political parties and candidates	Electoral law	The Electoral Commission

- 2.5 During our assessment of the effectiveness of standards regulation in government, contributors to this review emphasised four characteristics of our regulatory system in particular. First, it rests to a significant degree on the basis of conventions and norms, rather than formal rules. Second, regulators often have limited or constrained independence from those they are regulating. Third, few regulators have a basis in primary legislation, and so exist only as creations of the executive. Fourth, the regulatory system is complex, and often confusing to the public. We discuss each issue below.
- 2.6 Contributors also emphasised the importance of day-to-day practice around ethics rules in government, regardless of regulatory reform. This is of particular importance as government departments have responsibility for implementing codes of conduct for ministers, civil servants, and special advisers in the first instance. The overwhelming majority of issues or cases never reach the regulators covered in this report, who largely deal only with either the most serious cases, cases for the most senior office-holders, or cases brought on appeal.
- 2.7 The government's performance here was often cited as an area requiring improvement. We were told that too often there are inconsistencies in the application of codes, that the quality of advice varies, and that insufficient priority is given to ethical issues. The Civil Service still operates on a system too close to self-regulation, where observing codes of conduct is treated as a matter of advice and best practice, rather than one of compliance and regulation.

“The Civil Service has tended, in governance and compliance developments, to lag behind other institutions that are subject to greater external pressures, and has remained self-regulatory where other organisations have moved towards a more structured regulatory framework. The ‘patchwork’ approach to the ethics system... needs to be streamlined and stronger, with more consistent enforcement applied.”

**Nigel Boardman, Report into the Development and Use of Supply Chain Finance: Recommendations and Suggestions, August 2021<sup>24</sup>**

- 2.8 The government should take a more thorough and professional approach to ethics rules. A more rigorous compliance function across government, as recommended in the Boardman report, would represent a significant improvement in departmental processes for upholding codes of conduct. The government’s processes for overseeing compliance with ethics rules now lags behind best practice in the private sector, where compliance is often taken more seriously, better resourced, and subject to greater scrutiny by senior leadership.
- 2.9 We agree with the Boardman report that today there are “increased expectations from the public regarding how [ethics] issues ought to be managed”, and that “in order to retain the trust of the public the government machine ought to be applying a similarly structured and rigorous approach” to that found in the best large private sector organisations.<sup>25</sup> An advisory and light-touch approach to the enforcement of codes of conduct in government may no longer be sustainable; a more formal compliance regime across government would provide greater protection against ethical misconduct.

### **Recommendation 1**

The Civil Service should review its approach to enforcing ethical standards across government, with a view to creating a more rigorous and consistent compliance system, in line with the recommendation of the Boardman report.

## The role of conventions

- 2.10 Despite the breadth of the regulatory regime in government, contributors to this review emphasised the extent to which the upholding of codes of conduct for ministers, civil servants and special advisers depends on adherence to conventions.

24 Nigel Boardman, A report by Nigel Boardman into the Development and Use of Supply Chain Finance (and associated schemes) related to Greensill Capital in Government: Recommendations and Suggestions (July 2021), 4. Accessed online September 2021: <https://www.gov.uk/government/publications/findings-of-a-review-into-the-development-and-use-of-supply-chain-finance-in-government>

25 Nigel Boardman, A report by Nigel Boardman into the Development and Use of Supply Chain Finance (and associated schemes) related to Greensill Capital in Government: Recommendations and Suggestions (July 2021), 8-9.

- 2.11 These conventions have arisen in place of formal processes and procedures around each code. For example, there is no set evidentiary threshold that determines whether or not an allegation of a breach of the Ministerial Code triggers an investigation by the Independent Adviser. Rather, the convention is that a serious, credible allegation of a breach would lead the Prime Minister to ask the Independent Adviser to launch an investigation. Yet, as has occurred on multiple occasions since the introduction of the Adviser in 2006, Prime Ministers have been reluctant to trigger investigations which have the potential to cause political damage, even where the reported facts appear to merit investigation.
- 2.12 Effective enforcement of codes is often dependent on established conventions and norms on acceptable conduct. The Business Appointment Rules apply to all ministers, special advisers, and civil servants, and in the most senior cases the Advisory Committee on Business Appointments (ACOBA) provides advice on potential employment, including restrictions. Yet ACOBA has no formal enforcement mechanisms and no sanctions, and recent high-profile cases have shown instances where ACOBA's advice has either not been sought or ignored. The business appointments scheme is dependent on a shared assumption that ACOBA's advice should be followed, with negative publicity the only deterrent to noncompliance.
- 2.13 The preeminent role of conventions means that attitudes towards ethics rules within government departments often determine compliance more than the powers or remits of the relevant regulator. For example, the Ministerial Code sets out ministers' transparency obligations to publish the details of gifts, hospitality, and meetings. But there is little consistency between departments and no Independent Adviser has launched an investigation into poor quality transparency releases. Timely, high quality transparency releases should be a departmental priority, but if they are not there is effectively no regulatory scrutiny to ensure that the transparency obligations set out in the Ministerial Code are upheld.
- 2.14 Advocates of the role of conventions and norms in upholding ethical standards emphasise the benefits of flexibility and a proportionate approach. A formal investigation of every minor or technical breach of a code of conduct would be disproportionate. A conventions-based system allows political and Civil Service leadership to examine each case on its merits, and use a range of informal remedial tools, such as training and mentoring, to ensure ethical standards are upheld.

**“I’m a believer in conventions, because they are a more agile and flexible way of reflecting the underlying principles that are most important.”**

**Lord Sedwill, former Cabinet Secretary, online evidence session, March 2021**

- 2.15 Conventions also ensure that personal responsibility remains a dominant feature of ethics decision-making. A strict, rules-based approach that leaves little room for interpretation can reduce adherence to ethical standards to a procedural, tick-box

exercise, rather than a process which requires individuals to assess the meaning and value in upholding the Nolan Principles.

- 2.16 However, a regulatory system so dependent on conventions and norms provides little protection against individuals who intentionally undermine or ignore codes of conduct and the principles they are designed to uphold. Conventions, once undermined, are often difficult to restore, and once the vulnerability of the regulatory system is exposed it is harder to convince rulebreakers that there are long-lasting consequences for noncompliance.

**“As many standards, particularly in political life, are enforced by informal structures and norms, the reduced power of these norms means that the standards themselves are under threat. Relying on goodwill and acceptance of unwritten rules only works when people in public life are willing to accept implicit limits on what they can do. If informal norms are not recognised, there is little that can be done to respond.”**

**The Institute for Government, written evidence, January 2021**

- 2.17 A dependence on conventions – and a series of controversial decisions when past practice has not been followed – has also resulted in an increasing tendency for standards matters to end up in the courts. Third parties and interest groups who saw particular conventions and processes as a guarantee of high ethical standards are pursuing judicial review as a means of last resort when those conventions are not followed. These cases reflect the fragility of a regulatory scheme that is heavily dependent on conventions, especially in periods of crisis and acute political conflict.
- 2.18 While we acknowledge the benefits that conventions can provide, it is clear that our current system of standards regulation suffers from an overdependence on convention. When ethical standards are under pressure, the processes and procedures designed to uphold high standards are too easily ignored or disregarded. The Committee’s recommendations are designed to codify the most important conventions and norms around standards in government into more formal processes and rules.

## The independence of standards regulators

- 2.19 Independence is critical for effective standards regulation. The regulation of ethical standards is often a contentious matter, and a fair and impartial investigation requires a regulator to have no vested interest in any particular outcome. Those responsible for investigating misconduct must be free from institutional and political pressure to produce outcomes favourable to those they scrutinise.
- 2.20 Independence is the product of multiple institutional features, including:
1. **Legal basis:** Are the regulator’s powers and remit defined in primary legislation? Or can the regulator be weakened or abolished with minimal process?

2. **Ownership of the relevant code of conduct:** Who has the ability to amend the relevant code of conduct? Is the regulator's agreement needed to amend the code? Does the regulator own the code themselves? Are elements of the code set by, or protected by, Parliament?
3. **Appointments process:** How is the lead regulator appointed? Does the appointments process include a significant independent element, to ensure the chosen candidate views those they are due to regulate without fear or favour?
4. **Term of office:** Is the regulator appointed for a non-renewable term, to ensure their actions in office are not determined by the potential for reappointment?
5. **Ability to initiate investigations:** Can the regulator launch their own investigations under their own initiative? Do they have access to all the necessary evidence?
6. **Ability to determine breaches:** Can the regulator make a definitive finding of a breach of a code?
7. **Ability to publish findings:** Can the regulator publish their findings under their own initiative?
8. **Ability to issue sanctions or remedial actions:** Does the regulator have the ability to issue sanctions or remedial action?

2.21 Independence also requires sufficient levels of resources. Regulators responsible for overseeing government are dependent on funds from it, and enforced budgetary constraints may limit the ability of regulators to hold government to account effectively.

2.22 Full independence against all of these criteria may not always be possible or desirable. For example, multiple contributors emphasised that the benefits of government ownership of codes will, in some circumstances, outweigh the consequent lack of independence. The Ministerial Code is one such code that draws its power from being owned and issued by the Prime Minister. Similarly, the Business Appointment Rules outline the terms of an employer/employee relationship. In both cases, full independence in the form of parliamentary ownership of each code would not be appropriate.

2.23 The table below shows the independence of standards regulators in Parliament and central government against these criteria. Green denotes a strong degree of independence, yellow a partial or limited degree of independence (which may be appropriate in certain circumstances), while red marks little or no independence.

2.24 Standards regulators fall into three groups. Standards regulators in Parliament now have a strong degree of independence, following significant improvements in recent years. Non-statutory regulators in government - namely the Independent Adviser, Commissioner for Public Appointments, ACOBA, and House of Lords Appointments Commission - have a limited or low degree of independence. The two

statutory regulators in government, the Civil Service Commission and the Registrar of Consultant Lobbyists, have a strong degree of independence.

- 2.25 It is clear to the Committee that the degree of independence in the regulation of the Ministerial Code, public appointments, business appointments, and appointments to the House of Lords falls below what is necessary to ensure effective regulation and maintain public credibility. Independence matters not only as a safeguard against political interference; it is also a matter of trust. Self-regulation, or matters resolved by regulators who are not perceived as independent, offers little assurance to the public that ethical standards are being upheld. The public rightly casts a sceptical eye over regulators perceived to be too close to those they are regulating. In its 2013 report, *Standards Matter*, the Committee noted that “history shows self-regulation often to be ineffective without some form of external involvement. It is essential that someone is able to hold up a mirror to those in public office to remind them of the standards to which they should aspire.”<sup>26</sup>

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26 The Committee on Standards in Public Life, *Standards Matter: A review of best practice in promoting good behaviour in public life* (2013), 7. Accessed online August 2021: <https://www.gov.uk/government/publications/standards-matter-a-review-of-best-practice-in-promoting-good-behavior-in-public-life>

Table comparing the independence of ethics regulators in Parliament and central government

Regulator	Legal basis	Ownership of the code	Appointments process for lead regulator	Term of office	Ability to initiate investigations/casework	Ability to determine breaches of the relevant code	Ability to publish findings	Ability to issue sanctions/remedial action
Parliamentary Commissioner for Standards	Resolution of the House ■	House of Commons Standards Committee ▲	Appointed by resolution of the House of Commons, on the recommendation of the House of Commons Commission ■	Single five-year non-renewable term ■	Yes ■	Yes ■	Yes ■	Can agree remedial action or recommend sanction to the Standards Committee, some sanctions proposed by Independent Expert Panel ■
Independent Parliamentary Standards Authority (IPSA)	Primary legislation ■	Scheme set by IPSA ■	Appointed by Speaker's Committee of the House of Commons ■	Five-year fixed term, renewable once for a further three years ▲	Yes ■	Yes ■	Yes ■	Yes ■
Lords Commissioner for Standards	Resolution of the House ■	House of Lords Conduct Committee ▲	Appointed by resolution of the House of Lords, proposed by the Chair of the Conduct Committee ■	Single five-year non-renewable term ■	Yes ■	Yes ■	Yes ■	Can agree remedial action or recommend sanctions to the Conduct Committee ▲
Independent Adviser on Ministers' Interests	None ●	Owned and amended by Cabinet Office ●	Direct, unregulated appointment by the Prime Minister ●	Single five-year non-renewable term ■	No ●	No ●	No ●	Can privately advise the Prime Minister on the appropriate sanction ▲
Commissioner for Public Appointments	Order in Council ▲	Owned by Cabinet Office, amended by Order in Council ▲	Direct, unregulated appointment by the Minister for the Cabinet Office*, with pre-appointment scrutiny by PACAC ▲	Single five-year non-renewable term ■	Yes ■	Yes ■	Yes ■	Can advise government departments and NDPBs on remedial action ▲

Regulator	Legal basis	Ownership of the code	Appointments process for lead regulator	Term of office	Ability to initiate investigations/casework	Ability to determine breaches of the relevant code	Ability to publish findings	Ability to issue sanctions/remedial action
Advisory Committee on Business Appointments	None ●	Owned and amended by Cabinet Office ●	Regulated as a significant public appointment, with pre-appointment scrutiny by PACAC ■	Single five-year non-renewable term ■	Yes ■	Yes ■	Yes ■	No formal sanctions to administer (can refer some breaches to government under the Ministerial Code) ●
House of Lords Appointments Commission	None ●	Determines its own vetting criteria ■	Regulated as a significant public appointment, with pre-appointment scrutiny by PACAC ■	Single five-year non-renewable term ■	Yes ■	Yes ■	Yes ■	Can recommend to the Prime Minister that a candidate not be appointed ▲
Civil Service Commission	Primary legislation ■	Code's principles are defined in primary legislation** ■	Appointment process established in primary legislation*, with pre-appointment scrutiny by PACAC ■	Single five-year non-renewable term ■	Yes ■	Yes ■	Yes ■	May "make recommendations about how the matter should be resolved"*** ▲
Registrar of Consultant Lobbyists	Primary legislation ■	Lobbying transparency rules set in primary legislation*** ■	Regulated as a significant public appointment, with pre-appointment scrutiny by PACAC ■	Four-year term, renewable for two further three year terms ▲	Yes ■	Yes ■	Yes ■	Yes ■

**Key:** green/square - strong degree of independence; yellow/triangle - partial or limited independence; red/circle - little or no independence

\* Though the Commissioner's role is not a public appointment, the government states the process for appointing the Commissioner is "run in line with the principles of the Governance Code"<sup>27</sup>

\*\* The Constitutional Reform and Governance Act 2010

\*\*\* The Transparency of Lobbying, Non-party Campaigning and Trade Union Administration Act 2014

27 Cabinet Office, Commissioner for Public Appointments: Candidate Information Pack (2020), 5. Accessed online August 2021: <https://publicappointments.cabinetoffice.gov.uk/wp-content/uploads/2020/11/Commissioner-for-Public-Appointments-Candidate-Pack.pdf>

## A statutory basis for ethics regulation in government

- 2.26 Perhaps the most important element of a regulator's independence is its statutory basis. Those regulators which exist solely as the creation of the executive are potentially liable to be abolished or compromised with ease. While abolition of an ethics body would be a controversial move for any administration, the fact that a regulator's powers can be removed by those they are regulating tempers their independence and may diminish the appetite of regulators to speak out.

**“You should never need to look back at your statutory base, but when you are under pressure or in a more controversial situation that is what you do.**

**If I looked then at the Civil Service legislation, that gave me absolute clarity of my powers, and I knew that those powers and the Commission's powers could not be changed, except by going back to Parliament.**

**In contrast, my powers as Public Appointments Commissioner were in an Order in Council which I knew could be changed by a stroke of the pen and a nod of the Privy Council. And that did mean I suddenly felt very vulnerable to an argument with government about the principles because I knew it was perfectly within the government's power, with very little public debate and accountability to Parliament, to change the rules.”**

**Sir David Normington, former First Civil Service Commissioner and Commissioner for Public Appointments, online evidence session, March 2021**

- 2.27 The basis on which a regulator derives its powers matters all the more due to the convention-heavy nature of ethical standards in government. A breach of convention will often not be clearly against the letter of a code of conduct but it may well be against its spirit. Regulators with a firmer basis in statute will be more empowered to speak out against the undermining of norms and conventions that break the spirit of their codes, if not the letter.
- 2.28 The Committee believes that the regulatory system would benefit from codes of conduct having some basis in statute too. Though codes themselves are not intended to be legally binding, a legal obligation on the government to produce each code would better reflect the constitutional importance such codes have in regulating ethical standards. While defining the specific content of each code in law would be unnecessary (and inhibit the regular process of amendment codes often require), enshrining the guiding principles and purpose of each code in legislation would ensure that codes stay true to their original purpose.
- 2.29 The UK already has a successful model of statutory ethics regulation through the Constitutional Reform and Governance Act 2010 (CRAG). The Act established the Civil Service Commission on a permanent basis, details provisions for the appointment and dismissal of commissioners, and places in statute the principles on

which the Civil Service Code must be based. The Act was cited by many contributors to this review as a model of proportionate and balanced statutory ethics regulation, granting the Commission the right degree of independence to act effectively while not being overly prescriptive on the content of the Civil Service Code or how civil service recruitment should be carried out in practice.

**“The legal underpinning [to the Civil Service Commission] helps enormously.”**

**Ian Watmore, former First Civil Service Commissioner, oral evidence, February 2021**

- 2.30 New primary legislation would also allow the powers and remits of the relevant standards bodies to be strengthened and standardised, creating a clearer, simpler and more independent model of ethics regulation across government.

**“We should consider a clearer and more explicit definition of the role of codes laying out standards in public life and setting out the powers of regulators who enforce them. Ideally, this should be via statute. The present position means that the powers of ethical regulators are less than they often appear and are assumed to be.”**

**Peter Riddell, former Commissioner for Public Appointments, written evidence, February 2021**

- 2.31 The Committee recognises fears that a statutory underpinning of standards regulation could lead to a greater incidence of judicial review. However, we heard that recent cases of judicial review on decisions relating to ethical standards have occurred in areas where standards processes remain uncodified, where interest groups have taken the government to court to reverse breaches of convention. Legislation that properly defines the relevant responsibilities of the government and each regulator may, therefore, help prevent such cases. A lack of legislation, rather than new legislation, may be the greater catalyst of judicial involvement in standards processes.
- 2.32 The Committee believes the time is right for new legislation on standards regulation in government to place three regulators on a statutory basis: the Independent Adviser on Ministers’ Interests, the Commissioner for Public Appointments, and the Advisory Committee on Business Appointments (ACOBA).
- 2.33 Accordingly, the Act should oblige the government to produce and publish the Ministerial Code, the Governance Code for Public Appointments, and the Business Appointment Rules, and to consult with the relevant regulator in any process of amendment to each code (a legal guarantee of consultation ensuring that amendments to each code are proportionate and enforceable). The reasons for continued government ownership of each code are discussed in subsequent chapters.

- 2.34 This new law should therefore establish the following aspects of the regulatory framework for each body:
1. **Create an obligation on the government to produce each code of conduct.** The Ministerial Code and the Business Appointment Rules currently only exist by executive action, and the Governance Code for Public Appointments by Order in Council.
  2. **Outline each code's guiding principles and/or purpose.** The law should stipulate that the Ministerial Code be based on the Seven Principles of Public Life, the Governance Code on the Principles of Public Appointments, and the Business Appointment Rules on the need to manage potential conflicts of interest for former office holders.
  3. **Define the process for amending each code.** While it should be the government's obligation to produce each code, any future amendment of the code should require consultation with the relevant regulator.
  4. **Define the appointments process for each regulator.** The Committee is recommending a strengthened element of independence in the appointments process for standards regulators, as outlined in chapter 5 of this report.
  5. **Define the length of term for each regulator.** Each appointee should serve one non-renewable five-year term (as is currently the case).
  6. **Outline the role and responsibilities of each regulator to enforce each code.** These responsibilities will vary across each regulator and are discussed in further detail in chapters 3-6 of this report.
- 2.35 In a time where many share concerns about ethical standards in government, and public confidence in standards in government remains low, we believe the passing of such legislation would improve the regulation of ethical standards and signal the government's commitment to the highest ethical standards in public life.

### **Recommendation 2**

The government should pass primary legislation to place the Independent Adviser on Ministers' Interests, the Public Appointments Commissioner, and the Advisory Committee on Business Appointments on a statutory basis.

- 2.36 The Committee noted that many contributors called for the House of Lords Appointments Commission to be placed on a statutory footing. The perception that peerages are offered as a reward for donations to political parties undermines the credibility of the House of Lords, and so the Committee recognises arguments that a statutory commission may be required.
- 2.37 The Committee believes a statutory HOLAC should be considered as part of a broader House of Lords reform agenda, as outlined in the 2017 report of the Lord

Speaker's Committee on Size of the House (the Burns Report). A statutory basis for HOLAC cannot be considered in isolation and such wider matters are beyond the remit of this Committee.

- 2.38 As the Committee took evidence on the independence of standards regulators for this review, many made the case that this Committee should also have the same degree of statutory independence as regulators themselves. We recognise the appeal of this argument, while noting that the Committee's function as a standing committee is distinct to that of a regulatory body.

## Complexity and consolidation

- 2.39 The standards landscape today is complex and confusing to most. The patchwork of codes and regulators reflects the historical development of ethics regulation in the UK, where scandal may prompt institutional innovation in one particular area, while others are reformed only incrementally over decades.
- 2.40 As a result, the powers, roles, and remits of each scrutiny body vary. Some have the ability to initiate investigations and sanction breaches against the relevant code. Others are solely advisory. Some have a statutory basis in primary legislation, while others are independent bodies sponsored by the Cabinet Office.
- 2.41 Overlapping remits and confusing complaints processes create additional barriers to understanding. Individual office holders are subject to multiple separate regulatory schemes at once, and complaints are often passed from regulator to regulator, and the authority of each to make a definitive ruling is unclear. For example, a complaint about a minister's potential conflict of interest may, depending on the circumstances, be investigated by the Independent Adviser, the Parliamentary Commissioner for Standards, the Lords Commissioner for Standards, or the Electoral Commission – or none.
- 2.42 To the public, this regulatory patchwork can be bewildering, and it contributes to a perception that there are no clear lines of accountability for breaches of ethical standards. Complexity also undermines compliance. Ministers, MPs and civil servants who wish to comply with the rules will often find it difficult to do so. The credibility of the regulatory scheme suffers, and such incidents cause frustration amongst the affected parties.

**“The landscape is muddled and it cannot be clear to most outsiders who is responsible for what and who is accountable to whom.”**

**Lord Pickles, Chair, ACOBA, written evidence, March 2021**

- 2.43 The introduction of the Independent Complaints and Grievance Scheme (ICGS) in Parliament has created a new layer of codes, processes, and regulation for MPs and peers. The greater degree of independence introduced by the ICGS is welcome,

and the scheme represents a significant improvement on prior processes. However, as the Committee noted in its contribution to Alison Stanley's 18-month review, the scheme consists of "a complex web of overlapping bureaucratic structures which have not yet settled into their final form, and ongoing work is needed to refine the finer points of its operation".<sup>28</sup> Any future reforms should focus on simplifying arrangements in both Houses, where possible.

- 2.44 In part to resolve the issue of complexity in government standards regulation, some contributors to this review voiced support for the establishment of a single ethics commission to regulate ethical standards in government. Though exact details on how such a commission would operate are unclear, it would likely consist of the amalgamation of the six ethics bodies currently charged with overseeing standards in central government: the Independent Adviser on Ministers' Interests, ACOBA, the Commissioner for Public Appointments, the Civil Service Commission, the House of Lords Appointments Commission, and the Registrar of Consultant Lobbyists.

**"Our preference would be for the Advisory Committee on Business Appointments (ACOBA) and the Independent Adviser on Ministers' Interests – and potentially other institutions... to be replaced with an independent Ethics Commission; and for this Commission to oversee and enforce enhanced, statutory codes of conduct for ministers and special advisers, and post-employment rules for senior civil servants."**

**Spotlight on Corruption, written evidence, January 2021**

- 2.45 Advocates for a single commission told us that it would provide a clear authority on ethical standards, instead of the current array of advisers, commissioners, and committees currently in place. Such an arrangement should make compliance with ethics rules easier, ensuring ministers, special advisers and civil servants need only navigate one regulatory authority rather than multiple.

**"In line with international trends among advanced economies and mature democracies, the UK should consider alternative institutional structures such as an Integrity Commission, Anti-Corruption Agency or Independent Commissioner, to incorporate and where necessary replace the patchwork of arrangements."**

**The Centre for the Study of Corruption (University of Sussex), written evidence, January 2021**

- 2.46 The establishment of a single commission could, however, come with considerable disadvantages. A single commission would amass significant unelected power over the workings of government. If created as a merger of existing standards regulators,

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<sup>28</sup> Committee on Standards in Public Life, CSPL submission to the ICGS 18-month review (December 2020). Available online: <https://www.gov.uk/government/publications/cspl-submission-to-the-icgs-18-month-review>

such a body would have the ability to oversee the work of ministers, civil servants, and special advisers, as well as the processes of public appointments, business appointments, appointments to the House of Lords, and lobbying. The concentration of such power to a body without an elected mandate, and without the checks, balances and accountabilities of elected politicians, seems disproportionate and does not sit well in our democratic system.

2.47 A single consolidated commission would not necessarily solve the issue of complexity either. Each code of conduct exists for a specific purpose, serving a role or process where potential conflicts of interest pose a significant risk. These codes are specific to their context and cannot be easily merged or amalgamated, so a single commission would still have to operate multiple codes, potentially creating as much confusion as it may solve.

2.48 The dispersal of regulatory powers across different bodies carries advantages too. Currently, should one regulator take either an overly sympathetic or hostile approach, others remain unaffected. One regulator may fall foul to scandal without others suffering by association. The consolidation of standards regulators would mean all rise and fall together, increasing the vulnerability of the regulatory scheme as a whole. There is less risk in a pluralist approach to ethics regulation, and a consolidated commission is more likely to be targeted by politically motivated criticism.

**“The best sports games are the ones where you don’t notice the referee. If standards bodies are the referees, the best situation is where people don’t really know we exist, as [effective regulation] just happens.”**

**Ian Watmore, former First Civil Service Commissioner, oral evidence, February 2021**

2.49 Consequently, the Committee does not believe a single ethics commission provides the right answer to the current challenges facing standards regulation in government. Instead, regulators should be clear about their remits, and seek wherever possible to explain and educate all concerned, including the public, on the boundaries of their responsibilities. The issue of complexity is, to some degree, unavoidable, reflecting the complexity of public administration.

# Chapter 3

## The Ministerial Code and the Independent Adviser on Ministers' Interests

- 3.1 The Ministerial Code, issued by the Prime Minister, sets out the ethical standards and governance processes that ministers must follow. In order to be effective, the code must make clear to ministers the expectations of them, the rules they must follow, and the consequences for a breach of the code.
- 3.2 The Committee's interest in the Ministerial Code is longstanding. Lord Nolan's first report recommended changes to what was then called Questions of Procedure for Ministers (QPM), to draw out more clearly its provisions on ethics and propriety.<sup>29</sup> As QPM became the Ministerial Code, the Committee's 6th, 9th, and 14th reports called for further reforms and clarification, including recommending the creation of the post of the Independent Adviser in 2003.<sup>30</sup>
- 3.3 Since the publication of QPM in 1992, successive Prime Ministers and Committees have sought to transform what was then general guidance on cabinet governance into a modern code of conduct, based on the Seven Principles of Public Life and subject to independent advice and scrutiny. The code has subsequently taken on a higher profile in public discourse, setting expectations for ministerial standards and acting as a benchmark against which the conduct of ministers is judged.
- 3.4 A number of contributors questioned the effectiveness of the code and the independence of the Adviser's role during the course of this review. A number of developments have contributed to this perception:

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29 The Committee on Standards in Public Life, *Standards in Public Life: First Report of the Committee on Standards in Public Life* (1995), 49. Accessed online May 2021: [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/336919/1stInquiryReport.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/336919/1stInquiryReport.pdf)

30 The Committee on Standards in Public Life, *Reinforcing Standards: Sixth Report of the Committee on Standards in Public Life* (2000), 54. Accessed online May 2021: <https://webarchive.nationalarchives.gov.uk/20131205110306/http://www.archive.official-documents.co.uk/document/cm45/4557/4557-00.htm>  
 The Committee on Standards in Public Life, *Defining the Boundaries with the Executive: Ministers, Special Advisers and the permanent Civil Service* (2003), 27. Accessed online May 2021: [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/336889/9th\\_report.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/336889/9th_report.pdf)  
 The Committee on Standards in Public Life, *Standards Matter: A review of best practice in promoting good behaviour in public life* (2013), 57. Accessed online May 2021: [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/348304/Standards\\_Matter.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/348304/Standards_Matter.pdf)

- The overruling and subsequent resignation of the former Independent Adviser, Sir Alex Allan.
- Significant criticism that credible and high-profile allegations of breaches of the Ministerial Code have not been investigated, often with little public explanation.
- The inability of the Independent Adviser to initiate their own investigations continues to draw public criticism.
- Recent controversies over lobbying have caused public confusion over the provisions of the code in relation to ministers' private communications.
- Significant advances in independence in standards regulation in Parliament have highlighted the Independent Adviser's comparative lack of independence.

3.5 The Committee made a number of recommendations to the Prime Minister in April 2021, in advance of the appointment of a new Independent Adviser. The Committee was pleased to see that Lord Geidt was appointed for a single non-renewable five-year term and that he will be supported by civil servants who report directly to him.

3.6 The Committee believes that further reform is still necessary. Four elements of the code and its operation require updating and clarifying: the content of the code; the ownership and constitutional status of the code; sanctions for breaches of the code; and the role and remit of the Independent Adviser. This chapter includes and expands upon the Committee's findings on the code published in June 2021.

3.7 The evolution of the Ministerial Code has been a slow-moving process, and past reports of this Committee, as well as the Public Administration and Constitutional Affairs Committee, have assessed many of these issues before. The difference today is that the code is under heightened public scrutiny and there is a clear need to rebuild trust in the regulation of ministerial standards.

## The content of the Ministerial Code

3.8 Since 1997, the content of the Ministerial Code has evolved gradually, as each new Prime Minister has amended the content and functioning of the code in response to the political challenges of the day. Recent changes have added provisions on bullying and harassment and meeting foreign officials abroad.

3.9 Much of the code, however, still reflects its origins as Questions of Procedure for Ministers. QPM covered both processes for everyday cabinet governance as well as provisions on ethics and propriety. Today's Ministerial Code does the same, including clauses on the security of government business, allocation of ministerial functions, and maternity leave, alongside rules on conflicts of interest and transparency.

“The document currently contains 129 subsections. Of those, 35 deal with standards of behaviour, such as a requirement for ministers to be professional when dealing with civil servants, and 94 set out processes of government, such as when policy discussions should be taken to a cabinet committee for a decision.”

**The Institute for Government, Updating the Ministerial Code, July 2021<sup>31</sup>**

- 3.10 This combination of procedure and propriety confuses more than it enlightens. It blends important political and constitutional principles with equally important, but distinct, ethics principles. A breach of collective ministerial responsibility, or a failure to consult with the Law Officer, are not necessarily the same as a breach of the Seven Principles of Public Life. Though the Independent Adviser has not, historically, launched investigations into breaches of process or constitutional principle, neither the code nor the Adviser’s terms of reference make this clear.
- 3.11 This also undermines compliance. The hybrid nature of the code confuses important ethics obligations with everyday cabinet processes, making it harder to understand and follow the code. To those outside government, a relatively minor breach of process can be misunderstood as a serious breach of ethical standards.
- 3.12 The code’s provisions on ethics and standards should be separated from those detailing the processes of cabinet governance. The Ministerial Code should be a code of conduct for ministers akin to MPs’ and peers’ codes of conduct, based on the Seven Principles of Public Life.

“It is a hybrid document at the moment, and certainly the guidance on conducting cabinet government is important, it should be somewhere in a document that’s published. Personally, I think quite a lot of it belongs in what was the Cabinet Manual.”

**Sir Alex Allan, former Independent Adviser on Ministers’ Interests, online evidence session, March 2021**

- 3.13 The code’s provisions on the various processes of government are best placed elsewhere. Elements of the code that concern important governing processes, such as cabinet committees and ministerial management of the Civil Service, should be placed in the Cabinet Manual, where much of the relevant material is already duplicated. The Committee notes the July 2021 recommendation of the House of Lords Constitution Committee that a draft update of the manual “should be produced as soon as possible, and not later than 12 months from the date of this report.”<sup>32</sup>

31 The Institute for Government, Updating the Ministerial Code (July 2021), 18. Accessed online August 2021: <https://www.instituteforgovernment.org.uk/sites/default/files/publications/updating-ministerial-code.pdf>

32 House of Lords Select Committee on the Constitution, Revision of the Cabinet Manual (July 2021), 9. Accessed online August 2021: <https://committees.parliament.uk/publications/6598/documents/71481/default/>

- 3.14 Earlier this year, the Cabinet Secretary told the Chair of PACAC that “no update is currently being planned” of the Cabinet Manual.<sup>33</sup> Should no revision of the manual be forthcoming in the Constitution Committee’s timeline, elements relating to practice and procedure should be placed in separate ministerial guidance.

### **Recommendation 3**

The Ministerial Code should be reconstituted solely as a code of conduct on ethical standards.

## The ownership and constitutional status of the Ministerial Code

- 3.15 The Ministerial Code exists as a matter of convention. Unlike the Civil Service Code or the Special Advisers’ Code, there is no legal obligation on the Prime Minister to publish a code of conduct for ministers, and there is no role for Parliament to play in its drafting. Nonetheless, the status and eminence of the code ensures its continued existence.

“I thought John Major put it very well in an appearance before the Public Administration Select Committee back in the 2000s, when he said that while it is constitutionally correct to say an incoming government can tear it up and begin again, I think that’s unlikely to the point of being dismissed.”

**Sir Alex Allan, former Independent Adviser on Ministers’ Interests, online evidence session, March 2021**

- 3.16 In order to strengthen parliamentary oversight of the code, there have been calls for the House of Commons to play a formal role in the issuing of the Ministerial Code. Options for greater oversight include a requirement that the code must be laid before the House, that the code be subject to a parliamentary vote, or that the Public Administration and Constitutional Affairs Committee be consulted on the drafting of the code.
- 3.17 Yet greater parliamentary oversight may contravene an important constitutional principle: that the Prime Minister has the sole authority to advise the Sovereign on the composition of the government. The issuing of the Ministerial Code is an integral part of this constitutional role. It outlines the Prime Minister’s expectations of ministers and the terms under which they serve, defines how ministers can meet their individual and collective responsibilities, and lays out for the public the standards against which ministers and the government should be held to account.

<sup>33</sup> Letter from Simon Case, Cabinet Secretary, to William Wragg MP, Chair of PACAC (March 2021). Available online at <https://committees.parliament.uk/publications/5001/documents/49916/default/>

- 3.18 Former Cabinet Secretaries and former Independent Advisers contributing to this review made clear that the code draws its power from the Prime Minister's authorship. Greater parliamentary oversight may therefore have the unintended consequence of weakening the authority of the code, rather than enhancing it. The Committee's findings on the Ministerial Code from its 6th report still ring true: "It is the Prime Minister's document: he authorises and guides the drafting and contributes a personal foreword to it. In the foreword, he makes it clear that the code constitutes his guidance on how he expects ministers to behave."<sup>34</sup>

**"I think it has to be owned by the Prime Minister, and each Prime Minister should look at it and decide. And that's the power of it really, this is the prime minister saying how ministers should behave."**

**Lord O'Donnell, former Cabinet Secretary, online evidence session, March 2021**

**"The strength of the code lies in the fact that every Prime Minister is expected to produce one, and having produced it, own it."**

**Sir Philip Mawer, former Independent Adviser on Ministers' Interests, online evidence session, March 2021**

- 3.19 It is on this basis that the Committee does not support calls for the code to be drafted or approved by Parliament. The Prime Minister should issue the code and is accountable to Parliament for any decisions he or she makes relating to the code and its implementation.
- 3.20 The code itself has no basis in statute, and consequently the standards arrangements for ministers are less formalised than those for civil servants and special advisers, which are enshrined in the Constitutional Reform and Governance Act 2010 (CRAG).
- 3.21 Creating an obligation in primary legislation for the Prime Minister to issue the Ministerial Code would grant the code a more appropriate constitutional status. Such legislation need only specify that a code be produced and that it should be based on the Seven Principles of Public Life.
- 3.22 It is customary for every new administration to issue an updated Ministerial Code, though new iterations may occur at any time in response to specific issues that arise. The Independent Adviser should be consulted in any process of revising and reissuing the code (as has occurred in the past), and be able to suggest improvements to the code on an ad hoc basis.

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<sup>34</sup> The Committee on Standards in Public Life, Reinforcing Standards: Sixth Report of the Committee on Standards in Public Life (2000), 51.

**Recommendation 4**

A requirement for the Prime Minister to issue the Ministerial Code should be enshrined in primary legislation.

**Recommendation 5**

The Independent Adviser should be consulted in any process of revision to the Ministerial Code.

## Sanctions for breaches of the Ministerial Code

- 3.23 The Committee recommended to the Prime Minister in April 2021 that the Ministerial Code should be subject to graduated sanctions, as the prior expectation that any breach of the code should always lead to a resignation was disproportionate.<sup>35</sup>
- 3.24 No other area of public life has such a binary system of sanctions, and in both Parliament and the Civil Service there are a range of sanctions available according to the seriousness of the offence. There is no reason why this should not be the case for ministers. We are pleased to see that the Prime Minister has agreed to a system of graduated sanctions.<sup>36</sup>
- 3.25 Inadvertent or minor breaches may only require remedial action, such as a correction of the record or a resolution of a potential conflict of interest (for example, the returning of a gift or the delegation of a decision to another minister). Minor breaches, where a minister has made an error of judgement, should also be rectified with a written apology.
- 3.26 More significant or serious breaches, such as cases where ministers have allowed a substantial conflict of interest to arise, should necessitate more severe sanction. In some cases, an apology by means of a personal statement to Parliament may suffice. In others, ministers should be fined a proportion of their ministerial salary. Resignation remains the appropriate sanction for the most serious breaches of the Ministerial Code.
- 3.27 An updated version of the Ministerial Code should detail a range of sanctions the Prime Minister may issue in response to a breach of the code.
- 3.28 The issuing of sanctions must be a decision solely for the Prime Minister. To create a situation where any independent regulator of the Ministerial Code would effectively

35 Correspondence between the Prime Minister and Lord Evans on the Independent Adviser on Ministers' Interests (April 2021). Accessed online May 2021: <https://www.gov.uk/government/publications/correspondence-between-the-prime-minister-and-lord-evans-on-the-independent-adviser-on-ministers-interests>

36 Correspondence between the Prime Minister and Lord Evans on the Independent Adviser on Ministers' Interests (April 2021).

have the power to fire a minister would be unconstitutional. The Prime Minister is ultimately accountable to Parliament for any decision on sanctions he or she makes. Recent reform to the Independent Adviser's role to allow the Adviser to recommend confidentially the appropriate sanction codifies the right balance of responsibilities in this area.

### **Recommendation 6**

The Ministerial Code should detail a range of sanctions the Prime Minister may issue, including, but not limited to, apologies, fines and asking for a minister's resignation.

## The Independent Adviser on Ministers' Interests

### **Appointment and terms of office**

3.29 There is no published information on the appointments process for the Independent Adviser, and past post-holders told the Committee it amounted to little more than a 'tap on the shoulder' approach. The appointments process for the Independent Adviser is therefore significantly less independent than for other standards regulators, nearly all of whom are appointed through the regulated process for significant public appointments.

**"I wasn't aware of any particular process when I was appointed, I was simply asked, would I be interested in taking on the role."**

**Sir Alex Allan, former Independent Adviser on Ministers' Interests, online evidence session, March 2021**

3.30 The Adviser must have the trust and confidence of the Prime Minister, so it is right that the Prime Minister has the final decision on who to appoint. The appointments process, however, should have a greater degree of independence to improve public confidence that the Adviser will be fair and unbiased in their investigations and findings. The Committee believes the appointment of all future Independent Advisers should be regulated by an enhanced version of the current process for significant public appointments, as detailed in chapter 5 of this report.

3.31 We were glad to see that the Prime Minister appointed the incumbent Adviser for a non-renewable five-year term and that he will be supported by civil servants reporting directly to him, in line with the Committee's recommendations.<sup>37</sup> Such arrangements act as a further guarantee of the Adviser's independence.

<sup>37</sup> Letter from the Prime Minister to Lord Evans, 28 April 2021. Accessed online May 2021: [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/981905/Letter\\_from\\_the\\_Prime\\_Minister\\_to\\_Lord\\_Evans\\_\\_28\\_April\\_2021.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/981905/Letter_from_the_Prime_Minister_to_Lord_Evans__28_April_2021.pdf)

### Recommendation 7

The Independent Adviser should be appointed through an enhanced version of the current process for significant public appointments.

## The initiation of investigations

- 3.32 In April 2021, the Committee recommended that the Independent Adviser be able to initiate their own investigations. Though the Prime Minister rejected this recommendation, he agreed to amend the Independent Adviser's terms of reference so that the Adviser may now confidentially advise the Prime Minister if they believe an allegation warrants further investigation. In his first Annual Report as Independent Adviser, Lord Geidt described the Adviser's new "explicit authority" to advise on initiation "an important stiffening of the independence of the post".<sup>38</sup>
- 3.33 It is unclear, however, to what extent this represents a significant change to prior arrangements. Sir Alex Allan, former Independent Adviser, told the Committee that he would regularly discuss issues with the Propriety and Ethics team in the Cabinet Office, and that he was "not completely sitting back and waiting around". Sir Alex confirmed that "the formal initiation comes from the Prime Minister and that's as it must be, but there's the possibility for some discussion of the issue before that formal initiation".<sup>39</sup> So, while formalising the Adviser's right to advise confidentially on initiation is welcome, it may not represent a substantive improvement in the independence of the Adviser.
- 3.34 In his evidence to the Public Administration and Constitutional Affairs Committee (PACAC), Lord Geidt expressed his commitment to making the new terms of reference a success, and to assessing their effectiveness after a period of operation where the "revivified" terms of reference "are actively deployed".<sup>40</sup> The Committee has taken a similar approach, using the period since April 2021 to assess the extent to which new arrangements have restored trust in the regulation of ministerial standards.
- 3.35 The Independent Adviser undertook two investigations in summer 2021, both detailed in his annual report. The first, which assessed the circumstances surrounding the funding of refurbishments to the Prime Minister's flat, found no breach of the code. The second, which examined the former Health Secretary's stake in his sister's company (which was subsequently awarded an NHS contract), found

38 Lord Geidt, Annual Report by the Independent Adviser on Ministers' Interests, paragraph 6. Accessed online May 2021: [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/990394/Report\\_by\\_the\\_Independent\\_Adviser\\_May\\_2021\\_\\_1\\_.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/990394/Report_by_the_Independent_Adviser_May_2021__1_.pdf)

39 Sir Alex Allan, Sir Alex Allan and Sir Philip Mawer - Online Evidence Session with CSPL, 27:50 - 29:23 (2021). Accessed online May 2021: [https://www.youtube.com/watch?v=x\\_5eul7\\_ITI&t=28s](https://www.youtube.com/watch?v=x_5eul7_ITI&t=28s)

40 Lord Geidt, Post appointment hearing: The Independent Adviser on Ministers' Interests, Oral evidence given to the House of Commons Public Administration and Constitutional Affairs Committee (13 May 2021), response to Q24. Accessed online May 2021: <https://committees.parliament.uk/oralevidence/2159/default/>

a “minor” breach of the code had occurred. The investigation into the former Health Secretary was the first to take place under an explicit regime of graduated sanctions. Both investigations attracted a significant degree of media scrutiny.<sup>41</sup>

- 3.36 The Committee still believes that the Independent Adviser should have the ability to initiate their own investigations. Meaningful independence is the benchmark for any effective form of standards regulation and current arrangements still fall below this bar. Without stronger independence, the public will continue to doubt that ministers will be held to account for suspected breaches of high standards. A regulatory system that appears to be little more than self-regulation will inevitably be seen as one where party politics dominates, rather than the merits of each case.
- 3.37 The primary argument made by successive administrations against granting the Adviser the ability to initiate investigations concerns the Prime Minister’s constitutional role in determining the composition of the government. It is understandable for Prime Ministers to want to retain control of powers relating to the independence of investigations when the conclusion of such an investigation could force a ministerial resignation. It would be improper for the Independent Adviser effectively to have the power to erode the Prime Minister’s responsibility for the composition of the government.
- 3.38 The introduction of graduated sanctions, and sanctions remaining solely in the hands of the Prime Minister, removes this constitutional obstacle. It should be clear to all parties that it is for the Prime Minister alone to decide on whether or not a breach of the code warrants a resignation, and that no outcome of an investigation – including the finding of a serious breach – prejudices his or her conclusions. The use of graduated sanctions ensures that there is no constitutional impropriety in granting the Independent Adviser the ability to initiate investigations.
- 3.39 Concerns have also been raised that an Adviser with the ability to initiate investigations would be targeted with vexatious, trivial or politically motivated complaints. This is, unfortunately, already a risk under current arrangements. However, a more substantively independent Adviser would be in a more credible position to dismiss trivial or politically motivated complaints, as there would be less grounds for suspicion that decisions on initiating investigations are influenced by political interests. As the experience of the Parliamentary Commissioner for Standards shows, an Independent Adviser, supported by a team of officials, would be able to reject unsubstantiated complaints without further investigation.

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41 Lord Geidt, Annual Report of the Independent Adviser on Ministers’ Interests (May 2021).

“The power to launch independent investigations could potentially increase the risk of vexatious or unfounded allegations of breaches of the Ministerial Code, usually by political opponents of whichever party is in government at the time, and particularly in the run-up to elections. Those allegations need to be dealt with swiftly and efficiently, to avoid undermining public trust in the integrity of government or reducing the efficiency and effectiveness of government decision-making too. Fortunately, the Parliamentary Commissioner for Standards (who already has the same power of independent investigation, and who gets several hundred complaints each month) has a well-established and successful approach which provides a useful template for dealing with this issue.”

**John Penrose MP, Prime Minister’s Anti-Corruption Champion, written evidence, January 2021**

- 3.40 Comparisons with Parliament highlight the importance of greater independence. Improvements in the independence of investigations in the House of Commons on bullying, harassment, and sexual harassment bring matters under the Ministerial Code into sharp relief. On multiple occasions, witnesses to this review pointed out that if a minister bullied or harassed a parliamentary staffer, the complaint would be subject to a fully independent investigation. If the same minister bullied or harassed a civil servant, that complaint would not be assessed independently, and may never be investigated at all. Polling of FDA members found that 85% of the Senior Civil Service and 90% of Fast Streamers had no confidence in the regulation of the Ministerial Code.<sup>42</sup> This is not a sustainable position.

“If the point of this is to create confidence in a process, then the idea that an investigation can only be started by the person who is going to be making the final decision on it just creates such an obvious conflict... [currently] the way to stop difficult decisions having to be made under the Ministerial Code is to stop any investigation in the first place.”

**Dave Penman, General Secretary, FDA, online evidence session, March 2021**

- 3.41 Under reformed arrangements, the right to initiate investigations should not be the Adviser’s alone, and the Prime Minister or Cabinet Secretary should continue to be able to ask the Adviser to launch an investigation into any matter of concern. It may also be appropriate in some circumstances for the Prime Minister and Adviser to agree that some aspects of an investigation are better undertaken by the Cabinet Secretary.

<sup>42</sup> Dave Penman, FDA Union: Why we’ve launched a judicial review of the Home Secretary’s breach of the Ministerial Code (February 2021). Accessed online May 2021: <https://www.fda.org.uk/home/Newsandmedia/Features/Why-we-ve-launched-a-judicial-review-of-the-Home-Secretarys-breach-of-the-Ministerial-Code.aspx>

**Recommendation 8**

The Independent Adviser should be able to initiate investigations into breaches of the Ministerial Code.

**The determination of breaches**

- 3.42 Under current arrangements, the Independent Adviser, on examining the facts of a case, reports to the Prime Minister on whether or not they believe a minister's actions amount to a breach of the code. It is the Prime Minister, however, who makes the final determination on whether or not a breach of the code has occurred.
- 3.43 This two-step process places both the Adviser and the Prime Minister in a difficult position if there is a divergence of opinion on the finding of a breach. An Adviser whose conclusion of a breach is publicly rejected by the Prime Minister may find themselves critically undermined and considering resignation. For the Prime Minister, overruling the Adviser on the determination of a breach therefore comes with a significant and unwelcome additional political cost. Cases of misconduct are not always clear cut, and current arrangements mean that a slight difference of opinion may result in disproportionate consequences.
- 3.44 In addition, in the eyes of the public, the overruling of an Independent Adviser on the determination of a breach undermines the principle of independent scrutiny that Lord Nolan identified as so important to the upholding of standards in public life. Should an Adviser then subsequently resign, trust in the regulation of the Ministerial Code falls further.
- 3.45 Where any finding of a breach would lead to the expectation of a minister's resignation, it is understandable that the Prime Minister would want to retain the ultimate authority to declare a breach of the code. But the introduction of graduated sanctions means that the Committee sees no reason why the Adviser's determination of a breach cannot be final. By granting the Adviser the authority to determine a finding of a breach, while asserting the Prime Minister's right to choose from a range of sanctions for that breach, the Prime Minister's right to determine the composition of their cabinet is protected, and the integrity of the independent regulation of the code is upheld.

**Recommendation 9**

The Independent Adviser should have the authority to determine breaches of the Ministerial Code.

### The publication of the Independent Adviser's findings

- 3.46 The Committee recommended to the Prime Minister in April 2021 that the Adviser should be able to publish their findings. Concerns had been raised in the course of evidence gathering that the publication of the Adviser's conclusions could be withheld or delayed. A lack of openness or timeliness risks fuelling perceptions that the Ministerial Code can be manipulated for political gain.
- 3.47 We welcome the Prime Minister's commitment that the Adviser's findings will be published in a timely manner. The Committee recommends that this should happen no more than eight weeks after the Adviser has submitted their report. A summary of the Adviser's findings should be published alongside the Prime Minister's decision on sanctions. We advise publishing a summary only given that evidence is usually contributed in confidence.

#### **Recommendation 10**

The Independent Adviser's findings should be published no more than eight weeks after a report has been submitted to the Prime Minister.

### A statutory basis for the Independent Adviser

- 3.48 As discussed in recommendation 2, in order to guarantee the independence of the Adviser, key features of office should be established in primary legislation. These include the:
- appointments process for the Adviser (see chapter 5)
  - Adviser's term of office (a single non-renewable five-year term)
  - Adviser's role to advise on and oversee the production of the List of Ministers' Interests
  - Adviser's remit to initiate investigations, conduct investigations, and determine breaches of the Ministerial Code

# Chapter 4

## The Business Appointment Rules and ACOBA

- 4.1 The sharing of expertise between government and the commercial world improves the effectiveness and efficiency of both. Ministers and civil servants have a right to pursue or return to previous careers in the private sector after leaving public office, and interchange between the public and private sectors has been encouraged by successive governments.
- 4.2 It is equally important to recognise, however, that the privileges and obligations of public service distinguish employment in government from working for a private company, and that potential conflicts of interest must be considered when regulating movement from the public to the private sector.
- 4.3 The government's Business Appointment Rules regulate the employment of ministers, civil servants and special advisers after they leave public office. The rules allow government departments (or for the most senior cases, ACOBA), to advise waiting periods, conditions, and restrictions on private sector employment, or to advise that a proposed appointment is unsuitable. The rules apply for either one or two years after leaving public office, depending on the seniority of the applicant or the nature of their work. The rules include a general principle of a two-year ban on lobbying. The purpose of the rules is to avoid:
- any suspicion that an appointment might be a reward for past favours
  - the risk that an employer might gain an improper advantage by appointing a former official who holds information about its competitors, or about impending government policy
  - the risk of a former official or minister improperly exploiting privileged access to contacts in government<sup>43</sup>
- 4.4 For civil servants and members of the armed forces, the Business Appointment Rules have been in place since the 1970s. Ministers were first made subject to the rules on the recommendation of Lord Nolan's first report in 1995.<sup>44</sup> Though many aspects of the rules have since been reformed, the institutional architecture of the Business

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43 The Advisory Committee on Business Appointments, Business Appointments - making applications under the rules for former ministers and senior Crown servants (2020). Accessed online May 2021: <https://www.gov.uk/guidance/new-business-appointments-for-senior-public-servants>

44 Standards in Public Life: First Report of the Committee on Standards in Public Life (1995), 54.

Appointment Rules is broadly similar today to 25 years ago: the rules are issued and owned by government, are non-statutory, advisory, and administered by the independent Advisory Committee on Business Appointments (ACOBA) in the most senior cases.

- 4.5 Yet the context in which the Business Appointment Rules operate has changed in two important aspects. First, there is now significantly greater movement within careers and more frequent interchange between the public and private sectors. In 1995, Lord Nolan noted evidence arguing that “in most cases, senior civil servants will leave public service at a retirement age which is known in advance, and that on departure most will receive a full pension.”<sup>45</sup> Today, senior civil servants (and ministers) leave public office younger, and it is much more common for individuals to have careers which regularly move between the public and private sectors.
- 4.6 Second, government outsourcing today is significantly higher than it was 25 years ago. Even before the coronavirus pandemic, around one third of public expenditure was spent on buying goods and services from external suppliers, with a fifth of that spending going to ‘strategic suppliers’ who each receive over £100m in revenue from government.<sup>46</sup> As outsourcing increases, so does the risk that private companies may seek to gain advantage through employing a former public office holder.
- 4.7 Initial investigations into the circumstances surrounding Greensill Capital’s engagement with government have exposed flaws in the handling of conflicts of interest and the operation of the Business Appointment Rules. The Public Administration and Constitutional Affairs Committee cited “the complexity of the Business Appointment Rules and their implementation” as the reason behind one former official’s failure to consult ACOBA about their Greensill role.
- 4.8 Long-term changes in the risks around business appointments, alongside the flaws in the regulatory regime exposed in the Greensill Capital scandal, have resulted in widespread discontent around the current operation of the Business Appointment Rules. In the evidence we took, criticism of the current application of the rules was unanimous. This chapter covers four areas of reform identified in the Committee’s published findings: the scope of the rules; the two-year ban on lobbying; the lack of any investigation, enforcement and sanctions around the rules; and the application of the rules at departmental level. It also proposes that ACOBA takes on a formal regulatory function.

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45 Standards in Public Life: First Report of the Committee on Standards in Public Life (1995), 52.

46 The Institute for Government, Government Procurement: The scale and nature of contracting in the UK (2018). Accessed online May 2021: <https://www.instituteforgovernment.org.uk/publications/government-procurement>

## The scope of the Business Appointment Rules

- 4.9 As currently written, the government’s Business Appointment Rules are framed to focus on any direct regulatory, policy, or commercial relationship between the applicant and the hiring company. Such a framing targets the most obvious risk of corruption: that a minister or civil servant took a specific decision while in office in anticipation of future reward.
- 4.10 The Committee’s evidence raised concerns that such a framing may be too narrow. Contributors emphasised the risk to public trust when former ministers and civil servants take up private sector appointments in the sectors where they had broad regulatory and commercial responsibility, even where there is no direct relationship between a former office-holder and the hiring company. We were told that the perception of probity could be undermined in cases where, for example, former housing ministers go to work for construction companies, or former senior civil servants at the Department for Transport go to work for rail companies.

**“I don’t think it’s ethical. I’ve worked on contracts for businesses before where I had a clause that didn’t allow me to work for certain companies... because obviously it’s a conflict of interest.”**

**Focus group participant, August 2021**

- 4.11 Such perceptions must be balanced against the fact that the government’s Business Appointment Rules exist to regulate conflicts of interest, while actively encouraging the interchange between government and business. A significant expansion in the scope of the Business Appointment Rules would undoubtedly hinder beneficial interchange between the public and private sector, and it could also lead to a requirement to compensate former public office holders from the public purse for the period of time they are prohibited from taking other paid employment.
- 4.12 PACAC has previously recommended that the rules should include “a clearly defined principle that at a minimum, public servants should avoid taking up appointments within a two year time period that relate directly to their previous areas of policy and responsibility when they have had direct regulatory or contractual authority within a particular sector.”<sup>47</sup> Lord Pickles, Chair of ACOBA, wrote that “consideration should be given to making it explicit in the rules, and in employment contracts, that it is not appropriate for individuals to work in areas they have had direct regulatory, commercial or contractual responsibilities.”<sup>48</sup>

47 House of Commons Public Administration and Constitutional Affairs Committee, Managing Ministers’ and officials’ conflicts of interest: time for clearer values, principles and action (2017), paragraph 63. Accessed online May 2021: <https://publications.parliament.uk/pa/cm201617/cmselect/cmpublicadm/252/25210.htm>

48 Lord Pickles, Written evidence to Greensill inquiries (2021), paragraph 10. Accessed online May 2021: [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/984791/ACOBA\\_Submission\\_Greensill\\_inquiries.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/984791/ACOBA_Submission_Greensill_inquiries.pdf)

- 4.13 The Committee agrees with PACAC and Lord Pickles that the scope of the rules should be expanded. Conflicts of interest are not just the product of a relationship between an official and a specific future employer. An official may initiate policy or regulation sympathetic to a range of companies providing a particular service or product, with an eye to future employment, without having a direct relationship with any specific company.
- 4.14 The rules should not be so broad, however, as to prohibit the employment of a minister or official by a company with whom they have had no direct relationship and only tangential or incidental engagement with the relevant policy area. The Committee therefore proposes that the rules be expanded to prohibit for two years business appointments where the applicant has had significant and direct responsibility for policy, regulation, or the awarding of contracts relevant to the hiring company.
- 4.15 A second issue concerns the need for former ministers and senior civil servants to seek ACOBA approval for unpaid or low-risk roles. Unpaid roles, or roles in the public sector or academia, generally pose less of a threat to the integrity of government than private sector roles. The Committee welcomes Lord Pickles' proposals to apply a more proportionate, risk-based approach to "offer prompt, predictable and consistent advice" on such cases.<sup>49</sup>

**Recommendation 11**

The Business Appointment Rules should be amended to prohibit for two years appointments where the applicant has had significant and direct responsibility for policy, regulation, or the awarding of contracts relevant to the hiring company.

## The ban on lobbying

- 4.16 Lobbying on behalf of commercial interests poses a significant risk to public perceptions of the integrity of government where it appears that former office holders are trading on their time in office. The Seven Principles of Public Life are undermined when former officials use contacts made in government to provide privileged access for a private sector company in return for financial reward, particularly when such lobbying is not transparent.

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49 Lord Pickles, written evidence to the Standards Matter 2 Review (2021), paragraph 10. Accessed online May 2021: [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/972449/Standards\\_Matter\\_2\\_-\\_Evidence\\_from\\_Witnesses\\_for\\_Online\\_Evidence\\_Sessions.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/972449/Standards_Matter_2_-_Evidence_from_Witnesses_for_Online_Evidence_Sessions.pdf)

“ACOPA makes it explicit that lobbying the government to unfairly benefit a new employer on leaving office is inappropriate and unacceptable. However, there is no blanket ban or statutory requirement not to lobby the Government on leaving office.”

**Lord Pickles, Chair, ACOBA, written evidence, March 2021**

- 4.17 In light of those risks, the two-year ban may be too short in some cases. Government departments and ACOBA should be able to issue a lobbying ban for a longer period of up to five years where they deem it appropriate. Whether or not a longer ban is warranted will depend on the nature of the position held by an applicant in government. If an applicant had a particularly senior role, or where contacts made or privileged information received will remain relevant after two years, a longer ban may be necessary to ensure that former officials are not directly benefitting from their time in office. Any longer ban should be applied proportionately and should not become the default option.
- 4.18 In his oral evidence to the Committee, Lord Pickles also highlighted the issue of officials joining lobbying companies while claiming not to be undertaking any lobbying. It is reasonable to view such claims with scepticism, and the Committee agrees with Lord Pickles that the government should amend the rules to make clear “that applications to work with lobbying firms will not be accepted for a certain period of time”.<sup>50</sup>

“The reasonable question is this. If a person is going into a lobby group, and they are not allowed to lobby, what are they doing? I think we need to address whether it is appropriate to join a lobbying company or not within a two-year period.”

**Lord Pickles, Chair, ACOBA, online evidence session, March 2021**

### **Recommendation 12**

The Business Appointment Rules should be amended to allow ACOBA and government departments to issue a ban on lobbying of up to five years.

### **Recommendation 13**

The lobbying ban should include a ban on any work for lobbying firms within the set time limit.

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<sup>50</sup> Lord Pickles, written evidence to the Standards Matter 2 Review (2021), paragraph 21.

## Enforcement and sanctions

- 4.19 Lord Pickles' evidence to this review was clear: "there are no sanctions" for breaches of the Business Appointment Rules. It is for this reason that "ACOPA is not a regulator nor a watchdog".<sup>51</sup> The rules, which are owned by the government, specify that ACOBA's role is solely to advise applicants on whether proposed appointments are in line with the rules.
- 4.20 ACOBA advises former ministers directly, and the Ministerial Code states that former ministers "must abide by the advice of the Committee".<sup>52</sup> For cases involving the most senior civil servants, ACOBA writes to the former department, setting out the advice that applies to the proposed appointment. For special advisers of equivalent standing, ACOBA advises the relevant permanent secretary, who has the final decision-making authority. Government departments and agencies are responsible for upholding the rules for all other civil servants.
- 4.21 In lieu of any formal sanctions, transparency has become the primary mechanism by which the rules are upheld by ACOBA. Public letters from ACOBA may pressure applicants and prospective employers into compliance with the rules, creating what the government terms "moral and reputational pressure on people leaving public office."<sup>53</sup> Such pressure may be significant, and in most cases, enough to ensure compliance. Lord Pickles was clear that compliance with the rules is, to the extent of ACOBA's knowledge, very high.
- 4.22 The effectiveness of transparency at ensuring compliance does not make up for the fact that there are no sanctions for former office holders who break the government's rules. Media scrutiny may cause an individual reputational damage, but it does not constitute a government-issued sanction for a breach of the government's own rules. The public credibility of any regulatory scheme depends on a visible range of sanctions, but neither ACOBA nor government departments can issue any.

**"ACOPA is not adequately regulating the 'revolving door'."**

**The Centre for the Study of Corruption (University of Sussex), written evidence, March 2021**

51 Lord Pickles, Lord Eric Pickles - Online Evidence Session with CSPL, 25:36 - 25:51 (2021). Accessed online May 2021: <https://www.youtube.com/watch?v=1ztGUOOhU8o>; and Lord Pickles, written evidence to the Standards Matter 2 Review, paragraph 5.

52 Cabinet Office, Ministerial Code (August 2019), paragraph 7.25. Accessed online August 2021: [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/826920/August-2019-MINISTERIAL-CODE-FINAL-FORMATTED-2.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/826920/August-2019-MINISTERIAL-CODE-FINAL-FORMATTED-2.pdf)

53 Government submission to Standards Matter 2 (2021), paragraph 50. Accessed online May 2021: [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/980366/Government\\_Submission\\_to\\_Standards\\_Matter\\_2.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/980366/Government_Submission_to_Standards_Matter_2.pdf)

- 4.23 There are additional problems with relying on transparency alone as a means of ensuring compliance with the Business Appointment Rules. The most important of these is the fact that under current arrangements, transparency undermines not only the reputation of the individual accused of breaching the rules but also the reputation of ACOBA itself, as well as the credibility of the business appointments scheme. As one contributor told the Committee, the louder ACOBA's bark, the more evident it is that it has no bite.
- 4.24 This is compounded by the fact that compliance with the rules is less visible than breaches of the rules. ACOBA does not publish correspondence where applicants have complied with either formal or informal advice that an appointment is unsuitable, as ACOBA must be able to provide confidential advice to applicants unsure about the propriety of an appointment who want to consult with the Committee. However, this means that the net effect of the government's transparency-only approach to enforcing the rules is a series of media stories highlighting breaches of the rules and a lack of sanction for those doing so, while ACOBA's impact on inappropriate business appointments not being taken up is less visible. ACOBA publishes aggregate figures of applications not taken up or withdrawn in its Annual Report, but these figures receive limited media coverage.

**“The lack of any information about refusals creates the perception that ACOBA simply approves every application and that there are no real restrictions on what roles can be taken.”**

**Transparency International UK, written evidence, January 2021**

- 4.25 No system of ethical regulation can sustain the trust of the public, or those it is meant to regulate, when its primary method of enforcement serves only to highlight the lack of any meaningful sanctions for rule-breakers. On this basis, the Committee believes that transparency alone is not an adequate means of enforcing the Business Appointment Rules.

**“The court of public opinion can be a useful tool – very few individuals, or their employers wish to be found acting contrary to the high standards expected of officials. However, despite the shame and damage to reputation that can occur to an individual as a result of this transparency, likewise the high-profile nature of these cases can damage the reputation of the system as a whole.”**

**Lord Pickles, Chair, ACOBA, written evidence, March 2021**

- 4.26 The government is working with the ACOBA Chair to integrate breaches of the rules into the honours and appointments processes, including for the House of Lords. Such a move is welcome. However, these reforms are unlikely to resolve the issues of public trust outlined above. Lord Pickles made clear to this Committee that any consideration of breaches in the honours and appointments processes will not bind the Prime Minister's powers of patronage, and the public is unlikely to see

the possible future non-receipt of an honour, peerage, or public appointment as a genuine or serious sanction for a breach of the rules. These improvements therefore fall short of introducing a formal and credible sanctions regime.

- 4.27 A better option to ensure compliance would be to enforce the Business Appointment Rules via the relevant employment contracts. Part of this legal framework is already in place, as both the Civil Service Management Code and the Model Contract for Special Advisers contain provisions on the Business Appointment Rules. Currently, it remains unclear how such provisions are enforced in cases where ACOBA or departmental advice is either not sought or ignored.

**“As the CSMC underpins all civil servants’ terms and conditions, the requirement to observe the rules can be said to be a contractual obligation.”**

**Nigel Boardman, The Boardman Report on the Development and Use of Supply Chain Finance in Government, July 2021<sup>54</sup>**

- 4.28 The government should ensure that adherence to the Business Appointment Rules is an enforceable contractual obligation and outline what sanctions or remedial action they will pursue for any breach of contract. The government should also institute parallel legal arrangements for ministers, who do not have employment contracts. Possible options for sanctions may include seeking an injunction prohibiting the uptake of a certain business appointment, or the recouping of a proportion of an office holder’s pension or severance payment.

**“It should be an explicit post-employment contractual obligation to adhere to the government’s rules and make clear what the sanction will be.”**

**Lord Pickles, Chair, ACOBA, written evidence, March 2021**

**“I think MPs should have some sort of employment contract that prevents them from doing things like taking a job in a company after they’ve given them a contract.”**

**Focus group participant, August 2021**

- 4.29 Relying on transparency alone, or the honours and appointments reforms suggested, will not introduce a sanctions regime strong enough to restore public trust in the regulation of business appointments. The widespread perception that breaches of the government’s Business Appointment Rules go unpunished undermines the credibility of the regulatory regime, regardless of how high compliance is in practice.

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54 Nigel Boardman, A report by Nigel Boardman into the Development and Use of Supply Chain Finance (and associated schemes) related to Greensill Capital in Government: Report of the Facts (July 2021), 90. Accessed online September 2021: <https://www.gov.uk/government/publications/findings-of-a-review-into-the-development-and-use-of-supply-chain-finance-in-government>

The Committee believes that enforcing the Business Appointments Rules through employment contracts is necessary to ensure the Seven Principles of Public Life are upheld as public servants move into the private sector.

#### **Recommendation 14**

The government should make adherence to the Business Appointment Rules an enforceable legal requirement for ministers, civil servants, and special advisers, and set out what the consequences for a breach of contract may be.

## **A new regulator of business appointments**

- 4.30 Under such arrangements, ACOBA should take on a formal regulatory function. The Committee's decisions should be directly binding on applicants, rather than a recommendation to the relevant minister, Prime Minister, or permanent secretary. The Committee should also be able to investigate potential breaches of its decisions or failures to seek a ruling from it when one was required. (The Committee already undertakes fact-finding exercises through its letters to those it suspects of noncompliance.) Greater resources should be provided to the Committee as necessary.
- 4.31 On the finding of a breach of the rules, ACOBA should submit a report to the Cabinet Office. As a breach of the rules would constitute the breaking of a contract with the government, the Cabinet Office should then decide on sanctions or remedial action, as well as any possible appeals process.
- 4.32 To enshrine and strengthen the independence of the reformed regulatory regime, the Business Appointment Rules and the Committee should be established on a statutory basis, as outlined in recommendation 2. Legislation should include the following:
- An obligation on the government to publish the Business Appointment Rules to regulate any potential conflicts of interest of ministers, special advisers and civil servants moving into the private sector, and to consult with the Committee on Business Appointments on any significant amendments to those rules.
  - The establishment of a Committee on Business Appointments as an independent arm's-length body, whose purpose is to:
    - rule on applications under the rules for ministers, the most senior civil servants and special advisers
    - investigate potential breaches of the rules
    - provide guidance on the rules to any potential applicants
  - The terms of office for the Committee's Chair, including:
    - the appointments process, as outlined in chapter 5
    - that the chair serve for a single non-renewable five-year term

**Recommendation 15**

Rulings of the Advisory Committee on Business Appointments should be directly binding on applicants.

**Recommendation 16**

ACOPA should have the power to undertake investigations into potential breaches of the Business Appointment Rules, and be granted additional resources as necessary. The Cabinet Office should decide on sanctions or remedial action in the case of a breach.

## The application of the rules in government departments

- 4.33 A serious area of concern shared by both Lord Pickles and the Committee concerns the application of the Business Appointment Rules in government departments, below ACOBA level. Lord Pickles characterised the approach of some departments as “slapdash” and “verging on negligent”, while praising the approach of others. The Committee agrees with Lord Pickles’ assessment that a “predatory company” would target those below ACOBA level, particularly Civil Service directors and deputy directors.<sup>55</sup> The risk posed by business appointments taken up by those in less senior roles is therefore significant.
- 4.34 We are pleased that the Cabinet Office is working with other government departments to trial changes to the process for leaving the government, as well as improvements in reporting to audit and risk committees. Currently, a Non-Executive Director on each departmental board should exercise oversight of the application of the rules. However, the lack of transparency in how departments are implementing the Business Appointment Rules prohibits any meaningful scrutiny. At a minimum, departments should publish more information on how they implement the rules, as well as anonymised and aggregated data on how many applications under the rules are submitted, approved, or rejected every year.
- 4.35 In the longer term, the Cabinet Office should ensure that the application of the rules is consistent across all government departments. The government should take up Lord Pickles’ suggestion that ACOBA could “share best practice, raise awareness and transparency on the rules” across government departments.<sup>56</sup> A useful model to replicate here would be the work of the Civil Service Commission, which holds events to promote awareness and understanding of the Civil Service Code, which is also implemented by government departments in the first instance. Additional resources should be granted to ACOBA as necessary.

<sup>55</sup> Lord Pickles – Online Evidence Session with CSPL (2021), 33:58 - 35:16

<sup>56</sup> Lord Pickles, written evidence to the Standards Matter 2 Review (2021), paragraph 12.

**Recommendation 17**

Government departments should publish anonymised and aggregated data on how many applications under the Business Appointment Rules are submitted, approved, or rejected each year.

**Recommendation 18**

The Cabinet Office should ensure the Business Appointment Rules are applied consistently across all government departments, and work with ACOBA to promote best practice and awareness of the Business Appointment Rules.

# Chapter 5

## The Regulation of Public Appointments

- 5.1 The Commissioner for Public Appointments was established on the recommendation of the Committee's first report. Lord Nolan outlined the principles that guide public appointments to this day: that "ultimate responsibility for appointments should remain with ministers", but that the appointments process "should be governed by the overriding principle of appointment by merit" and that ministers should be advised on appointments by "a panel or committee which includes an independent element".<sup>57</sup>
- 5.2 These principles remain relevant and valid today. Many public appointments are to bodies which have a significant impact on the implementation of government policy. It is therefore right that ministers retain the ability to appoint candidates who they believe will implement government policy in line with ministerial priorities. The former Commissioner for Public Appointments, Peter Riddell, pointed out that the use of the term 'politicisation' is unhelpful in this regard, as the public appointments process is inherently political. Lord Nolan rejected proposals for a wholly independent appointments system and we see no reason to overturn that judgement.
- 5.3 It is equally important to stress that the principle of ministerial patronage is tempered by the principle of appointment by merit. Ministers should not appoint unqualified or inexperienced candidates to important public roles. Such appointments feed public perceptions of cronyism and undermine trust in the quality of public administration. In order to guarantee that the assessment of merit is fair and nonpartisan, it should be undertaken by a panel which includes a credible independent element.
- 5.4 The fair assessment of candidates serves a second purpose: to improve and ensure diversity in public appointments. Public bodies should reflect the communities they serve. When appointments are made without any assessment of merit there is a tendency for like to appoint like, and for candidates from diverse backgrounds who do not see themselves as 'fitting the mould' not to apply for roles. An initial independent assessment of merit gives greater confidence to candidates from diverse backgrounds to put themselves forward and gives those candidates a greater chance of success.
- 5.5 These principles – described by Peter Riddell as "either constrained open competition or constrained political patronage" – manifest themselves today in a process by which assessment panels produce a list of candidates who are deemed

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<sup>57</sup> Standards in Public Life: First Report of the Committee on Standards in Public Life (1995), 65-76.

appointable, with the final decision left to ministers.<sup>58</sup> Assessment panels must include a departmental official and an independent member. The process is defined in the government's Governance Code for Public Appointments.

- 5.6 The 2016 Grimstone Review significantly increased the ability of ministers to shape the appointments process, giving them the right to determine panel composition and advise panels on preferred candidates at all stages of the competition. The 2016 review also gave ministers powers to overrule assessment panels, either by asking that the entire recruitment process be re-run with a new panel, or by appointing someone an assessment panel deemed unappointable. If appointing an 'unappointable' candidate, ministers "must consult the Commissioner for Public Appointments in good time before a public announcement and will be required to justify their decision publicly."<sup>59</sup> Similarly, in exceptional circumstances, ministers may make a direct appointment to a regulated role, after consulting with the Commissioner and publicly justifying their decision.
- 5.7 The Grimstone reforms also replaced the Commissioner's independent assessors with Senior Independent Panel Members (SIPMs), who are appointed by departments after consultation with the Commissioner, transforming the Commissioner's role from a real time participant in appointments processes to an independent regulator of it. Ensuring fair and equal assessment by a panel against the job specification remains central to the Commissioner's oversight.
- 5.8 The question for the Committee concerns whether current arrangements uphold the right degree of balance between ministerial patronage and appointment on merit. The evidence submitted to this review indicated that the post-Grimstone system has generally worked well until now, but it is highly dependent on informal mechanisms, including the willingness of ministers to act with restraint and the preparedness of the Commissioner to speak out against breaches of the letter or the spirit of the code.
- 5.9 The former Commissioner, Peter Riddell, has warned that the precarious balance between ministerial patronage and appointment by merit "is under threat".<sup>60</sup> Of particular concern to the Committee is the leaking of preferred candidates to the media, which may discourage suitable candidates from applying for posts, undermine the integrity of the system and weaken the public's perception of the independence of the regulatory process. As the issue of 'pre-briefing' shows, it is unlikely that a system so dependent on personal responsibility will be sustainable in the long term. The Public Accounts Committee recently noted that "the

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58 Peter Riddell, written evidence to the Standards Matter 2 review (2021), paragraph 4. Accessed online May 2021: [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/972449/Standards\\_Matter\\_2\\_-\\_Evidence\\_from\\_Witnesses\\_for\\_Online\\_Evidence\\_Sessions.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/972449/Standards_Matter_2_-_Evidence_from_Witnesses_for_Online_Evidence_Sessions.pdf)

59 Cabinet Office, Governance Code for Public Appointments (2016), clause 3.2. Accessed online August 2021: [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/578498/governance\\_code\\_on\\_public\\_appointments\\_16\\_12\\_2016.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/578498/governance_code_on_public_appointments_16_12_2016.pdf)

60 Peter Riddell, Letter to Lord Evans (2020), 3. Accessed online May 2021: [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/932513/Peter\\_Riddell\\_to\\_Lord\\_Evans.docx.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/932513/Peter_Riddell_to_Lord_Evans.docx.pdf)

current public appointments process does not give confidence that it is efficient, transparent and fair”.<sup>61</sup>

**“Ministers are in a strong, even dominant, position in public appointments but some are now seeking to tilt the process even further to their advantage.”**

**Peter Riddell, former Commissioner for Public Appointments,  
Pre-Valedictory Speech, May 2021<sup>62</sup>**

- 5.10 In light of increasing pressure on the public appointments process, the Committee shares concerns on the current provision within the Governance Code for ministers to be able to appoint candidates not deemed appointable by assessment panels. The appointment of those judged ‘below the line’ would likely undermine the credibility of the entire appointments process, as well as the appointee.
- 5.11 The Committee considered endorsing a recommendation made by Peter Riddell to remove the ability of ministers to appoint those deemed unappointable. Though the Committee believes ministers should not appoint candidates that panels deem unappointable, the final decision on all public appointments must ultimately remain with ministers.
- 5.12 However, the accountability around such appointments should be strengthened. The Governance Code currently states that should a minister appoint someone not deemed appointable, they must consult with the Commissioner and provide a public justification for their decision. The Committee believes that the nature of any such public justification should be in Parliament, at a meeting of the department’s relevant select committee. We recommend that the Governance Code be changed accordingly.
- 5.13 Further reforms are necessary to the regulation of significant appointments and the appointments process for the heads of standards bodies to ensure the credibility of the post-Grimstone system. The Committee’s recommendations would strengthen the ability of the Commissioner to ensure a genuinely fair assessment of merit precedes ministerial choice. This chapter also includes recommendations on unregulated appointments, covered in the Committee’s published findings earlier this year.

61 Public Accounts Committee, Government’s delivery through arm’s length bodies (2021). Accessed online September 2021: <https://publications.parliament.uk/pa/cm5802/cmselect/cmpubacc/181/report.html>

62 Peter Riddell, Pre-Valedictory speech to the UCL Constitution Unit on Public Appointments (2021). Accessed online May 2021: <https://publicappointmentscommissioner.independent.gov.uk/pre-valedictory-speech-to-the-ucl-constitution-unit-on-public-appointments/>

**Recommendation 19**

The Governance Code for Public Appointments should be amended to make clear that ministers should not appoint a candidate who is deemed unappointable by an assessment panel, but if they do so, the minister must appear in front of the relevant select committee to justify their decision.

## The regulation of significant appointments

- 5.14 The list of significant appointments, agreed by ministers and the Commissioner for Public Appointments, details the competitions that require the presence of a Senior Independent Panel Member (SIPM).<sup>63</sup> These are usually competitions for roles that exercise a significant degree of executive or regulatory authority and attract a high degree of public scrutiny. The presence of a SIPM acts as a stronger guarantee of the independence of an advisory panel. The Commissioner must be consulted on a minister's choice of SIPM and the SIPM has a duty to report any material breaches of the Governance Code in the appointments process.

**“For significant appointments, that is mainly the chairs of public bodies, a Senior Independent Panel Member is chosen after consultation with me – someone who has no ties to the sponsoring department and no reported party activity. For a long period, this worked well and harmoniously. But in the past year there have been a few cases of ministers trying to appoint SIPMs such as Conservative peers who clearly breach this rule. Fortunately, acceptable alternatives were agreed and official guidance has clarified the meaning of the code.”**

**Peter Riddell, former Commissioner for Public Appointments,  
Pre-Valedictory Speech, May 2021<sup>64</sup>**

- 5.15 While the Commissioner has sufficient powers to ensure the independence of SIPMs, he or she has no formal role in relation to the rest of a panel. As with all other appointments, ministers determine panel composition, and they may appoint politically affiliated panel members. While politically affiliated panel members should not be prohibited, their presence should not undermine the overall credibility of the advisory panel, which should still be seen to be independent of ministerial control and predisposed to produce a fair assessment of all applicants.

63 The list of significant public appointments can be found here: <https://publicappointmentscommissioner.independent.gov.uk/regulating-appointments/significant-appointments/>

64 Peter Riddell, Pre-Valedictory speech to the UCL Constitution Unit on Public Appointments (2021). Accessed online May 2021: <https://publicappointmentscommissioner.independent.gov.uk/pre-valedictory-speech-to-the-ucl-constitution-unit-on-public-appointments/>

- 5.16 However, concerns have been raised by the former Commissioner and others that ministers are, on occasion, seeking to pack assessment panels with majorities of political affiliates, therefore undermining the independence of the panel. Peter Riddell cited as one notable case the panel for the competition of the Office for Students, which had “a panel of five where there is no one with senior recent experience of higher education or a student involved.”<sup>65</sup> The Commissioner’s ability to resist the packing of panels is solely the product of their willingness to challenge the responsible minister, either publicly or privately.
- 5.17 Peter Riddell has called for reforms so that the Commissioner is “consulted on the composition of all members of interview panels for all significant appointments to ensure a fair balance.” The Committee agrees. While public criticism may deter panel packing, attempts to pack panels nonetheless undermine public trust in the credibility of the appointments process. A guarantee of a process of consultation will allow the Commissioner to intervene more readily and with less friction where assessment panels do not have a credible independent element.
- 5.18 Similarly, the Committee also agrees with Peter Riddell’s recommendation that SIPMs have a “specific duty of reporting” on the conduct of their competitions, as many already do informally. Such a reform would provide an additional check against unfair panel assessments.<sup>66</sup>

#### **Recommendation 20**

The Governance Code should be amended so that ministers must consult with the Commissioner for Public Appointments on the composition of all panel members for competitions for significant appointments.

#### **Recommendation 21**

Senior Independent Panel Members should have a specific duty to report to the Commissioner on the conduct of significant competitions.

## The appointments process for standards regulators

- 5.19 The chairs of ACOBA and HOLAC, and the Registrar of Consultant Lobbyists, are appointed through the regulated process for significant appointments. The Commissioner for Public Appointments and the Independent Adviser are both direct ministerial appointments, though the government states the process for appointing

65 Peter Riddell, Letter to Lord Evans (2020), 3. [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/932513/Peter\\_Riddell\\_to\\_Lord\\_Evans.docx.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/932513/Peter_Riddell_to_Lord_Evans.docx.pdf)

66 Peter Riddell, Pre-Valedictory speech to the UCL Constitution Unit on Public Appointments (2021).

the Commissioner is “run in line with the principles of the Governance Code”.<sup>67</sup> The First Civil Service Commissioner undergoes a slightly more rigorous appointments process, as the Constitutional Reform and Governance Act mandates that the Commissioner is appointed “on merit on the basis of fair and open competition”, and that opposition leaders and the First Ministers for Scotland and Wales are consulted.<sup>68</sup> All successful candidates, other than the Independent Adviser, undergo pre-appointment scrutiny by the Public Administration and Constitutional Affairs Committee (PACAC).

- 5.20 The Committee believes that the appointments process for the heads of all standards regulators warrants a greater degree of independence than the current process for significant public appointments, as the role of these bodies is to scrutinise government, rather than implement government policy. Currently, only the First Civil Service Commissioner undergoes a stricter process.
- 5.21 The independent element of the appointments process for the five other lead regulators should be strengthened. Each should be appointed by the process for significant public appointments, but the assessment panel should have a majority of independent members, as well as a Senior Independent Panel Member. We believe that a majority independent panel will provide a sufficient safeguard to ensure that successful candidates will be willing and able to hold the government to account effectively.
- 5.22 Some standards bodies, such as ACOBA and HOLAC, operate as committees and include a number of independent members. When new independent members are appointed to standards bodies, the chair of each body should always serve as the chair of the assessment panel, as is often already the case.

### **Recommendation 22**

The chairs of ACOBA and HOLAC, the Registrar of Consultant Lobbyists, the Commissioner for Public Appointments and the Independent Adviser on Ministers’ Interests should all be appointed through the process for significant public appointments, and the assessment panel for each should have a majority of independent members.

### **Recommendation 23**

Chairs of standards committees should chair assessment panels for the appointment of their independent members.

67 Cabinet Office, Commissioner for Public Appointments: Candidate Information Pack (2020), 5. Accessed online August 2021: <https://publicappointments.cabinetoffice.gov.uk/wp-content/uploads/2020/11/Commissioner-for-Public-Appointments-Candidate-Pack.pdf>

68 The Constitutional Reform and Governance Act 2010. Accessed online August 2021: <https://www.legislation.gov.uk/ukpga/2010/25/contents>

## Unregulated (direct) appointments

- 5.23 Recent years have seen the creation of a considerable number of new posts which are appointed directly by ministers and go through no regulatory process. As these are new posts, ministers do not need to consult with the Commissioner to make a direct appointment.
- 5.24 A number of these appointments were made to coronavirus-related roles and had to be made with urgency. Former Cabinet Secretary Lord Sedwill told PACAC that unregulated appointments were a temporary response to the pandemic and not a precedent for future appointments.<sup>69</sup> The Committee agrees with PACAC chair William Wragg MP that should unregulated appointments become the norm, the role and remit of the Commissioner for Public Appointments would need to be reassessed.<sup>70</sup>
- 5.25 Though it may be appropriate in some circumstances for appointments to be unregulated – for example for the heads of short-term policy reviews or some tsars or envoys – there is a lack of transparency on the number and nature of unregulated appointees. Without further information on these roles, it is impossible to ascertain the influence unregulated appointees have over public policy, or judge whether it is appropriate for such roles to remain unregulated. The former Commissioner has recommended that government departments should publish a list of all unregulated and regulated appointments. The Committee agrees.
- 5.26 One such category of direct appointments is Non-Executive Directors (NEDs) of government departments. NEDs were introduced to provide better oversight and corporate governance of government departments, and the 2010 Ministerial Code emphasised that NEDs should largely be drawn from the “commercial private sector”.<sup>71</sup> However, there is an increasing trend amongst ministers to appoint supporters or political allies as NEDs. This both undermines the ability of NEDs to scrutinise the work of their departments, and has a knock-on effect on the appointments process elsewhere, as NEDs are often used on the assessment panels for other public and senior civil service appointments. Like members of boards of other public bodies, the appointment process for departmental NEDs should be regulated.

**“Around 20% of departmental NEDs have political experience or alignment.”**

**The Institute for Government, The appointment and conduct of departmental NEDs, July 2021<sup>72</sup>**

69 Lord Sedwill, The work of the Cabinet Office, Oral evidence given to the House of Commons Public Administration and Constitutional Affairs Committee (17 November 2020), response to Q517. Accessed online May 2021: <https://committees.parliament.uk/oralevidence/1208/pdf/>

70 William Wragg MP, William Wragg MP – Online Evidence Session with CSPL, 31:50 - 32:35 (2021)

71 Institute for Government, Government departments’ boards and non-executive directors (2021). Accessed online May 2021: <https://www.instituteforgovernment.org.uk/explainers/government-departments-boards-and-non-executive-directors#:~:text=How%20are%20non%2Dexecutive%20directors,appointed%20by%20the%20prime%20minister>

72 The Institute for Government, The appointment and conduct of departmental NEDs (July 2021). Accessed online August 2021: <https://www.instituteforgovernment.org.uk/sites/default/files/publications/Departmental-NEDs.pdf>

**Recommendation 24**

Government departments should publish a list of all unregulated and regulated appointments.

**Recommendation 25**

The appointments process for Non-Executive Directors of government departments should be regulated under the Governance Code for Public Appointments.

## Placing the regulation of public appointments on a stronger statutory basis

- 5.27 The powers of the Commissioner for Public Appointments, and the Governance Code for Public Appointments, are laid out in the Public Appointments Order in Council. The Commissioner does, therefore, have a statutory basis, but it is one that can be amended by ministers with little process or debate.
- 5.28 The independence of the Commissioner would be better protected if the office were established in primary legislation, rather than Order in Council. Sir David Normington, who held the offices of Commissioner for Public Appointments and First Civil Service Commissioner simultaneously, told the Committee that the different legislative status of the two offices had significant consequences on his ability to uphold the relevant codes; namely that his ability to uphold the Governance Code for Public Appointments was hampered by the relative statutory weakness of Commissioner's office.
- 5.29 A stronger statutory basis for the Commissioner is of particular importance given that much of the Commissioner's role now depends on formal or informal advice, rather than enforceable regulatory power. Currently, a commissioner who chooses to advise against a minister's desired course of action does so knowing their office could be abolished or its powers limited further by those same ministers. A statutory basis for the Commissioner would allow him or her to give honest, impartial advice, free from the implicit pressure that results from weak statutory foundations.
- 5.30 The following aspects of the Commissioner's role and remit should be placed in primary legislation, as outlined in recommendation 2:
- the appointments process for the Commissioner
  - that the Commissioner serve for a single non-renewable five-year term
  - that the government must publish, after consultation with the Commissioner, a Governance Code for Public Appointments (as currently set out in the Order in Council)
  - the functions of the Commissioner (as currently set out in the Order in Council)

# Chapter 6

## Transparency around Lobbying

- 6.1 Lobbying is an important and legitimate aspect of public life in a liberal democracy. The right of individuals, businesses and interest groups to make representations to government, and the need for government to discuss policy proposals with those who might be affected, is essential. As this Committee argued eight years ago, “Free and open access to government is necessary for a functioning democracy as those who might be affected by decisions need the opportunity to present their case.”<sup>73</sup>
- 6.2 Lobbying undermines trust in the integrity of our democracy when it is associated with money, undue influence, and secrecy. The perception that preferential access is given to party donors, that ministerial decision-making can be influenced through gifts and hospitality, or that important policy decisions are made in secret consultations with vested interests, all serve to lower impressions of standards in public life.
- 6.3 Such perceptions are preventable if all those in public life on the receiving end of lobbying – including ministers, civil servants and special advisers – act in the spirit of the Nolan Principles. Transparency, in particular, is vital in enabling the government to prove to citizens that it acts in accordance with the Seven Principles of Public Life. As the Committee wrote in its 2013 report, *Strengthening Transparency Around Lobbying*, “The need for greater transparency is a matter of perception and substance. The more that lobbying activity is hidden from public view, the more it will be seen as ‘murky’ and the greater in fact will be the concerns about lobbying in general. Lobbying which is secret without good reason inhibits even-handedness, results in distorted evidence and arguments, fuels suspicions, facilitates excessive hospitality, corruption and other impropriety, hides or clouds accountability, undermines trust and confidence in political processes, and is inconsistent with modern democratic standards.”<sup>74</sup>
- 6.4 In government, upholding transparency around lobbying is a matter of statutory regulation and codes of conduct. The 2014 *Transparency of Lobbying, Non-Party Campaigning and Trade Union Administration Act* established the Register of Consultant Lobbyists, overseen by a Registrar, to require multi-client lobbying agencies to disclose their clients. Government departments publish quarterly returns on gifts, hospitality, and external meetings of ministers, permanent secretaries, and special advisers (though only meetings with the media in the case of special

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73 The Committee on Standards in Public Life, *Strengthening Transparency Around Lobbying* (2013), 5. Accessed online May 2021: [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/407530/2901376\\_LobbyingStandards\\_WEB.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/407530/2901376_LobbyingStandards_WEB.pdf)

74 *Strengthening Transparency Around Lobbying* (2013), 22.

advisers). Transparency obligations on ministers and special advisers are found in their respective codes of conduct.

- 6.5 We include here the argument made in the Committee’s published findings: the current system of transparency around lobbying is not fit for purpose. Transparency matters not just for transparency’s sake. Transparency matters to the extent that data released facilitates effective scrutiny and accountability. Despite significant improvements in the availability of government information over the past 25 years, lobbying data published by government and the Registrar of Consultant Lobbyists does not meet this requirement. Transparency International cites 26 lobbying scandals since 2010 where “critical information... was not captured either by the statutory lobbying register or departmental disclosures”, and academic analysis that showed “major discrepancies” between reported ministerial meetings and the Register of Consultant Lobbyists.<sup>75</sup>

**“The UK is in the difficult position where we have a lobbying register but lack real transparency. We still do not have a complete picture of lobbying activity and lobbying scandals continue to be a feature of our politics.”**

**Transparency International UK, written evidence, January 2021**

- 6.6 It is too difficult to find out who is lobbying government, information is often released too late, descriptions of the content of government meetings are ambiguous and lack necessary detail, transparency data is scattered, disparate, and not easily cross-referenced, and information in the public interest is often excluded from data releases completely. As outlined in our published findings, reforms are needed to the accessibility, quality, and timeliness of government data and to the scope of transparency rules. The rules and guidance on informal lobbying and alternative forms of communication also require improvement and greater clarity. This chapter also discusses the Register of Consultant Lobbyists.

## Improving the accessibility, quality and timeliness of government data releases

- 6.7 Releases are currently published across different departmental web pages, as well as the Register, meaning that any attempt to obtain a clear picture of one company or organisation’s attempts to influence government is difficult and time consuming. Journalists and NGOs need to collate multiple different departmental publications in order to get a clear picture of lobbying activity.
- 6.8 This scattered approach to transparency should be improved. We believe a better approach would be for the Cabinet Office to collate all departmental transparency releases and publish them in an accessible, centrally managed and searchable

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<sup>75</sup> Transparency International, Written evidence to Standards Matter 2 (2021), paragraphs 41-42.

database. With one government-maintained lobbying database, records would be easier to find, networks of influence easier to see, and discrepancies in the quality and timeliness of data released by departments would become more visible. Significant improvements in government capabilities in digital and data create an opportunity to build an important resource for open government.

- 6.9 A centrally managed database would also provide better clarity on responsibility and accountability for poor-quality data releases. Currently, individual private offices have responsibility for collating quarterly returns and submitting them to the Cabinet Office “for sense checking”.<sup>76</sup> It is unclear what the consequences are, if any, if returns are incomplete or deficient. Ongoing cross-government work to highlight the importance of transparency and ensure consistent standards across private offices is welcome. However, a system of meaningful oversight and accountability for the quality of departmental returns, run by the Cabinet Office as it publishes all returns centrally, is necessary. Compliance with the government’s own transparency rules is an important ethical responsibility, and should not be seen as a low priority administrative exercise.
- 6.10 To improve the quality of transparency data, the government should ensure that a sufficient level of detail is provided on the subject matter of all lobbying meetings and any policy matters discussed. In some cases, this is done already, and the Committee notes GRECO’s assessment that “more information is now available on the content of meetings”.<sup>77</sup> However, transparency releases still too often describe meetings in ambiguous language and terms such as “regular catch up”. When the subject matter is specified, this can still be too broad. Descriptions such as “To discuss COVID-19”, “To discuss the Union”, or “To discuss EU exit” do not provide the public with the minimum necessary information to understand what representations the government is receiving on a specific policy matter. In comparison, descriptions such as “To discuss access to public land for digital infrastructure rollout”, “To discuss September schools announcement with vulnerable children stakeholders” and “To discuss BBC’s plans for England around their announcement on regional cuts”, all found in releases from the past year, all convey a suitable level of detail.
- 6.11 Cabinet Office guidance from 2018, released under FOI, states that “Departments should make every effort to provide details on the purpose of the meeting” and that the term “‘General Discussion’ should not normally be used.”<sup>78</sup> This spirit of this guidance is not consistently followed and ambiguous meeting descriptions can be

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76 Cabinet Office, Guidance: Quarterly publication of ministers’ gifts (given and received), overseas travel, hospitality received and meetings with external organisations (2018). Accessed online May 2021: [https://www.whatdotheyknow.com/request/452972/response/1225829/attach/4/IC325618%20Quarterly%20Transparency%20Return%20Guidance.pdf?Cookie\\_passthrough=1](https://www.whatdotheyknow.com/request/452972/response/1225829/attach/4/IC325618%20Quarterly%20Transparency%20Return%20Guidance.pdf?Cookie_passthrough=1)

77 The Council of Europe’s Group of States Against Corruption (GRECO), Fifth Evaluation Round, Preventing corruption and promoting integrity in central government (top executive functions) and law enforcement agencies, Compliance Report, United Kingdom (May 2021). Accessed online June 2021: <https://rm.coe.int/fifth-evaluation-round-preventing-corruption-and-promoting-integrity-i/1680a2a1b1#>

78 Cabinet Office, Guidance: Quarterly publication (2018).

found in multiple recent transparency returns. The Cabinet Office should provide stricter guidelines on minimum standards for the descriptions of meetings and ensure compliance by government departments.

- 6.12 The Cabinet Office should also publish collated transparency releases more regularly. Under current practice, departments should publish data quarterly, up to three months after the end of the reporting period. Yet this deadline is often missed, with some departments on occasion taking up to a year to disclose meetings.<sup>79</sup> Such delays undermine the purpose of the transparency release itself: without prompt publication, Parliament and the media cannot scrutinise the activity of government as it happens, and accountability delayed is too often accountability denied. The government should publish transparency returns monthly, rather than quarterly, in line with the MPs' and peers' registers of interests. Publishing returns more regularly will help transparency become part of private offices' regular routine, rather than a one-off task which can be too easily delayed.

“If we want to translate transparency into accountability, then a lot of things matter around the quality of the transparency... if you get delayed information, it's much less valuable and it's much harder to hold [the government] to account with that. If you want transparency to have the effect of deterring bad behaviour, then we need the information to be made available in a timely way.”

**Professor Liz David-Barrett, online evidence session, March 2021**

“I think they should make available [lobbying] information on the government website... It should happen in a meeting which is recorded, with minutes taken... then if anything happens in the future, you can go back and see what happened at the meeting, who was there and what was said.”

**Focus group participant, August 2021**

### **Recommendation 26**

The Cabinet Office should collate all departmental transparency releases and publish them in an accessible, centrally managed and searchable database.

### **Recommendation 27**

The Cabinet Office should provide stricter guidelines on minimum standards for the descriptions of meetings and ensure compliance by government departments.

<sup>79</sup> Institute for Government, *Whitehall Monitor 2020* (2020), 88. Accessed online May 2021: [https://www.instituteforgovernment.org.uk/sites/default/files/publications/whitehall-monitor-2020\\_1.pdf#page=88](https://www.instituteforgovernment.org.uk/sites/default/files/publications/whitehall-monitor-2020_1.pdf#page=88); and Transparency International written evidence to Standards Matter 2, paragraph 46.

**Recommendation 28**

The government should publish transparency returns monthly, rather than quarterly, in line with the MPs' and peers' registers of interests.

## Scope of transparency requirements for senior civil servants and special advisers

- 6.13 Departmental transparency releases do not consistently cover senior civil servants below permanent secretary level, meaning that the lobbying of directors general and directors is not always disclosed. These are roles with significant authority, often with more direct responsibility for an area of government policy than the relevant minister or permanent secretary. In many cases, a company or organisation seeking to influence government policy is more likely to approach a director than a permanent secretary.
- 6.14 The government should therefore publish meetings held with external organisations by senior civil servants below permanent secretary level, including directors general and directors. The Committee considered recommending the inclusion of deputy directors in transparency releases too, but contributors told us that doing so would cover an unnecessarily large proportion of Civil Service leadership.
- 6.15 Quarterly transparency releases include details of special advisers' external meetings only if they are held with "newspaper and other media proprietors, editors and senior executives".<sup>80</sup> Given the influence that many special advisers now hold, the government should publish the full diaries of special advisers' external meetings.

**Recommendation 29**

The government should include meetings held between external organisations, directors general, and directors in transparency releases.

**Recommendation 30**

The government should include meetings held between external organisations and special advisers in transparency releases.

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80 Cabinet Office, Code of Conduct for Special Advisers (December 2016), paragraph 15. Accessed online May 2021: [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/832599/201612\\_Code\\_of\\_Conduct\\_for\\_Special\\_Advisers.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/832599/201612_Code_of_Conduct_for_Special_Advisers.pdf)

## Informal lobbying and alternative forms of communication

- 6.16 The Ministerial Code makes clear that if a minister “meets an external organisation or individual and finds themselves discussing official business without an official present... any significant content should be passed back to the department as soon as possible after the event.”<sup>81</sup> In evidence given to PACAC, the Cabinet Secretary made clear that the underpinning principle regarding any ministerial discussions with external individuals or organisations is that “government business is government business however it is conducted and by whatever means of communication.”<sup>82</sup>

**“If it’s an official discussion, I think more people should be part of that discussion and it should happen in an office somewhere, where it feels more official, more documented and regulated, rather than a place where it’s just a conversation.”**

**Focus group participant, August 2020**

- 6.17 Under this principle, any lobbying of ministers through informal channels or alternative technologies, such as WhatsApp or Zoom, should be reported to civil servants. This clarification is welcome, given that recent controversies have focused attention on the fact that significant attempts to lobby government can occur through private messages and phone calls, rather than formal face-to-face meetings. Updated guidance should make clear that WhatsApps, texts, Zooms, and any other informal lobbying should be reported back to officials, given that the only relevant guidance on alternative communications at present was published in 2013 and concerns the use of private email.<sup>83</sup>
- 6.18 The implementation of the principle that ‘government business is government business’ will not, however, solve concerns about the transparency of informal lobbying. The Director General for Ethics and Propriety at the Cabinet Office made clear in evidence to PACAC that quarterly transparency releases do “not cover phone calls unless the phone call is in place of a meeting. It covers phone meetings, but it does not include routine phone calls or texts.”<sup>84</sup> For this reason, former Prime Minister David Cameron’s extensive lobbying of ministers and officials on behalf of Greensill Capital in late 2020 was not included in any departmental disclosures.<sup>85</sup>

81 Cabinet Office, Ministerial Code (August 2019), paragraph 8.14. Accessed online May 2021: [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/826920/August-2019-MINISTERIAL-CODE-FINAL-FORMATTED-2.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/826920/August-2019-MINISTERIAL-CODE-FINAL-FORMATTED-2.pdf)

82 Simon Case, The work of the Cabinet Office, Oral evidence given to the House of Commons Public Administration and Constitutional Affairs Committee (26 April 2021), response to Q754. Accessed online May 2021: <https://committees.parliament.uk/oralevidence/2084/default/>

83 Cabinet Office, Guidance to Departments on the Use of Private Email (2013). Accessed online May 2021: [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/207131/Private\\_Email\\_guidance.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/207131/Private_Email_guidance.pdf)

84 Darren Tierney, The work of the Cabinet Office, Oral evidence given to the House of Commons Public Administration and Constitutional Affairs Committee (26 April 2021), response to Q753.

85 Research conducted via a search of Transparency International’s database of ministerial meetings, <https://openaccess.transparency.org.uk/>. Database accessed May 2021.

- 6.19 It would be neither practical nor desirable for government to proactively publish details about all engagements with external bodies made by email, phone call or text, although all are subject to FOI. However, it is clear that the current categories of published information – gifts, overseas travel, hospitality and meetings – effectively exclude the disclosure of informal lobbying, which appears to be an increasingly common way for external organisations to attempt to influence government.
- 6.20 It is both unreasonable and impractical to ask ministers to reject all informal approaches on policy matters, and so instead government should revise the categories of published information to close the loophole by which informal lobbying is not disclosed in departmental releases. Either the ‘meetings’ category should be broadened or a fifth category should be added to include representations made to government by alternative means. Instant messaging applications, virtual meetings, phone calls and emails should be included in this category when the representations to government are serious, premeditated, and credible, or are given substantive consideration by ministers, special advisers or senior civil servants.

**Recommendation 31**

The government should update guidance to make clear that informal lobbying, and lobbying via alternative forms of communication such as WhatsApp or Zoom, should be reported to officials.

**Recommendation 32**

The government should revise the categories of published information to close the loophole by which informal lobbying is not disclosed in departmental releases.

## The Register of Consultant Lobbyists

- 6.21 The Register was created in 2014 as the first, and only, statutory regulation of lobbying in the UK. The Register was established to resolve the issue that government transparency releases would not identify whose interests were being advocated for when ministers met with third-party consultants. It was not seen as necessary to legislate for in-house lobbyists, as they would be disclosed in departments’ quarterly returns.

“The statutory Register of Consultant Lobbyists is a UK-wide legislative measure to regulate consultant lobbying of ministers and permanent secretaries, which ensures that third-party lobbyists cannot use consultants to hide their engagement in policy making.

The register does not cover in-house lobbyists as the government publishes data on meetings between ministers and permanent secretaries and external interests including details of attendees and the organisations they represent; this information captures the activities of in-house lobbyists.”

**Government submission to this review, written evidence, April 2021**

- 6.22 As a result, the overwhelming majority of lobbying in the UK is not subject to statutory regulation. Estimates place the proportion of lobbying declared in the register between 5 and 15%. Industry bodies, the CIPR and PRCA, have called for the Register to be expanded to cover “all those engaged in lobbying”, including in-house lobbyists in “charities, campaigning groups, think tanks, trade unions, business, organisations, and private companies”.<sup>86</sup>
- 6.23 The CIPR and the PRCA both told this review that they advocate for broader regulation in order to improve transparency around lobbying. Francis Ingham, Director General of the PRCA, told us that the Register “gives a misleading perception that the industry consists only of third-party lobbyists, which is very far from the truth. In the interest of public information, it would be better if people understood how big and broad the lobbying industry actually is... it would be in the public interest for people to see the BBC, CBI, TUC etc. all on the same register as [PR company] Edelman. It would be in the public interest for everyone who lobbies to declare that they lobby.”
- 6.24 The CIPR emphasised the importance of trust, telling us that “When the register was launched it was designed to rebuild public trust... A register that only captures the tip of the iceberg doesn’t do anything to restore that public trust, if anything hiding the majority of the activity that does take place does the opposite.” Many lobbying companies sign up to the PRCA and CIPR’s voluntary registers, and the CIPR added that many of their members want to be on a register to express their commitment to transparency and emphasise the ways lobbying can positively contribute to the democratic process.
- 6.25 An expanded lobbying register appears a compelling solution to the lack of transparency around lobbying. The primary argument against an expanded register – that it would duplicate material found in government quarterly releases – carries little force when those releases often do not contain the relevant information. Despite the publication of both the Register and government releases, meaningful data about lobbying often remains hard to find and it is extremely difficult to get a clear and complete picture of the scale and extent of lobbying in Whitehall.

86 PRCA, Open letter to Government on lobbying reform (2021). Accessed online May 2021 <https://news.prca.org.uk/prca-publishes-open-letter-to-government-on-lobbying-reform/> and CIPR, Lobbying Policy Proposal. Accessed online May 2021 [https://cipr.co.uk/CIPR/Our\\_work/Policy/Lobbying\\_Policy\\_Proposal.aspx](https://cipr.co.uk/CIPR/Our_work/Policy/Lobbying_Policy_Proposal.aspx)

**“If we had a system where no lobbyists disclosed anything and just ministers and MPs declared who had contacted them, we could dispense all registers and that would be fine. But now we have a jigsaw with lots of pieces missing. The other bits of the jigsaw aren’t in place.”**

**Alastair McCapra, Chief Executive, CIPR, oral evidence, July 2021**

- 6.26 There are, however, reasons to focus attention on improving the quality of government transparency releases, rather than shifting transparency obligations to the private and third sectors. Openness is one of the Seven Principles of Public Life, and the obligations of open government should fall on the shoulders of ministers, special advisers and senior civil servants, rather than those making representations to them.
- 6.27 An expanded lobbying register would also likely create additional obligations on small charities, campaign groups, and local community organisations who want to contact ministers. Few of these organisations have the same resources as large PR companies to navigate the bureaucracy of a register. It remains unclear if such bodies would also be subject to the same civil penalty notices if they fail to register in time. Compelling any form of organisation wishing to engage with government to register as lobbyists would create an unnecessary hurdle to the exercise of the democratic right to make representations to government.
- 6.28 It remains the case that an expanded lobbying register would duplicate, and therefore potentially replace, departments’ quarterly releases. Such a register may improve transparency around lobbying, but at the cost of removing the impetus for better transparency from government. As the CIPR and PRCA already run voluntary lobbying registers, the net gain from such an approach would be small.

**“Widening the scope of the Register of Consultant Lobbyists to include in-house lobbyists won’t help. Under the current system, if a minister correctly discloses they have met someone working for Rolls Royce, or Oxfam, or the National Union of Mineworkers or the Church of England, together with the subjects that were discussed under [improved data standards], it will already be clear whose interests they were representing and how.”**

**John Penrose MP, Prime Minister’s Anti-Corruption Champion, written evidence, January 2021**

- 6.29 While the Committee recognises frustrations over the poor quality of government transparency releases, we believe the right solution is for the Cabinet Office and government departments to radically improve the quality of their transparency data. Government transparency releases do not need to be replaced by an expanded lobbying register provided there is a substantial improvement in the prompt publication of every department’s transparency releases.

- 6.30 It is worth reiterating, however, that should government transparency obligations continue to remain poor, the case for an expanded lobbying register would strengthen. The Committee will keep a watching brief on the quality of departmental transparency returns and would expect to revisit the question of an expanded lobbying register should it not prove possible to deliver these improvements in a reasonable timescale.
- 6.31 Evidence submitted to this review also identified a number of improvements that could be made to the Register of Consultant Lobbyists in its current form. Contributors recommended that consultant lobbyists who contact special advisers and senior civil servants below permanent secretary level (including directors general and directors) should be required to register. The Committee agrees.
- 6.32 Consultant lobbyists should also be required to submit more information on their lobbying activities, to mirror the declarations that ministers make. Currently, consultant lobbyists need only declare their clients on a quarterly basis. They do not have to declare which minister or permanent secretary they lobbied, when they lobbied, or what the subject matter was. This makes it unnecessarily difficult for both the Registrar and interested parties to corroborate data in the register with ministerial diaries. Those on the register should also have to declare the date, recipient, and subject matter of their lobbying.

**Recommendation 33**

Consultant lobbyists should also have to register on the basis of any communications with special advisers, directors general, and directors.

**Recommendation 34**

Consultant lobbyists should have to declare the date, recipient, and subject matter of their lobbying.

# Appendix 1

## The Seven Principles of Public Life

### **This includes the updated descriptor to leadership.**

The Seven Principles of Public Life apply to anyone who works as a public office-holder. This includes all those who are elected or appointed to public office, nationally and locally, and all people appointed to work in the Civil Service, local government, the police, courts and probation services, non-departmental public bodies (NDPBs), and in the health, education, social and care services. All public office-holders are both servants of the public and stewards of public resources. The principles also have application to all those in other sectors delivering public services.

### **Selflessness**

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

### **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.

### **Objectivity**

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

### **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.

### **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.

### **Honesty**

Holders of public office should be truthful.

### **Leadership**

Holders of public office should exhibit these principles in their own behaviour and treat others with respect. They should actively promote and robustly support the principles and challenge poor behaviour wherever it occurs.

## Appendix 2

### Recent Committee reports relevant to this review

#### **Regulating Election Finance (2021)**

1. In July 2021, the Committee published a comprehensive review of the current system for regulating the money spent to influence the outcome of elections and referendums in the UK. Our report reiterated our strong belief in the value of an independent regulator, insulated from political pressures and at arm's length from the government. We proposed a package of practical reforms to address modern campaign practices, meet emerging threats around the source of donations, deliver greater transparency and enhance compliance with election finance law. We welcomed the government's prompt initial response to our report and promise of further consideration of the recommendations made.

#### **Local Government Ethical Standards (2019)**

2. In January 2019, the Committee published a report on local government ethical standards, an area of long-standing interest for CSPL. The report provided a health check of the standards framework in place for local authorities across England, established by the Localism Act 2011. The report concluded that the arrangements in place are promoting and maintaining the standards expected by the public, and reinforced our view that the majority of local councillors maintain high ethical standards. However, we recommended that some improvements were required, in particular, the need for maximum independence in local complaints processes and the need for greater sanctions where appropriate in the rare cases of significant or repeated breaches of the code of conduct.
3. A key recommendation was that the Local Government Association (LGA) should develop a non-mandatory, model code of conduct. Following consultation, the LGA published this model code, which CSPL views as a welcome step forward, helping to set clear standards and avoid confusion for both councillors and members of the public alike. As well as making recommendations to government, CSPL identified 15 best practice recommendations to drive high ethical standards in local government which we expect local authorities to implement. We await the government's response to this report.

#### **MPs' Outside Interests (2018)**

4. The ongoing inquiry by the House of Commons Standards Committee into the MPs' Code of Conduct provides an important opportunity to ensure the MPs' Code reflects the public's expectations on the management of MPs' financial interests. The Committee argued in its 19th report, MPs' Outside Interests, that MPs should

be able to undertake paid employment, providing that these activities remain within reasonable limits, and that MPs should be prohibited from accepting any paid work to provide services as a parliamentary strategist, adviser or consultant. These recommendations remain valid today.

### **Intimidation in Public Life (2017)**

5. In July 2017, the Committee was asked by the then Prime Minister, Theresa May, to undertake a review on the intimidation of parliamentary candidates, considering the broader implications for all holders of public office. The Committee's report put forward a package of recommendations to government, social media companies, political parties, the police, broadcast and print media, and MPs and parliamentary candidates themselves.
6. [The Committee's progress report, published December 2020](#), noted that "much has happened to tackle threats to public office holders... but there remains more to do, and at a greater pace". The Committee welcomed developments outlined in 2019's Online Harms White Paper, and the government's consultation on a new electoral offence of intimidation of candidates and campaigners during elections.
7. The Committee also noted that all of the political parties represented in Westminster now have in place their own code of conduct, which sets out the minimum standards of behaviour expected of their members. The Committee worked with [the Jo Cox Foundation to develop a joint code of conduct on intimidatory behaviour, resulting in a high-level statement of principle outlining the minimum standards of behaviour that all party members should aspire to](#). We welcome support for the statement from the Labour Party, the Scottish National Party, the Liberal Democrats, Plaid Cymru, and the Green Party.

### **Ethical Standards for Providers of Public Services (2014 and 2018)**

8. In 2014, the Committee undertook a [review into departmental commissioning activity and the ethical standards of public service providers](#). It found that government departments were not well equipped to support ethical conduct by public service providers. The report recommended that the Cabinet Office should reinforce the message that the Nolan Principles apply to any organisation delivering public services; ensure that ethical standards reflecting the Nolan Principles are addressed in contractual arrangements; and develop guidance on how value for money could be aligned with high ethical standards.
9. In 2018, the Committee published a [follow up report](#) charting progress since 2014. It found that government had made some improvements in managing the ethical conduct of contractors but that the Civil Service had made limited progress on introducing formal measures to reinforce the application of ethical standards in public service delivery. We did not find any compelling evidence that ethical considerations were sufficiently incorporated into service delivery design, contractor selection or formal contract management processes.

### **Political Party Finance: Ending the big donor culture (2011)**

10. There have been a number of recent media controversies surrounding party funding. The Committee's thirteenth report examined party funding agreements in detail. It concluded that the only way to remove the influence of big donors in party politics would be the introduction of a cap on the level of donations and new state funding for political parties. However, the report's recommendations were not accepted and the argument for state funding of political parties remains unpopular. So long as the principle of state funding and a cap on donations remains unpalatable to the major parties, concerns over the influence of large donors in party politics will remain.

### **MPs' Expenses and Allowances: Supporting Parliament, safeguarding the taxpayer (2009)**

11. This review also took stock of the role of the Independent Parliamentary Standards Authority (IPSA), over ten years on from the Committee's report on its establishment. Compliance with rules on salaries and expenses is now extremely high, and IPSA today should be considered a successful response to the parliamentary expenses scandal. The existence of an independent, statutory body to set MPs' pay and expenses is a vital part of parliamentary standards arrangements.

## Appendix 3

### About the Committee on Standards in Public Life

The Committee on Standards in Public Life (CSPL, the Committee) advises the Prime Minister on ethical standards across the whole of public life in England. It monitors and reports on arrangements for upholding ethical standards of conduct across public life in England. The Committee is an advisory non-departmental public body sponsored by the Cabinet Office. The chair and members are appointed by the Prime Minister.

The Committee was established in October 1994, by the then Prime Minister, with the following terms of reference:

“To examine current concerns about standards of conduct of all holders of public office, including arrangements relating to financial and commercial activities, and make recommendations as to any changes in present arrangements which might be required to ensure the highest standards of propriety in public life.”

The remit of the Committee excludes investigation of individual allegations of misconduct.

On 12 November 1997, the terms of reference were extended by the then Prime Minister:

“To review issues in relation to the funding of political parties, and to make recommendations as to any changes in present arrangements.”

The terms of reference were clarified following the Triennial Review of the Committee in 2013. The then Minister for the Cabinet Office confirmed that the Committee “should not inquire into matters relating to the devolved legislatures and governments except with the agreement of those bodies”, and that “the Government understands the Committee’s remit to examine ‘standards of conduct of all holders of public office’ as encompassing all those involved in the delivery of public services, not solely those appointed or elected to public office”.

The Committee is a standing committee. It not only conducts inquiries into areas of concern about standards in public life, but can also revisit those areas to monitor whether and how well its recommendations have been put into effect.

### **Membership of the Committee for the period of this review**

Lord (Jonathan) Evans, Chair  
The Rt Hon Dame Margaret Beckett DBE MP  
Ewen Fergusson (from 1 August 2021)  
Dr Jane Martin CBE  
Dame Shirley Pearce DBE  
Professor Gillian Peele (from 1 August 2021)  
Jane Ramsey (until 28 October 2020)  
Monisha Shah (until 31 July 2021)  
The Rt Hon Lord (Andrew) Stunell OBE  
The Rt Hon Jeremy Wright QC MP

### **Chair of the Committee's Research Advisory Board**

Professor Mark Philp

### **Secretariat**

The Committee is assisted by a Secretariat consisting of Lesley Bainsfair (Secretary to the Committee), Amy Austin (Senior Policy Adviser), Nicola Richardson (Senior Policy Adviser), Aaron Simons (Senior Policy Adviser) and Lesley Glanz (Executive Assistant). Press support is provided by Maggie O'Boyle.

### **Declarations of Interest**

Member declarations of interest can be found on the Committee's website and are updated regularly.

Maggie O'Boyle also provides part time press support to the Office of the Commissioner for Public Appointments, the Advisory Committee on Business Appointments, the House of Lords Appointments Commission, and the Civil Service Commission.

# Appendix 4

## Methodology

The Committee used a range of methods as part of its evidence gathering for this review, including:

- a public consultation, which ran from 22 September 2020 to 29 January 2021 and received 115 responses
- a confidential public sector survey, which ran from 22 September 2020 to 29 January 2021 and received 120 responses
- 16 online evidence sessions, held on 10, 17, and 24 March 2021
- one academics' roundtable, held on 1 April 2021
- 23 stakeholder meetings, held between October 2020 and July 2021
- public polling and focus group research, undertaken by Deltapoll from July - August 2021, with additional analysis conducted by Martha Radford Kirby in collaboration with Mark Philp
- analysis of the British standards landscape, conducted by Rebecca Dobson Phillips
- analysis of past research on the Seven Principles of Public Life, conducted by the Committee secretariat

Responses to the public consultation, a transcript of the academics' roundtable, reports and analysis of public polling and focus groups, and analysis of the British standards landscape [are available on the Committee's website](#).

The online evidence sessions can be watched back [on the Committee's YouTube channel](#).

The Committee's evidence gathering included contributions from the government, the Labour Party, and the Liberal Democrats.

### Stakeholder list

A list of all stakeholders who held discussions with the Committee in person is below. All meetings were held virtually due to the coronavirus pandemic.

## Online evidence sessions, March 2021

Name	Position at time of evidence session
Sir Alex Allan	Former Independent Adviser on Ministers' Interests
Douglas Bain	Acting Senedd Commissioner for Standards
Daniel Bruce	Chief Executive, Transparency International UK
Professor Liz David-Barrett	Professor of Governance and Integrity and Director of the Centre for the Study of Corruption, University of Sussex
Commissioner Mario Dion	Conflict of Interest and Ethics Commissioner, Canada
Dame Carolyn Fairbairn DBE	Former Director-General, the Confederation of British Industry (CBI)
Professor Matthew Flinders	Professor of Politics and Director of the Sir Bernard Crick Centre for Public Understanding of Politics, University of Sheffield
Jonathan Goolden	Regulatory and Public Sector Partner, Wilkin Chapman LLP Solicitors
Sir Bernard Jenkin MP	Chair, Liaison Committee
Sir Philip Mawer	Former Independent Adviser on Ministers' Interests
Dr Melissa McCullough	Northern Ireland Commissioner for Standards
Jacqui McKinlay	Chief Executive, Centre for Governance and Scrutiny
Sir David Normington GCB	Former First Civil Service Commissioner and former Commissioner for Public Appointments
Lord O'Donnell	Former Cabinet Secretary
Dave Penman	General Secretary, FDA Union
Lord Pickles	Chair, Advisory Committee on Business Appointments (ACOBA)
Rt Hon Peter Riddell CBE	Commissioner for Public Appointments
Lord Sedwill	Former Cabinet Secretary
Sir Jonathan Symonds CBE	Non-Executive Chairman, GlaxoSmithKline
Dr Hannah White OBE	Deputy Director, Institute for Government

Name	Position at time of evidence session
William Wragg MP	Chair, Public Administration and Constitutional Affairs Committee
Professor Tony Wright	Emeritus Professor of Government and Public Policy, UCL

### Meetings (oral evidence), October 2020 - July 2021

Name	Position at time of meeting
Debbie Abrahams MP Caroline Lucas MP	Members of Parliament
Rob Behrens	Parliamentary and Health Services Ombudsman
Lord Bew	Chair, House of Lords Appointments Commission
Nigel Boardman	Lead, Review into the Development and Use of Supply Chain Finance in Government
Chris Bryant MP	Chair, House of Commons Standards Committee
Simon Case CVO	Cabinet Secretary
Wendy Chamberlain MP	Liberal Democrat Chief Whip
Gareth Davies	Comptroller and Auditor General, National Audit Office
Francis Ingham	Director General, Public Relations and Communications Association (PRCA)
Mick King	Local Government and Social Care Ombudsman
Richard Lloyd Lee Bridges	Interim Chair, Independent Parliamentary Standards Authority (IPSA) Director of Regulation, IPSA
Lord Mance	Chair, House of Lords Conduct Committee
Alastair McCapra Jon Gerlis	Chief Executive, the Chartered Institute of Public Relations (CIPR) Public Relations and Policy Manager, CIPR
Sir David Norgrove	Chair, UK Statistics Authority

Name	Position at time of meeting
John Penrose MP	Prime Minister's Anti-Corruption Champion
Rt Hon Angela Rayner MP	Deputy Leader of the Labour Party and Shadow Chancellor of the Duchy of Lancaster
Harry Rich	Registrar of Consultant Lobbyists
Lucy Scott-Moncrieff CBE	Lords Commissioner for Standards
Chloe Smith MP	Minister for the Constitution
Kathryn Stone OBE	Parliamentary Commissioner for Standards
Baroness Taylor of Bolton	Chair, House of Lords Constitution Committee (meeting was attended by all present Constitution Committee members)
Ian Watmore	First Civil Service Commissioner
Rob Whiteman Andrew Burns	Chief Executive, Chartered Institute of Public Finance and Accountancy (CIPFA) Associate Director, CIPFA

**Academics' roundtable, April 2021**

Name	Position at time of roundtable
Professor Leighton Andrews	Professor of Practice in Public Service Leadership and Innovation, Cardiff University
Professor Robert Barrington	Professor of Anti-Corruption Practice at the Centre for the Study of Corruption, University of Sussex
Professor Sarah Birch	Professor of Political Science at King's College London
Marcial Boo	Chair, Institute of Regulation
Dr Alistair Clark	Reader in Politics at Newcastle University
Rebecca Dobson Phillips	Doctoral researcher at the Centre for the Study of Corruption at the University of Sussex
Professor Robert Hazell	Professor of Government and the Constitution at the Constitution Unit, University College London
Professor Paul Heywood	Sir Francis Hill Professor of European Politics at the University of Nottingham
Professor Heather Marquette	Professor of Development Politics at the University of Birmingham
Professor Ciaran Martin	Professor of Practice in the Management of Public Organisations at the Blavatnik School of Government, University of Oxford
Professor Gillian Peele	Emeritus Professor in Politics at Lady Margaret Hall, University of Oxford
Dr Sam Power	Lecturer in Corruption Analysis at the Centre for the Study of Corruption at the University of Sussex



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<b>REPORT FOR DECISION</b>
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<b>DECISION OF:</b>	<b>Standards Committee</b>
<b>DATE:</b>	<b>1 July 2020</b>
<b>SUBJECT:</b>	<b>CONSULTATION ON DRAFT MODEL CODE OF CONDUCT</b>
<b>REPORT FROM:</b>	<b>JANET WITKOWSKI – ACTING COUNCIL SOLICITOR AND MONITORITNG OFFICER</b>
<b>CONTACT OFFICER:</b>	<b>JANET WITKOWSKI</b>
<b>TYPE OF DECISION:</b>	<b>COUNCIL</b>
<b>FREEDOM OF INFORMATION/STATUS:</b>	<b>This paper is within the public domain.</b>
<b>SUMMARY:</b>	<b>This report sets out the proposals for consultation on a new model Code of Conduct for Elected Members and seeks comments and approval to respond.</b>
<b>OPTIONS &amp; RECOMMENDED OPTION</b>	<p><b>Members are asked to;</b></p> <ul style="list-style-type: none"> <li>• <b>Note the contents of the report and attached draft Model Code of Conduct,</b></li> <li>• <b>Provide comments for incorporation into a Council response to the consultation,</b></li> <li>• <b>Agree that a response is drafted based on Members comments</b></li> <li>• <b>That the draft response be circulated to Group Leaders for agreement and submission to the LGA within the consultation period.</b></li> </ul>
<b>IMPLICATIONS:</b>	
<b>Corporate Aims/Policy Framework:</b>	<p>Do the proposals accord with the Policy Framework?      Yes      No</p>

<b>Statement by the S151 Officer: Financial Implications and Risk Considerations:</b>		
<b>Equality/Diversity implications:</b>		
<b>Considered by Monitoring Officer:</b>	Yes	Comments
<b>Wards Affected:</b>		
<b>Scrutiny Interest:</b>		

**TRACKING/PROCESS****DIRECTOR:**

Joint Executive Team	Cabinet Member/Chair Briefed	Ward Members (if necessary)	Partners
Scrutiny Committee	Other Committee	Council	Comms

**1.0 BACKGROUND**

- 1.1** All Councils are required to have a local member code of conduct which sets out the requirements for holding office.
- 1.2** The current code in Bury entitled the 'Code of Conduct for Councillors and other Voting Representatives' contained within the Council's Constitution, has been in use without amendment for a number of years. It is based on the previous Model Code of Conduct and incorporates the Seven Principles of Public Life also known as the 'Nolan Principles', namely, selflessness, integrity, objectivity, accountability, openness, honesty and leadership. These are promoted by the Committee on Standards in Public Life, which is an advisory body to the government.
- 1.3** The Local Government Association (LGA) is a national cross party membership body for local authority's that works on their behalf to support, promote and improve local government. Part of the LGA's role is to undertake regular reviews of the Code to ensure it is fit for purpose. The LGA has now produced a new draft Model Code of Conduct which has been sent out for consultation to member local authorities. The consultation period is 8 June 2020 to 17 August 2020.

**2.0 ISSUES**

- 2.1** The Council's current code reflects most of what is in the new draft. However, the new draft does introduce the concept of 'civility' in terms of the way members speak to and communicate with others. This is a new

concept albeit the concept was arguably incorporated in the previous incarnations.

**2.2** There are other concepts that Members may feel should be included should as the 'need to know basis' for disclosure of information to Elected Members and there is little by way of clarity on sanctions. However, there is more narrative that Members may find helpful.

**2.3** The new draft model code together with the consultation questions re attached to this report for consideration.

### **3.0 CONCLUSION**

**3.1** It is proposed that a response to the consultation is sent on behalf of the Council.

**3.2** Members are therefore asked to consider the new Draft Model Code and provide their thoughts and comments on it and responses to the consultation questions. A draft response will then be produced by the Monitoring Officer based on their comments, which will be agreed with Group Leaders for formal submissions.

**3.3** Members are therefore asked to;

- Note the contents of the report and attached draft Model Code of Conduct,
- Provide comments for incorporation into a Council response to the consultation,
- Agree that a response is drafted based on Members comments,
- That the draft response be circulated to Group Leaders for agreement and submission to the LGA within the consultation period.

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#### **List of Background Papers:-**

Bury Council's Constitution

Bury Council's Code of Conduct for Councillors and other Voting Representatives

#### **Contact Details:-**

**Janet Witkowski – [j.witkowski@bury.gov.uk](mailto:j.witkowski@bury.gov.uk) T: 0161 253 5219**

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<b>Classification</b>	<b>Item No.</b>
Open	

<b>Meeting:</b>	Democratic Arrangements Forum Standards Committee Council
<b>Meeting date:</b>	15 <sup>th</sup> November 2021 24 <sup>th</sup> November 2021
<b>Title of report:</b>	Bury Council Constitution Update Report
<b>Report by:</b>	The Monitoring Officer
<b>Decision Type:</b>	<b>Council</b>
<b>Ward(s) to which report relates</b>	<b>All</b>

### EXECUTIVE SUMMARY:

The Council's constitution was reviewed and updated during the municipal year 2020/21. In considering the new Constitution, Members agreed that it would be reviewed annually to ensure that the changes proposed as a result of the review were fit for purpose. The Council has subsequently appointed a new Monitoring Officer with responsibility for oversight of the Constitution. Following discussions, with the Mayor, Group Leaders and Members of the Standards Committee, the Monitoring Officer has recommended a series of amendments as well as a schedule for future review. The proposed changes include;

- Reduction in the number of Articles (Appendix A)
- Amendments to the Council and Committee Procedure Rules (Appendix B& C)
- Amendments to the Cabinet Portfolios (Appendix D)
- Amendments to the Committee Membership (Appendix E)
- Schedule for review (Appendix F)
- Terms of reference (Appendix G)

## **INTRODUCTION**

The Constitution sets out how the Council operates; how decisions are made and the procedures which are followed to ensure that these are efficient, transparent and accountable to local people. The Council has a legal duty to publish an up-to-date Constitution and review regularly.

## **BACKGROUND**

The Constitution must contain:

- a) the Council's standing orders/procedure rules;
- (b) the members' code of conduct;
- (c) such information as the Secretary of State may direct;
- (d) Such other information (if any) as the authority considers appropriate

A Constitution Direction was issued by the Secretary of State in December 2000 requiring 80 matters to be included within council constitutions, covering members' allowances schemes, details of procedures for meetings, details of joint arrangements with other local authorities and a description of the rights of inhabitants of the area.

Bury's Council Constitution is organised into 9 Parts (many divided into a number of sections). The existing Council's Constitution is available on the Council's external website <https://www.bury.gov.uk/index.aspx?articleid=15900>

It should be noted that under the Leader and Cabinet form of executive governance, responsibility for the delegation of executive functions, including those local choice functions which the Council has designated as executive functions, does not rest with the Council, but is the responsibility of the Leader. The Leader may determine to exercise executive functions personally or to delegate their discharge to the Executive, a Committee of the Executive, an Executive Member, an area committee or an officer of the Council (without prejudice to the Leader's ability to exercise such functions personally).

The areas reviewed were informed by Elected Member feedback and conversations with the Mayor and issues raised by group leaders following meetings of Full Council.

## **Proposed changes**

The report therefore seeks Council's approval to amend the Constitution to incorporate the following changes:

### **1. Reduction in the number of Articles (Appendix A)**

The number of Articles has been reduced making them more concise and to avoid duplication.

### **2. Proposed Updates to the Council Procedure Rules (Appendix B)**

It is proposed to separate Council procedure rules to Committee procedure rules, this change will allow the rules to be more clearly set out within the constitution and aid accessibility. In addition the following changes are proposed.

- Separation of the rules for meetings of Full Council and Council Committee meetings
- Changes to the items of business which may be carried out at Council
- Notice of written questions
- Time Extended for oral questions
- Questions to the Combined Authority and updates
- Emergency Motions, when a motion can be withdrawn and exceptions
- Clarification of interests under the code of conduct
- State of the Borough debate

The proposed changes are marked bold in Appendix B

### **3. Proposed Updates to the Committee Procedure Rules (Appendix C)**

These Committee rules will apply to all meetings of the Cabinet, Scrutiny, Regulatory Committees, the Health and Wellbeing Board and the Corporate Parenting Board.

In addition this report seeks Council's approval to amend the Constitution to incorporate the following agreed changes:

- Time of meetings – amendment to allow the ability to hold additional meetings
- Member question time – Meetings of cabinet and scrutiny
- Voting on appointments
- Suspension and amendment of rules
- Clarification regarding interests under the Code of conduct
- Programme of work
- Members and Officers giving account – clarified wording in relation to scrutiny work
- Post call in
- Inclusion of the call in procedure

The proposed changes are marked bold in Appendix C

### **4. Amendments to the Cabinet Portfolios – Details at Appendix D**

This report seeks Council's approval to amend the Constitution to incorporate the changes in the Cabinet portfolios following Annual Council, the full details at Appendix D.

### **5. Details of the updated Committee membership are attached at Appendix E**

This report seeks Council's approval to amend the Constitution to incorporate the changes in the Committee membership, the full details at Appendix D.

## 6. Details of constitution review schedule Appendix F

Schedule F set out proposals for the forward plan setting out when constitutional reviews will be brought forward

### Recommendations

Members of council are asked to -

1. Adopt the revised sections of the constitution as highlighted in the sections appended.
  - Reduction in the number of Articles (Appendix A)
  - Updates to the Council Procedure Rules (Appendix B)
  - Updates to the Committee Procedure Rules (Appendix C)
  - Amendments to the Cabinet Portfolios and Committee Membership – Details at Appendix D
  - Details of the updated Committee membership are attached at Appendix E
2. Readopt the remainder of the constitution
3. Note the annual review of the constitution and review schedule as set out in Appendix F
4. Note the terms of reference as set out in Appendix G

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### Community impact/links with Community Strategy

An up-to-date Constitution will ensure decision are taken lawfully and in an open and transparent manner.

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### Equality Impact and considerations:

*Under section 149 of the Equality Act 2010, the 'general duty' on public authorities is set out as follows:*

*A public authority must, in the exercise of its functions, have due regard to the need to –*

- (a) eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under this Act;*
- (b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it;*
- (c) foster good relations between persons who share a relevant protected characteristic and persons who do not share it.*

*The public sector equality duty (specific duty) requires us to consider how we can positively contribute to the advancement of equality and good relations, and demonstrate that we are paying ‘due regard’ in our decision making in the design of policies and in the delivery of services.*

<b>Equality Analysis</b>	<i>Please provide a written explanation of the outcome(s) of either conducting an initial or full EA.</i>
An up to date Constitution will ensure decisions contribute to the advancement of equality and good relations, and demonstrate that we are paying ‘due regard’ in our decision making in the design of policies and in the delivery of services. An Equality Impact Assessment has been completed	

**Assessment of Risk:**

The following risks apply to the decision:

<b>Risk / opportunity</b>	<b>Mitigation</b>
Legal Challenge	An up-to-date Constitution will ensure decisions are taken lawfully and in an open and transparent manner.

**Consultation:**

Group Leaders and the Mayor at the Democratic Arrangements Forum and Members of the Standards Committee.

**Legal Implications:**

Section 9P of the Local Government Act 2000 as amended sets out the duty of the Council to prepare and keep up to date its constitution as follows:

(1) A local authority must prepare and keep up to date a document (referred to in this section as its constitution) which contains—

- (a) a copy of the authority's standing orders for the time being,
- (b) a copy of the authority's code of conduct (if any) for the time being under section 28 of the Localism Act 2011,
- (c) such information as the Secretary of State may direct, and
- (d) such other information (if any) as the authority considers appropriate.

A local authority must ensure that copies of their constitution are available at their principal office for inspection by members of the public at all reasonable hours. A local authority must supply a copy of their constitution to any person who requests a copy and who pays to the authority such reasonable fee as the authority may determine. The Bury constitution is made available on our public website.

It is for the Monitoring Officer to monitor and review the operation of the constitution on an ongoing basis and where necessary bring forward amendments to Council.

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**Financial Implications:**

There are no financial implications arising from this Report.

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**Report Author and Contact Details:**

Jacqui Dennis, Monitoring Officer and Council Solicitor

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Section of the Constitution	Current	Amend to
<b>Article 1</b>	<b>Bury 2030 Information</b>	 Article 1.docx
<b>Article 2</b> <b>2.2.10</b>	There are certain functions of the Council that are regulatory or quasi-judicial e.g. planning. A political group may not direct its members how to decide such matters	There are certain functions of the Council that are regulatory or quasi-judicial e.g. planning. A political group may not direct its members how to decide such matters. Similarly the political group should not direct its members how to decide matters for consideration at any of the Council's three scrutiny committees   Article 2.docx
<b>Article 3</b>		 Article 3 .docx
<b>Article 4</b>		

<p><b>2.4.4 (election)</b></p>	<p>The Mayor and the Deputy Mayor are elected by Council annually.</p> <p>The Mayor and Deputy Mayor cannot be members of the Cabinet or Deputy Members of the Cabinet.</p>	<p>The Mayor and the Deputy Mayor are elected by Council annually. The Deputy Mayor following their term of office will assume the role of Mayor, subject to agreement at Annual Council.</p> <p>Without prejudice to above, the Leaders of the political groups represented on the Council agree that the determination of the Mayor and Deputy Mayor in future years, will be agreed by the Majority group in consultation with the other Group Party Leaders. The Mayor and Deputy Mayor cannot be members of the Cabinet or a Deputy Cabinet Member.</p> <p> Article 4.docx</p>
<p><b>2.4.4 (functions)</b></p>	<p>g) to approve, as urgent, decisions which will not be subject to call in, when no chair of a Scrutiny Committee is available.</p>	<p>g) to approve, as urgent, special urgency decisions (part 4 section 2) which will not be subject to call in, when no chair of a Scrutiny Committee is available.</p> <p>h) to Chair meetings of the Standards Committee</p>
<p><b>Article 5</b></p>		<p>Minor amends to reflect the changes in the Articles below.</p> <p> Article 5 .docx</p>



2.7.4

functions do not extend to more than two fifths of the district by area or population. In such cases, the cabinet may appoint a councillor who represents a ward wholly or partly in the area covered by the joint committee.

The rules on access to information and confidentiality as set out in article 13 will apply to members of joint committees in the same way as they do to members of the council.

**2.9.4. Greater Manchester Combined Authority and Joint Committees**

Joint arrangements include the Council’s participation in the following Joint Committees:

- Association of Greater Manchester Authorities (AGMA) Cabinet Board, and its Commissions and sub-committees
- (Including the Statutory Functions Committee)
- Transport for Greater Manchester Committee
- AGMA Joint Scrutiny Pool
- Parking and Traffic Regulation Outside London Adjudication Joint Committee (PATROLAJC)

b) Councillors who are not members of the Cabinet may be appointed to a joint committee in line with the rules governing political proportionality.

Access to information rules (Part 4 Section 2) will apply to Members of Joint Committees in the same way as they do to Members of the Council

**2.7.4. Greater Manchester Combined Authority and Joint Committees**

Joint arrangements include the Council’s participation in the following Joint Committees:

- GM Combined Authority
- GM Waste & Recycling Committee
- GMCA Audit Committee
- GM Transport Cttee (formerly TfGMC)
- GM Culture & Social Impact Fund Cttee
- GM Work & Skills Executive
- Health & Social Care Partnership Board
- Health & Social Care - Joint Commissioning Board
- GMCA & AGMA Scrutiny Committees
- Clean Air Charging Authorities Committee
- Air Quality Administration Committee
- AGMA Executive Board

<p>2.7.7</p> <p>2.7.8</p>	<ul style="list-style-type: none"> <li>• Bus Lane Adjudication Service Joint Committee</li> <li>• Greater Manchester Police and Crime Panel</li> <li>• Greater Manchester Combined Authority</li> </ul> <p>SACRE</p> <p>Safeguarding Board</p> <p>Other Partnerships</p>	<p>Draft Joint Development Plan – Places for Everyone Committee</p> <p>Statutory Functions Committee</p> <p>Police and Crime Panel</p> <p>Police &amp; Crime Steering Group</p> <p>GM Health Scrutiny Committee</p> <p>Planning and Housing Commission</p> <p>GM Pensions Fund Management Panel</p> <p>Awaiting a response from Children’s services</p> <p>Updated narrative to Bury Integrated Safeguarding Partnership</p> <p> Article 7 .docx</p>
<p><b>Article 8 (was Article 10)</b></p>		<p> Article 8.docx</p>
<p><b>Article 9 (was Article 11)</b></p>		
<p>2.9.1</p> <p>2.9.2</p>	<p>g) follow proper procedures.</p>	<p>g) follow the proper procedures as set out in the Constitution.</p>

	<p>How the council and cabinet discharge those functions are set out in the functions scheme</p>	<p>How the council and cabinet discharge those functions are set out in the functions scheme. Decisions may be delegated to Officers and this will be set out in the Officer Scheme of Delegation. (Part 3).</p> <p style="text-align: center;">               Article 9.docx         </p>
<p><b>Article 10 (was Article 12)</b>  <b>2.10.11</b></p>	<p>The Common Seal shall be affixed to those documents which in the opinion of the Council Solicitor should be sealed. The affixing of the Common Seal shall be attested by the Chief Executive, Executive Director or Council Solicitor or some other person authorised by him/her.</p>	<p>The affixing of the Common Seal shall be attested by the Chief Executive or Council Solicitor or some other person authorised by him/her.</p> <p style="text-align: center;">               Article 10.docx         </p>

## Section 1 – Council procedure rules

These rules set out how meetings of full Council, will be conducted \* denotes rules which cannot be suspended.

### 4.1.1 Application

\* All of these rules apply to the meetings of the full Council.

### 4.1.2 Interpretation

The ruling of the Mayor at the meeting as to the construction or application of the rules that apply to that meeting shall not be challenged at the meeting.

### 4.1.3 Appointment of mayor

If at any meeting the Mayor appointed by the Council is absent, and if no Deputy Mayor has been appointed by the Council, the meeting shall appoint a Mayor for that meeting only. The Monitoring Officer or his/her representative at the meeting shall at the start of the meeting invite nominations for Mayor and will take a vote on a show of hands for those members nominated for Mayor.

### 4.1.4. Council meetings

There are three types of Council meeting: annual, ordinary, and extraordinary. The table at paragraph below sets out when these may take place.

No	Type of meeting	When
1	The annual meeting	In each year following an election by thirds in May. In a year when there have been all out ordinary elections, within 21 days of the retirement of outgoing Councillors
2	Ordinary meetings	A minimum of six meetings a year as set out in a programme decided by the Council and, except that one ordinary meeting will be reserved as the budget meeting, with business as outlined in the table below.
3	Extraordinary meetings	The Chief Executive may be requested to call a meeting by: <ul style="list-style-type: none"> <li>• Council, by resolution;</li> <li>• the Mayor of the Council;</li> <li>• the Monitoring Officer; or s151 Finance Officer</li> <li>• Any five Members of the Council if they have signed a requisition stating the grounds for the extraordinary meeting and the business to</li> </ul>

No	Type of meeting	When
		<p>be conducted at that meeting; presented it to the Mayor; and the Mayor has refused to call a meeting or has failed to call a meeting within seven days of the presentation of the requisition.</p> <p>Any request or requisition for an extraordinary meeting of the Council shall state the purpose of the meeting and give notice of a motion to be debated, unless the purpose is to receive reports or adoption of recommendations of Committees, the Leader, Cabinet members or officers or any resolutions from them.</p> <p>No business other than that specified in the summons to the meeting may be considered at an extraordinary meeting.</p> <p>The Chief Executive will determine whether the stated business can wait until the next ordinary meeting of the Council and, if it cannot, will call an extraordinary meeting.</p>

#### 4.1.5. Business to be carried out

The business to be carried out at meetings of the Council is as set out below; those items marked with \*\* are compulsory items the order of which cannot be altered.

Items of business and types of meeting				
No.	Item of business	Annual meeting	Ordinary meeting	Extra-ordinary meeting
1	Elect a person to preside if the Mayor and Deputy-mayor of the council are not present	Yes **	Yes **	Yes **
2	Elect the Mayor of the Council	Yes **	-	-
3	Appoint the Deputy Mayor of council	Yes **	-	-
4	Receive any apologies for absence	Yes **	Yes **	Yes **
5	Receive any declarations of interest	Yes **	Yes **	Yes **
6	Approve the minutes of the previous meeting(s)	Yes **	Yes **	-
7	Receive any announcements from the Mayor and/or Chief Executive	Yes	Yes	-
8	Elect the Leader of the Council	Yes **	-Yes	-Yes
9	Appoint the Chair of Committees and other bodies	Yes **	-Yes	
10	Appoint at least one Scrutiny Committee and such other Committees as the Council considers appropriate to deal with matters which are neither reserved to the Council nor are Cabinet functions	Yes **	-Yes	-
11	Decide the size and terms of reference of those Committees	Yes **	Yes	-

Items of business and types of meeting				
No.	Item of business	Annual meeting	Ordinary meeting	Extra-ordinary meeting
12	Decide the allocation of seats on Committees and other bodies to political or other groups in accordance with the political balance rules	Yes **	-Yes	-
13	Make such appointments to Committees or outside bodies as are reserved to the Council	Yes **	-Yes	-
14	Approve a programme of ordinary meetings of the Council for the year	Yes	Yes	
15	Consider any other business specified in the summons to the meeting	Yes	Yes	Yes
16	Receive any questions from, and provide answers to, members of the public. In the case of extraordinary meetings and budget questions must relate to items on the agenda	-	Yes	Yes
17	Receive recommendations on statutory plans or other matters that are reserved to the Council	-	Yes	-
18	Consider and debate any petitions which have reached the threshold for Council consideration	-	Yes	-Yes
19	<p>Receive the following reports from the Leader of the Council (on which they may be questioned and if so, answer written questions for a period of 30 minutes and verbal questions for a period of 20 minutes):</p> <ul style="list-style-type: none"> <li>the work of the Cabinet since the last meeting including a summary of those matters decided by the Cabinet, Cabinet member or any executive joint committee, and any decisions taken under the urgency provisions;</li> <li>at the Annual meeting (except in a year when there are all out ordinary elections) an Annual report on the priorities of the Cabinet and progress made in meeting those priorities; and</li> <li>any report to the Council required by a scrutiny committee</li> <li>report on the work of the Combined Authority of which there will be questions for 20 minutes</li> </ul>	-	Yes	-
20	Consider motions and debate those motions in an order which alternates between the political groups represented on the Council. At the budget meeting motions must relate to the agenda or be time critical.		Yes	

#### 4.1.6. Time of meetings

Meetings of the full Council will usually be at 7pm or any other such time as the Mayor agrees, and will continue for a maximum of three hours, excluding the period taken up by public question time.

At the expiry of three hours, excluding the period taken up by public questions, the Mayor may determine:

- (a) that the meeting continue beyond three hours duration; or
- (b) that the remaining business to be conducted at the meeting be:
  - (i) deferred to the next meeting; or
  - (ii) deferred to an extraordinary meeting called for the purpose of dealing with any remaining business; or
  - (iii) put to the vote immediately in the order that the business appears on the agenda or in any order determined by the Mayor; or
  - (iv) some business be put to the vote immediately and other business deferred in accordance with rules (i) and (iii) above; or
- (4)** (c) the meeting be adjourned to resume later that day after a specified break provided that the remaining business can reasonably be expected to last no more than two additional hours and cannot be deferred until the next meeting.

The Mayor has discretion to:

- order the adjournment of any meeting;
- following consultation with the Leader of the Council, alter the date or time of any meeting;
- cancel or postpone a meeting in the event of an emergency or where there is no business requiring Council approval

### **4.1.7. Notice of meetings**

The Chief Executive will, through publication on the Council's website, give five clear working days' notice to the public of the time and place of any meeting (or otherwise in cases of urgency as in accordance with the access to information rules (part 4).

### **4.1.8. Conduct of the meeting**

The Mayor's powers and responsibilities in relation to the conduct of a meeting may be exercised by the person presiding at the meeting. A decision by the Mayor on the meaning of the constitution cannot be challenged at a meeting.

### **4.1.9. Quorum**

Subject to any specific statutory requirement, the quorum of a Full Council meeting will be one quarter of the whole number of voting members.

4.1.9.1 If a quorum is not reached within 15 minutes after the time appointed for the start of the meeting, the meeting will be adjourned without debate.

4.1.9.2 \* During any meeting if the person chairing the meeting counts the number of members present and declares there is not a quorum present, then the meeting will adjourn immediately.

4.1.9.3 \* Subject to 4.8.4 remaining business will be considered at a time and date fixed by the person chairing the meeting. If they do not fix a date, the remaining business will be considered at the next ordinary meeting.

4.1.9.4 \* The meeting will resume immediately if it becomes apparent to the person who was chairing it within 10 minutes of the adjournment that there are sufficient members present to constitute a quorum.

### **4.1.10 Variations in order of business**

The mayor has discretion to vary the order of business in setting the agenda.

A proposed variation at the meeting may be moved by the Mayor or any other member. Where moved by the Mayor there is no need for it to be seconded. The variation will be put to the vote immediately without debate.

### **4.1.11. Petitions**

The Mayor will be available 30 minutes before an ordinary Council meeting to receive petitions. During the meeting, as part of Mayor's announcements, any petitions received will be formally passed to the relevant Cabinet member or Committee chair who will respond in writing to the petition organiser. All petitions received, and responses provided will be published on the Council's website. (Public Participation guide Part 5).

### **4.1.12. Questions by the public**

Questions may be asked by members of the public who live or work in Bury.

A period of up to 30 minutes, will be allocated for questions and supplementary questions. This period may be varied at the discretion of the Mayor. Members of the public may ask questions of Members of the Cabinet and any chair of a Committee of the Council.

### **4.1.13. Notice of public questions**

A question may only be asked if notice has been given by delivering it in writing to the Monitoring Officer, Bury Council, Town Hall, Bury or by email ([democratic.services@bury.gov.uk](mailto:democratic.services@bury.gov.uk)) no later than midday two days before the day of the meeting (e.g. midday on a Monday where the meeting is on a Wednesday).

Each question must give the name and address of the questioner (although only the name and town will be published) and identify who the question is addressed to. Copies of all accepted questions and answers shall be published on the Council website after the meeting and shall be made available to the public attending the meeting.

A questioner who is present at the meeting and who has submitted a written question may, at the discretion of the Mayor, ask one supplementary question. A supplementary question must arise directly out of the original question or the reply.

### **4.1.14. Order and number of public questions**

Questions will be answered in the order in which they are received. If time permits, further questions may be invited from members of the public present.

A member of the public may submit only one question at any meeting of the Council.

### **4.1.15. Scope of public questions**

The Monitoring Officer is authorised to reject a question in accordance with the following criteria:

- (a) it is in multiple parts;
- (b) it is not about a matter for which the council has a responsibility or which affects Bury
- (c) it is defamatory, frivolous or offensive;
- (d) it is substantially the same as or similar to a question which has been put at a meeting of the Council, in the past six months;
- (e) it requires the disclosure of confidential or exempt information or relates to an identifiable individual;
- (g) it is from a Council employee and the question is connected to their employment; or
- (h) it relates to a planning application or licensing application.

If a question is rejected, the person who submitted it will be notified in writing before the meeting and given the reasons for the rejection.

Where a question is accepted but it is directed at the incorrect meeting The Monitoring Officer is authorised to direct the question to the correct meeting.

### **4.1.16. Answers to public questions**

Answers to accepted questions will be published after the meeting. An answer to a supplementary question will be provided by the member to whom the question was put or his/ her nominee.

The answer may be either a direct oral answer, a referral to an existing publication, or if the question requests service information a referral to an officer to respond in writing. If the reply cannot conveniently be given orally, if the member to whom the question is put is absent, or the time allowed for public questions has expired, a written answer will normally be provided within ten working days of the meeting.

A record of all questions and answers provided whether orally or in writing will be published on the website as an appendix to the minutes of the meeting.

### **4.1.17. Restrictions on asking public questions**

No questions may be asked at the Annual Meeting of the Council.

No questions may be asked at an extraordinary meeting or the budget meeting except in relation to reports published with the agenda.

### **4.1.18. Written Questions from Councillors**

Written Questions may be asked by members of the council at Full Council

A period of up to 30 minutes will be allocated for questions and supplementary questions from members of the council. This period may be varied at the discretion of the Mayor.

A member may ask the leader, any member of the Cabinet or Chair of a Committee a question about any matter in relation to which the Council has powers or duties or which affects the Borough, in accordance with these council rules.

#### **4.1.19. Notice of written questions**

A member may ask a question only if either:

(a) notice has been given by delivering it in writing or by email [democratic.services@bury.gov.uk](mailto:democratic.services@bury.gov.uk) to the Monitoring Officer no later than midday six clear working days before the day of the meeting (e.g. midday on the Monday where the meeting is on a Wednesday the following week); or

(b) If the question relates to urgent matters, they have the consent of the member to whom the question is to be put, and the question is delivered to the monitoring officer (as above) by 9.30 am on the day of the meeting.

(c) Questions will alternate between the political groups represented on the Council and will be ordered politically proportionally; each Member will be able to submit two question with a maximum of eight questions per group.

#### **4.1.20. Oral Questions from Councillors**

Oral Questions may be asked by members of the council at Full Council. A period of up to 20 minutes will be allocated for questions. This period may be varied at the discretion of the mayor.

A member may ask the leader, any member of the Cabinet or Chair of a Committee a question about any matter on the Council Agenda and which the Council has powers or duties or which affects the borough, in accordance with these council rules.

Leaders of each of the opposition groups will be invited to put their questions first. Questions will alternate between the political groups and will be ordered politically proportionally.

#### **4.1.21. Scope of questions – See 4.1.15 above**

#### **4.1.22. Asking the Question at the meeting**

The Mayor will invite the questioner to put the question to the member named in the notice.

#### **4.1.23 Asking a supplementary question**

A member who has submitted a written question may also ask one supplementary question. A supplementary question must arise directly out of the original question or the reply. The Mayor may reject a supplementary question on any of the grounds in 4.1.15 above, or if the question takes the form of a statement or more than a minute to ask.

#### **4.1.24. Answers to Councillors' questions – See 4.16 above**

#### **4.1.25. Combined Authority Update**

At ordinary meetings of the Council there will be a report for information from the Combined Authority and questions to their representatives.

A question must relate to the functions of Joint Authorities or the work of outside bodies or partnerships. A member may ask a question only if notice has been given by delivering it in writing or by email to [democratic.services@bury.gov.uk](mailto:democratic.services@bury.gov.uk) or to the Monitoring Officer no later than midday six clear working days before the day of the meeting (e.g. midday on the Monday where the meeting is on a Wednesday the following week); or

(b) if the question relates to urgent matters, they have the consent of the member to whom the question is to be put, and the question is delivered to the monitoring officer (as above) by 9.30am.

A member who has submitted a written question may also ask one supplementary question. A supplementary question must arise directly out of the original question or the reply.

Joint Authority representatives in receipt of a Special Responsibility Allowance will be required to attend Overview and scrutiny Committee meetings at the request of the Chair.

No questions to the Combined authority may be asked at meetings of Annual Council, the budget meeting or at an extraordinary meeting of the Council

Members may submit no more than one written question (and no more than 3 per group) at any one meeting. Questions will rotate between the political groups and will be ordered politically proportionally.

### **4.1.26. Motions**

There are two types of motion: those which can be moved during debate (known as motions without notice), and those for which notice is required.

Except for motions which can be moved without notice under these Council rules, written notice of every motion, signed by the proposer and the seconder, must be delivered, or submitted electronically to the monitoring officer not later than midday 10 clear working days before the date of the meeting (i.e. Tuesday two weeks before, when the meeting is on a Wednesday). A political group cannot propose more than one motion on notice per meeting.

Motions on notice may be amended in consultation with the Monitoring Officer at any time prior to the publication of the agenda by the member(s) who have signed the notice provided that such amendment shall not change the subject matter of the motion.

### **4.1.27. Motions set out in the agenda**

Motions for which notice has been given will be listed on the agenda. The order on the agenda will alternate between the Political Groups, to a maximum of 4, unless the member giving notice states, in writing, that they propose to move it to a later meeting or withdraw it.

### **4.1.28. Scope**

Motions must be about matters for which the Council has a responsibility or which affect the borough. The Mayor may, on the advice of the monitoring officer, refuse a motion which is illegal,

irregular or improper, relates to a matter which has been the subject of debate or decision by the Council in the previous six months, or is otherwise out of order.

If the motion requires referral to either Cabinet or a Committee of the Council, a report must be at a Council meeting within six months of the date of debate on the motion.

#### **4.1.29. Withdrawal of a Motion**

A member may withdraw a motion which they have moved without the consent of either the meeting and/or the seconder.

#### **4.30. Exceptions**

Where, following publication of the agenda for a meeting of the Council, an urgent matter directly affecting part or all of the Borough arises and it is not practical to defer consideration of the motion to the next ordinary meeting of the Council a motion signed by two members may be accepted by the Mayor following consultation with the Monitoring Officer. **The motion must be delivered to the Monitoring Officer by 9.30 am on the day of the meeting.**

#### **4.31. Motions without notice**

The following motions may be moved without notice:

- (a) to appoint a person to preside at the meeting at which the motion is moved
- (b) to amend the minutes on a matter of accuracy
- (c) to change the order of business in the agenda where these procedure rules allow
- (d) to refer something to an appropriate body or individual to consider or reconsider
- (e) to withdraw a motion
- (f) to amend a motion
- (g) to proceed to the next business
- (h) that the question be now put
- (i) to adjourn a debate
- (j) to adjourn a meeting
- (k) that the meeting continue beyond three hours duration
- (l) to exclude the public in accordance with the access to information procedure rules
- (m) not to hear a member further or to require a member to leave the meeting
- (n) to give the consent of the Council where its consent is required by this constitution
- (o) to suspend a specified Council rule it is permitted to suspend

(p) to request a recorded vote

(q) to remove the Leader following a change in political control.

#### 4.1.32 Rules of debate

A debate will commence only when a proposal has been made, explained and seconded.

No member may speak unless called upon by the Mayor. Speeches must be directed to the matter being debated.

#### 4.1.33 When a member may speak

Members may speak as detailed in the table below.

<b>Purpose of speech</b>	<b>Who can make the speech</b>	<b>Length of speech</b>
Present a report	Leader (or their nominee), Cabinet member, Committee chair	5 minutes
Propose original motion	Proposer	5 minutes
Second the motion	Secunder (may reserve their right to speak until the end of the debate)	3 minutes
Propose an amended motion	Any member other than proposer/secunder of original motion	3 minutes
Second an amended motion	Any member other than proposer/secunder of original motion	3 minutes
Speak during debate	Any member other than proposer and secunder of amended motion and proposer of the original motion	3 minutes
Right of reply to debate on amended motion	Proposer of original motion	3 minutes
Respond to specific question	Cabinet member	2 minutes
Propose the budget	Leader (or their nominee)	10 minutes
Second the budget	Deputy Leader (or their nominee)	5 minutes
Respond to budget proposals	Group leaders (or their nominee)	5 minutes
Right to reply to budget debate	Leader (or their nominee)	5 minutes
Moving a Budget Amendment	Opposition Leader (or their nominee)	5 minutes
Point of order	Any member	2 minutes
Personal explanation	Any member	2 minutes
State of the Borough Debate	Leader or Deputy Leader	10 minutes

#### 4.1.34 Amendments to motions

An amendment must be relevant to the motion and may alter the wording as long as the effect is not to negate the motion. Unless notice of the amended motion has already been given, the Mayor

may require it to be written down or in its altered form to be written down and handed to them before it is discussed

4.1.34.1 Amendments will be considered in the order in which they are received or tabled. No further amendment may be moved until the amendment under discussion has been debated and voted on.

4.1.34.2 If an amended motion is not carried, other amendments to the original motion may be moved.

4.1.34.3 If an amended motion is carried, the motion as amended takes the place of the original motion. This becomes the substantive motion to which any further amendments are moved. After an amended motion has been carried, the Mayor will read out the substantive motion before accepting any further amendment, or if there is none, it is put to the vote.

4.1.34.4 Where an amendment to a recommendation from the Cabinet in relation to a budget and policy framework item is being proposed, Members making such an amendment must have consulted with the relevant Director to determine the context and possible consequences of the proposal and have secured confirmation from the s151 Finance Officer that the action proposed is achievable before submitting the amendment, in accordance with the Budget and Policy Framework Rules.

4.1.34.5 Where an amendment to a recommendation from the Cabinet in relation to a budget and policy framework item is approved by the Council, the Leader, on behalf of the Cabinet, may indicate acceptance of the amendment.

#### **4.1.35 Alteration of motion**

A member may alter a motion of which they have given notice with the consent of the seconder and the meeting. The meeting's consent will be signified without discussion.

A member may alter a motion which they have moved without notice with the consent of both the meeting and the seconder. The meeting's consent will be signified without discussion.

Only alterations which could be made as an amendment may be made.

#### **4.1.36 Right of reply**

The proposer of an original motion has a right to reply at the close of the debate on the motion.

If an amended motion is proposed, the proposer of the original motion has a right of reply at the close of debate on the amended motion, but may not otherwise speak on the amendment.

The proposer of an amended motion shall have no right of reply to the debate on the amendment.

#### **4.1.37 Motions which may be moved during debate**

When a motion is under debate, no other motion may be moved except the following:

(a) to withdraw the motion

(b) to amend the motion

- (c) to proceed to the next business;
- (d) that the question be now put
- (e) to adjourn a debate
- (f) to adjourn a meeting
- (g) that the meeting continue for a further half hour
- (h) to exclude the press and public in accordance with the access to information rules
- (i) that a member be not further heard or to exclude the member from the meeting.

#### **4.1.38 Closure motions**

A member may move without comment the following motions at the end of a speech of another member:

- (a) that the question be now put
- (b) to adjourn a debate
- (c) to adjourn a meeting.

If a motion that the question be now put is seconded and the Mayor thinks the item under discussion has been sufficiently discussed, the proposer of the original motion will have a right of reply before the matter is put to the vote. Any member who has reserved their right to speak later in the debate will not be heard.

#### **4.1.39 Point of order**

A Member may raise a point of order at any time and the Mayor will hear it immediately. A point of order may only relate to the alleged breach of these Council rules or the law. The Member must indicate the section and the way in which they consider it has been broken. The ruling of the Mayor on the matter will be final and there will be no debate on the matter.

#### **4.1.40 Personal explanation**

A Member may make a personal explanation at any time. A personal explanation shall only relate to some material part of an earlier speech by the Member which may appear to have been misunderstood or misquoted in the present debate. The ruling of the Mayor on the admissibility of a personal explanation will be final.

#### **4.1.41 Motion to rescind a previous decision**

A motion or amendment to rescind a decision made at a meeting of the Council within the past six months cannot be moved.

#### **4.1.42 Motion similar to one previously rejected**

A motion or amendment in similar terms to one which has been rejected at a Council meeting within the past six months cannot be moved.

\* Once a motion or amendment to which this rule applies has been dealt with, no member can propose a similar motion or amendment within the next six months.

#### **4.1.43 Voting majority**

\* Unless this constitution (or the law) provides otherwise any matter will be decided by a simple majority of those present and voting in the room at the time the question was put.

#### **4.1.44 Mayor's casting vote**

\* If there are equal numbers of votes for and against, the Mayor will have a second or casting vote. There will be no restriction on how the Mayor chooses to exercise a casting vote.

#### **4.1.45 On the voices and show of hands**

\* Unless a recorded vote is requested the Mayor will ask the meeting to signify agreement on the voices unless the decision on the voices is unclear in which case the Mayor will take the vote by a show of hands/ask members to stand.

#### **4.1.46 Recorded vote**

\* If at least eight members present at the meeting requested it, the names for and against the motion or amendment or abstaining from voting will be taken down in writing and recorded in the minutes. All votes taken at a budget decision meeting and relating to a budget decision are to be recorded votes.

\* Reference to a "budget decision meeting" for the purposes of 4.1.143 means a meeting of the Council at which it makes a calculation (whether originally or by way of substitute) in accordance with any of sections 31A, 31B, 34 to 36A, or 52ZJ of the Local Government Finance Act 1992 and includes a meeting where making the calculation was included as an item of business on the agenda for that meeting.

#### **4.1.47 Right to require individual vote to be recorded**

\* Where any member requests it immediately after the vote is taken, their vote will be so recorded in the minutes to show whether they voted for or against the motion or abstained from voting.

#### **4.1.48 Voting on appointments**

\* Where there is not a clear majority of votes in favour of one person, then the name of the person with the least number of votes will be taken off the list and a new vote taken. The process will continue until there is a majority of votes for one person.

#### **4.1.49 Keeping and Signing of the minutes**

\* Minutes of the proceedings of each meeting of the Council will be prepared and will be published on the Council's website.

\* The Mayor will sign the minutes at the next available meeting. The mayor will move that the minutes of the previous meeting be signed as a correct record. There will be no debate or questioning on matters arising from the minutes; only matters of accuracy may be determined.

No requirement to sign minutes of previous meeting at an extraordinary meeting

\* Where in relation to any meeting, the next meeting for the purposes of signing the minutes is an extraordinary meeting, then the next following meeting (being a meeting called otherwise than under that paragraph) will be treated as a suitable meeting for the purpose of signing of minutes.

#### **4.1.51 Record of Attendance**

The Chief Executive will record the names of all members present during the whole or part of a meeting.

#### **4.1.52 Exclusion of the public**

\* The public and press may only be excluded either in accordance with the access to information rules (part 4) or in the case of disturbance by the public in accordance with these council rules

#### **4.1.53 Members' conduct**

\* When the Mayor stands during a debate any member(s) then speaking must discontinue and the Council must be silent.

4.1.53.1\* If a Member is guilty of misconduct by persistently disregarding the ruling of the Mayor of the Council, or by behaving irregularly, improperly or offensively, or by deliberately obstructing business, any member may move that that member is not further heard. If seconded, the motion will be voted on without discussion.

4.1.53.2\* If the Member continues to behave improperly after such a motion is carried, any Member may move either that the member leave the meeting or that the meeting be adjourned for a specified period. If seconded, the motion will be voted on without discussion.

4.1.53.3\* If there is a general disturbance making orderly business impossible, the Mayor may adjourn the meeting for as long as they think necessary.

4.1.53.4\* The decision as to whether misconduct is taking place shall rest with the Mayor who will have due regard to the Councillor Code of Conduct.

#### **4.1.54 Disturbance by the public**

\* If a member of the public interrupts proceedings, the Mayor will warn the person concerned and, if the interruption continues, will order the person's removal from the meeting room.

\* If there is a general disturbance in any part of the meeting room open to the public the Mayor shall order that part to be cleared and the Mayor may for that purpose adjourn the meeting for as long as is needed, and may resume the meeting with or without members of the public being admitted and/or at another location deemed appropriate

#### **4.1.55 Suspension and amendment of council rules**

\* Any of the Council rules may be suspended for all or part of the business of a meeting at which suspension is moved by a motion, except rules For ease of reference the rules which cannot be suspended are identified by the symbol \*

\* Such a motion cannot be moved without notice unless at least two thirds of the whole number of members of the Council is present. Suspension shall be limited to the duration of the meeting or the determination of a particular item of business if appropriate and as specified in the motion.

#### **4.1.56 Recording, filming and reporting of meetings**

Where meetings of Full Council are open to the public, any person attending may record, film or report meetings, provided that in doing so there is no disturbance to the meeting.

#### **4.1.57 \* Interests under the Councillors' Code of Conduct**

\* Members must abide by the Councillors' Code of Conduct (part 5) adopted by the Council and declare all schedule 1, schedule 2 and other interests in accordance with the code. Where a member has identified and declared a schedule 1 interest, that member shall immediately vacate the room or chamber where the meeting is taking place (including any public area) unless a dispensation has been granted.

#### **4.1.58 \* Confidentiality**

\* All reports and other documents marked "confidential" or "exempt from publication" shall be so treated unless they become public in the ordinary course of the Council's business.

Such determination shall ordinarily be made by the Monitoring Officer having regard to the access to information rules. Further, all Members must comply with the obligations as to confidentiality set out in the Councillors' Code of Conduct (part 5). Any alleged breaches shall be referred by the Mayor of the Council to the Monitoring Officer for consideration and report if not previously referred by some other person. The Mayor may require the surrender of such material at the end of discussion of the relevant item.

#### **4.1.59 State of the Borough Debate**

At the annual meeting (except in a year when there are all out ordinary elections) an annual report on the priorities of the Cabinet and progress made in meeting those priorities; and a report on the state of the Borough will be brought to Full Council by the Leader of the Council or in the absence the Deputy Leader.

## Committee Procedure Rules

These Committee rules will apply to all meetings of the Cabinet, Scrutiny, Regulatory Committees, the Health and Wellbeing Board and the Corporate Parenting Board.

The ruling of the Chair at the meeting as to the construction or application of the rules that apply to that meeting shall not be challenged at the meeting.

### 4.1.60 Notice of meetings

The Chief Executive will, through publication on the Council's website, give five clear working days' notice to the public of the time and place of any meeting (or otherwise in cases of urgency as in accordance with the access to information rules (part 4)).

### 4.1.61 Time of meetings

Meetings will be held in accordance with the programme of ordinary meetings agreed by the Council any change in start time must be agreed by the Chair in consultation with the Leader.

The Chair may also call additional meetings if they consider it necessary or appropriate. In so doing, the chair shall have regard to the advice of the Council's Monitoring Officer.

The meeting will continue for a maximum of three hours, excluding the period taken up by public question time.

At the expiry of three hours, excluding the period taken up by public questions, the Chair may determine:

- (a) that the meeting continue beyond three hours duration; or
- (b) that the remaining business to be conducted at the meeting be:
  - (i) deferred to the next meeting; or
  - (ii) deferred to an extraordinary meeting called for the purpose of dealing with any remaining business; or
  - (iii) put to the vote immediately in the order that the business appears on the agenda or in any order determined by the Chair; or
  - (iv) some business be put to the vote immediately and other business deferred in accordance with rules (i) and (iii) above; or
- (4)** (c) the meeting be adjourned to resume later that day after a specified break provided that the remaining business can reasonably be expected to last no more than two additional hours and cannot be deferred until the next meeting.

The Chair has discretion to:

- order the adjournment of any meeting;
- following consultation with the Leader of the Council, alter the date or time of any meeting;

- cancel or postpone a meeting in the event of an emergency or where there is no business requiring approval

#### **4.1.62 Conduct of the meeting**

The Chair's powers and responsibilities in relation to the conduct of a meeting may be exercised by the person presiding at the meeting. A decision by the Chair on the meaning of the Constitution cannot be challenged at a meeting.

#### **4.1.63 Appointment of Chair**

If at any meeting the Chair appointed by the Council is absent, and if no Deputy has been appointed by the Council, the meeting shall appoint a Chair for that meeting only. The Monitoring Officer or his/her representative shall at the start of the meeting invite nominations for Chair and will take a vote on a show of hands for those members nominated for Chair.

#### **4.1.64 Quorum**

Subject to any specific statutory requirement, the quorum of a meeting will be three voting members, or for a sub committee two voting members.

A **quorum** of four will apply for meetings of the Health and Wellbeing Board including at least one elected member from the Council or one representative of the Clinical Commissioning Group or a nominated substitute.

4.1.64.1 If a quorum is not reached within 15 minutes after the time appointed for the start of the meeting, the meeting will be adjourned without debate.

4.1.64.2 \* During any meeting if the person chairing the meeting counts the number of members present and declares there is not a quorum present, then the meeting will adjourn immediately.

4.1.64.3 \* Subject to 4.1.64.4 remaining business will be considered at a time and date fixed by the person chairing the meeting. If they do not fix a date, the remaining business will be considered at the next ordinary meeting.

4.1.64.4 \* The meeting will resume immediately if it becomes apparent to the person who was chairing it within 10 minutes of the adjournment that there are sufficient members present to constitute a quorum.

#### **4.1.65 Variations in order of business**

The Chair has discretion to vary the order of business.

#### **4.1.66 Questions by the public**

Questions may be asked by members of the public who live or work in Bury at the following public meetings of the Council:

- Cabinet
- Health and Wellbeing Board
- Scrutiny committees
- Licensing and Safety Committee
- Strategic Commissioning Board

A period of up to 30 minutes, will be allocated for questions and supplementary questions. This period may be varied at the discretion of the Chair.

#### **4.1.67 Notice of public questions**

A question may only be asked if notice has been given by delivering it in writing to the Monitoring Officer, Bury Council, Town Hall, Bury or by email ([democratic.services@bury.gov.uk](mailto:democratic.services@bury.gov.uk)) no later than midday two days before the day of the meeting (e.g. midday on a Monday where the meeting is on a Wednesday).

Each question must give the name and address of the questioner (although only the name and town will be published) and identify who the question is addressed to. Copies of all accepted questions and answers shall be published on the Council website after the meeting and shall be made available to the public attending the meeting.

A questioner who is present at the meeting and who has submitted a written question may, at the discretion of the Chair, ask one supplementary question. A supplementary question must arise directly out of the original question or the reply. A question must relate to an item included on the agenda or referenced in the Minutes, or an area to which the committee has responsibility.

#### **4.1.68 Order and number of public questions**

Questions will be answered in the order in which they are received. If time permits, further questions may be invited from members of the public present.

A member of the public may submit only one question at any meeting of the Council.

#### **4.1.69 Scope of public questions**

The Monitoring Officer is authorised to reject a question in accordance with the following criteria:

- (a) it is in multiple parts;
- (b) it is not about a matter for which the council has a responsibility or which affects Bury
- (c) it is defamatory, frivolous or offensive;
- (d) it is substantially the same as or similar to a question which has been put at a meeting of the Council, in the past six months;
- (e) it requires the disclosure of confidential or exempt information or relates to an identifiable individual;
- (g) it is from a Council employee and the question is connected to their employment; or
- (h) it relates to a planning application or licensing application.

If a question is rejected, the person who submitted it will be notified in writing before the meeting and given the reasons for the rejection.

Where a question is accepted but it is directed at the incorrect meeting The Monitoring Officer is authorised to direct the question to the correct meeting.

#### **4.1.70. Answers to public questions**

Answers to accepted questions will be published after the meeting. An answer to a supplementary question will be provided by the member to whom the question was put or his/ her nominee.

The answer may be either a direct oral answer, a referral to an existing publication, or if the question requests service information a referral to an officer to respond in writing. If the reply cannot conveniently be given orally, if the member to whom the question is put is absent, or the time allowed for public questions has expired, a written answer will normally be provided within ten working days of the meeting.

A record of all questions and answers provided whether orally or in writing will be published on the website as an appendix to the minutes of the meeting.

#### **4.1.71 Member Question Time – Meetings of Cabinet and Scrutiny**

A period of up to 15 minutes will be allocated for questions and supplementary questions from members of the Council who are not members of the committee. This period may be varied at the discretion of the chair.

A question may only be asked if notice has been given by delivering it in writing to the Monitoring Officer, Bury Council, Town Hall, Bury or by email ([democratic.services@bury.gov.uk](mailto:democratic.services@bury.gov.uk)) no later than midday three days before the day of the meeting (e.g. midday on a Friday where the meeting is on a Wednesday).

A member who has submitted a written question may, at the discretion of the chair, ask also one supplementary question without notice. The same procedure for public questions will be followed.

Members may submit no more than one written question (and no more than 5 per group) at any one meeting and must relate to an item included on the agenda or referenced in the Minutes. Questions will rotate between the political groups and will be ordered politically proportionally.

#### **4.1.72 Point of order**

A member may raise a point of order at any time and the Chair will hear it immediately. A point of order may only relate to the alleged breach of these Council rules or the law. The member must indicate the section and the way in which they consider it has been broken. The ruling of the Chair on the matter will be final and there will be no debate on the matter.

#### **4.1.73 Conduct of the debate**

A Member may indicate their wish to speak and shall wait to be called by the Chair. If more than one member so indicates the Chair shall call on them individually and in turn to speak.

#### **4.1.74 Motion to rescind a previous decision**

Committee or Sub-committee of the Council acting under delegated powers may rescind a resolution adopted under delegated powers within a period of six months provided the Summons to attend the meeting of the Committee or Sub-committee contains a notice that the matter is to be reconsidered

#### **4.1.75 Voting majority**

Unless this constitution (or the law) provides otherwise any matter will be decided by a simple majority of those present and voting in the room at the time the question was put.

#### **4.1.76 Chair's casting vote**

If there are equal numbers of votes for and against, the Chair will have a second or casting vote. There will be no restriction on how the Chair chooses to exercise a casting vote.

#### **4.1.77 Right to require individual vote to be recorded**

\* Where any member requests it immediately after the vote is taken, their vote will be so recorded in the minutes to show whether they voted for or against the motion or abstained from voting.

#### **4.1.78 Voting on appointments**

\* Where there is not a clear majority of votes in favour of one person, then the name of the person with the least number of votes will be taken off the list and a new vote taken. The process will continue until there is a majority of votes for one person.

#### **4.1.79 Keeping and Signing the minutes**

Minutes of the proceedings of each meeting will be prepared and will be published on the Council's website.

The Chair will sign the minutes at the next available meeting. The Chair will move that the minutes of the previous meeting be signed as a correct record. There will be no debate or questioning on matters arising from the minutes; only matters of accuracy may be determined.

#### **4.1.80 Record of Attendance**

The Chief Executive will record the names of all members present during the whole or part of a meeting.

#### **4.1.81 Exclusion of the public**

The public and press may only be excluded either in accordance with the access to information rules (part 4) or in the case of disturbance by the public in accordance with these council rules.

#### **4.1.82 Members' conduct**

If a member is guilty of misconduct by persistently disregarding the ruling of the Chair, or by behaving irregularly, improperly or offensively, or by deliberately obstructing business, any Member may move that that Member is not further heard. If seconded, the motion will be voted on without discussion.

If the member continues to behave improperly after such a motion is carried, any Member may move either that the Member leave the meeting or that the meeting be adjourned for a specified period. If seconded, the motion will be voted on without discussion.

If there is a general disturbance making orderly business impossible, the Chair may adjourn the meeting for as long as they think necessary.

The decision as to whether misconduct is taking place shall rest with the Chair who will have due regard to the councillor code of conduct.

#### **4.1.83 Disturbance by the public**

If a member of the public interrupts proceedings, the Chair will warn the person concerned and, if the interruption continues, will order the person's removal from the meeting room.

If there is a general disturbance in any part of the meeting room open to the public the Chair shall order that part to be cleared and the Chair may for that purpose adjourn the meeting for as long as is needed, and may resume the meeting with or without members of the public being admitted and/or at another location deemed appropriate

#### **4.1.84 Suspension and amendment of Committee rules**

\* Any of the Committee rules may be suspended for all or part of the business of a meeting at which suspension is moved by a motion, for ease of reference the rules which cannot be suspended are identified by the symbol \*

\* Such a motion cannot be moved without notice unless at least two thirds of the whole number of members of the Committee is present. Suspension shall be limited to the duration of the meeting or the determination of a particular item of business if appropriate and as specified in the motion.

#### **4.1.85 Recording, filming and reporting of meetings**

Where meetings of Full Council are open to the public, any person attending may record, film or report meetings, provided that in doing so there is no disturbance to the meeting.

#### **4.1.86 Interests under the Councillors' Code of Conduct**

\* Members must abide by the Councillors' Code of Conduct (part 5) adopted by the Council and declare all schedule 1, schedule 2 and other interests in accordance with the code. Where a member has identified and declared a schedule 1 interest, that member shall immediately vacate the room or chamber where the meeting is taking place (including any public area) unless a dispensation has been granted.

#### **4.1.87 Confidentiality**

All reports and other documents marked "confidential" or "exempt from publication" shall be so treated unless they become public in the ordinary course of the Council's business.

Such determination shall ordinarily be made by the Monitoring Officer having regard to the access to information rules. Further, all members must comply with the obligations as to confidentiality set out in the Councillors' Code of Conduct (part 5). Any alleged breaches shall be referred by the Chair of the to the Monitoring Officer for consideration and report if not previously referred by some other person. The Chair may require the surrender of such material at the end of discussion of the relevant item.

#### **4.1.88 Substitution**

The Monitoring Officer on behalf of the Chief Executive may receive notice from a group leader or authorised nominee on behalf of that group that a different member of their group shall be substituted at a meeting for the member previously allocated to a place on a committee, sub-

committee or other body to which the proportionality rules apply for the duration of that meeting. The giving of notice by email no later than 12 noon on the day of the meeting is encouraged.

The Monitoring Officer (in consultation with the ungrouped member(s) concerned) may substitute another ungrouped member for an ungrouped member who has notified the Monitoring Officer in writing that they are unable to attend a meeting for the duration of that meeting. Such notification must be given no later than 12 noon on the day of the meeting.

Other members may be invited to attend and speak at the discretion of the chair of the meeting.

#### **4.1.89 Programme of work**

Each Committee will be responsible for setting their own work programmes. In setting their work programme each committee shall have regard to the resources (including officer time) available. Officer support will be provided to each Committee, the level of which will be dependent on the matter being considered. Lead Officer will be identified for each Committee.

A Committee may appoint a task and finish group for any activity within the committee's agreed work programme.

#### **4.1.90 Withdrawal of an agenda item**

Following publication of the agenda, the Chair, in consultation with the Council's Monitoring Officer may agree that an item may be removed from the agenda.

#### **4.1.91 Urgent Business**

Following publication of the agenda the Chair, in consultation with the Council's Monitoring Officer, can agree the consideration of any other business which by reason of special circumstances may be considered as a matter of urgency.

### **Additional rules for Cabinet**

The Leader and the Cabinet comprise the Executive of the Council. The Leader is also the chair of Cabinet meetings. In his or her absence, the Deputy Leader chairs meetings of the Cabinet.

#### **4.1.92 Who may attend and speak at Cabinet?**

1. Members of the public and elected members who have submitted a question for Cabinet
2. Where relevant to the agenda, the chairs of the scrutiny committees have the right to attend Cabinet meetings for the purpose of presenting any recommendations from their committee
3. Group leaders have the right to attend Cabinet meetings (as non voting Members) for the purpose of reporting the views of their group and they may ask questions of any Cabinet member and/or the Leader on any matter under consideration at the meeting
4. Ward member(s) have the right to attend and speak at a Cabinet meeting where an item relating to an individual ward or a specified group of wards is included in the agenda
5. Other members may be invited to attend and speak at the discretion of the chair of the meeting.

Reports shall be presented by the relevant lead Cabinet member.

In addition, such officers as are required to assist in presenting reports or provide support, advice or information required by the Cabinet will attend.

#### **4.1.93. Decision taking**

Where the Leader, any member of the Cabinet, or an officer taking an executive decision has a conflict of interest (whether a disclosable pecuniary interest or another interest) such interest will be disclosed and recorded and the individual making the disclosure will take no further part in the decision-making relating to that item.

Where an individual is unable to take a decision because of a conflict of interest the decision will be taken by the leader, or if the Leader has a conflict of interest, the Cabinet. If the Cabinet is inquorate because of a conflict of interest then the Monitoring Officer will be instructed to seek an appropriate dispensation.

The Leader, the Cabinet and individual Cabinet members may meet informally with officers to receive information and briefings but no Cabinet decisions will be taken at any such informal meeting.

Reports to the Cabinet will normally appear in the name of the Cabinet member and incorporate relevant advice from appropriate officers. Exceptions shall include a report from a statutory officer. The author of a report will ensure that draft reports are the subject of consultation with the relevant director, any relevant ward Members or other consultees, and in all cases the s151 finance officer and the Monitoring Officer or their authorised nominee.

#### **4.1.94. Form of business**

In addition to the standard agenda items, the Cabinet will conduct the following business at its meetings:

1. Consideration of matters referred to the cabinet or reports from a scrutiny committee or the Council
2. Consideration of reports from the statutory officers
3. Any other matters set out in the agenda for the meeting

#### **4.1.95. Leader's report**

The Leader will submit a report from the Cabinet to each ordinary meeting of council (other than the budget meeting) on which they may be questioned and if so, answer. This will report the work of the Cabinet since the last report and will include:

1. A summary of those executive decisions taken by the Cabinet, individual Cabinet members, and Joint Executive Committees and other activities of the Cabinet since the previous Council meeting;
2. Any recommendations of the Cabinet in respect of the budget and policy framework;
3. Any report to the Council required by a scrutiny committee; and
4. A summary and particulars of any urgent decision made under paragraphs (urgent decisions).

#### **4.1.96. Decisions subject to call in by scrutiny committees**

Other than decisions taken under the urgency provisions of the access to information rules (part 4) and recommendations made to the Council on budget and policy framework items, Cabinet Key decisions made but not implemented may be called-in in accordance with the scrutiny rules.

#### **4.1.97. Individual Cabinet Member or Officer Decisions**

Where individual Cabinet Members or Officers make decisions on any matter which is an executive function they must comply with the provisions in the access to information rules (part 4).

### **4.1.98. Urgent decisions**

There may be an urgent need to take a key decision where 28 days' notice of it is impracticable in the circumstances. In that event the key decision may only be made in accordance with the general exception or special urgency provisions in the access to information rules (part 4).

## **Additional rules for Overview and Scrutiny**

The Council has decided that it will have three overview and scrutiny committees (an Overview and Scrutiny Committee, a Health Scrutiny Committee and a Children and Young People Scrutiny Committee) which will have responsibility for all the overview and scrutiny functions on behalf of the Council as set out in part 3.

### **4.1.99 Who may sit on an overview and scrutiny committee?**

All Councillors except Cabinet members may be Members of an Overview and Scrutiny Committee. No member may be involved in scrutinising a decision in which they have been directly involved, or for a decision in the Cabinet portfolio they provide support to as a Deputy Cabinet Member.

### **4.1.100 Co-option**

An overview and scrutiny committee may co-opt a maximum of two non-voting people as and when required, for example for a particular meeting or to join a task and finish group. Any such co-optees will be agreed by the committee having reference to the agreed work plan and/or task and finish group membership.

The Committee with responsibility for education shall include the following co-opted education representatives, as appointed by the Council: - one representative as nominated by the diocese of Bury – one representative as nominated by the archdiocese of Bury – one parent governor as elected from the primary school sector- one parent governor as elected by the secondary school sector – one parent governor as elected by the special school sector These education co-optees may vote on items relating to education; on other items on the committee agenda they may speak but not vote.

### **4.1.101 Task and Finish Groups**

An Overview and Scrutiny Committee may appoint a task and finish group for any scrutiny activity within the committee's agreed work programme. The relevant overview and scrutiny committee will approve the scope of the activity to be undertaken, the membership, chair, timeframe, desired outcomes and what will not be included in the work. It will be a matter for the task and finish group to determine lines of questioning, witnesses (from the council or wider community) and evidence requirements.

The task and finish groups will be composed of at least two members of the relevant overview and scrutiny committee, other Councillors, and may also include, as appropriate, co-opted people with specialist knowledge and or expertise to support the task. No co-opted members of task and finish groups will have voting powers (unless they are the education co-optees ). Matters put to the vote will be determined on a simple majority with the task and finish group chair having a casting vote.

Task and finish groups, as working groups of the committee, are not subject to the requirements of political proportionality.

As working groups of the committee, the task and finish groups will not be making decisions, and have the discretion to meet either in public or in private. Where meeting in private there is no right of attendance by any member who is not a member of a task and finish group.

If a task and finish group chooses to meet formally in public it may need to exclude the press and public including other members in attendance from part of any such meeting in accordance with the Access to Information Rules (Part 4).

Task and finish groups will report their findings/outcomes/recommendations to the relevant overview and scrutiny committee who will decide if the findings/outcomes/recommendations should be reported to the cabinet or elsewhere.

Any changes proposed by the task and finish group to the scope, timeframe or outcomes stipulated by the committee must be approved by the statutory scrutiny officer following consultation with the chair of the relevant overview and overview and scrutiny committee and will be reported to the relevant overview and overview and scrutiny committee.

In the event of a task and finish group being unable to agree recommendations or findings on a particular matter, a report will be made to the relevant overview and scrutiny committee for its consideration.

### **4.1.102. Overview and scrutiny committee agendas**

In addition to the standard agenda items, At each of its ordinary meetings an overview and scrutiny committee shall consider the following business, where appropriate:

- (1) any matter called-in
- (2) a review of its work programme, including requests received for inclusion of items from members of the public, ward members, the Cabinet or the Council
- (3) consideration of any budget and policy framework items
- (4) any response to reports of the overview and scrutiny committee
- (5) any item requested to be placed on the agenda by a member of the committee
- (6) any Councillor call for action
- (7) any report from a task and finish group;
- (8) any business otherwise set out on the agenda for the meeting including items as identified in the work programme.

Any member may give notice to the Statutory Scrutiny Officer that they wish an item relevant to the functions of a committee and not excluded by law to be included in the agenda and discussed at a meeting of that committee.

An overview and scrutiny committee shall also respond, as soon as its work programme permits, to requests from the Council and from the Cabinet to review particular areas of Council performance or policy. An overview and scrutiny committee shall conduct the review as requested and report its findings and any recommendations back to the Cabinet and/or the Council.

### **4.1.103. Councillor Call for action**

Any member of the Council shall be entitled to give notice to the Statutory Scrutiny Officer if they wish an item relating to a Councillor call for action to be included on the agenda discussion at the

next available meeting of the relevant overview and scrutiny committee. (subject to it falling within the statutory definition) (Further guidance in respect of the Councillor call for action is contained in Part 5).

#### **4.1.104. Policy review and development**

The role of a scrutiny committee in relation to the development of the Council's budget and policy framework is found in the rules (part 4). In relation to the development of the Council's approach to other matters not forming part of its budget and policy framework, an overview and scrutiny committee may make proposals to the Cabinet for developments in so far as they relate to matters within its terms of reference.

An overview and scrutiny committee may hold or commission inquiries and investigate the available options for future direction in policy development and may appoint advisers to assist it in this process. A committee may go on site visits, conduct public surveys, hold public meetings, commission research and do all other things that it reasonably considers necessary to inform its deliberations. It may ask witnesses to attend in order to address it on any matter under consideration and may pay to advisers, assessors and witnesses a reasonable fee and expenses for doing so, having regard to the resources (including officer time) available. In determining how to conduct such activities the chair of a committee should consult with the Statutory Scrutiny Officer.

#### **4.1.105. Reports from the overview and scrutiny committees**

Following any investigation or review, the committee or task and finish group shall prepare a report. Any report from a task and finish group will first be considered by the relevant overview and scrutiny committee and if adopted will be dealt with in accordance with the following rules. If any review is in response to a request from Council, the overview and scrutiny committee shall report its findings to the Council.

In all other cases the report will be submitted to the Chief Executive for consideration by the Executive or other body as appropriate. If the recommendations are such that a decision can be taken by an individual Cabinet member acting within his/her portfolio in accordance with the functions scheme (Part 3), the Chief Executive shall arrange for that Cabinet member to consider the report.

If the recommendations in an overview and scrutiny committee report are contrary to or not wholly in accordance with the budget and policy framework, the Cabinet shall consider the overview and scrutiny recommendations and report the matter with its response to the overview and scrutiny recommendations to the Council.

If the recommendations in the overview and scrutiny report are in line with the budget and policy framework, the Cabinet or the Cabinet member shall consider the overview and scrutiny recommendations and report their decision to the relevant overview and scrutiny committee.

#### **4.1.106. Making sure that overview and scrutiny reports are considered by the Executive**

On receipt of a report from an overview and scrutiny committee (other than on budget and policy framework items) the Chief Executive will arrange for the report to be considered either by Cabinet or an individual Cabinet member as appropriate.

If any individual Cabinet member is minded to reject all of the recommendations in a report from an overview and scrutiny committee, then the matter must be referred to the next meeting of the Cabinet to decide its response.

The Chief Executive will notify the relevant overview and scrutiny committee of the response of the Executive within two months of receipt of the overview and scrutiny report, with the exception of matters relating to statutory health overview and scrutiny and issues relating to crime and disorder overview and scrutiny which require a response from the relevant body within 28 days.

If the Cabinet or Cabinet member wishes to extend the deadline a report will be made to the relevant overview and scrutiny committee explaining why this is considered necessary. Decisions of the Executive or the Council on any overview and scrutiny recommendations will be recorded in the usual way.

### **4.1.107. Rights and powers of overview and scrutiny committee members**

Where an overview and scrutiny committee or task and finish group conducts investigations or reviews and people attend to give evidence or otherwise assist the committee the following principles will apply:

- (a) that the investigation be conducted fairly and all members of the committee or group be given the opportunity to ask questions of attendees, and to contribute and speak
- (b) that those assisting the committee by giving evidence be treated with respect and courtesy
- (c) that the investigation be conducted so as to maximise the efficiency and value of the investigation or analysis.

### **4.1.108. Members and officers giving account**

An overview and scrutiny committee may scrutinise and review decisions made or actions taken in connection with the discharge of any Executive functions, or as provided by statute certain other bodies. The Scrutiny Committee can also help develop the Councils policies, review the effectiveness of current policies and scrutinise the work of the Executive and its decision making. As well as reviewing documentation, in fulfilling the overview and scrutiny role, it may require any member of the Cabinet, the Chief Executive, Committee Chair, and/or senior officers carrying out functions on the Chief Executive's behalf to attend before it to explain in relation to matters within its remit regarding:

- (a) any particular decision or series of decisions
- (b) the extent to which the actions taken implement council policy; and/or
- (c) their performance.

### **It is the duty of those persons to attend if so required:**

Where any member or officer is required to attend an overview and scrutiny committee under this provision, the chair of the committee will inform the Statutory Scrutiny officer. The Statutory Scrutiny Officer shall inform the member or officer in writing normally giving at least ten working days' notice of the meeting at which they are required to attend. The notice will state the nature of the item on which they are required to attend to give account and whether any papers are required

to be produced for the committee. Where the account to be given to the committee will require the production of a report, then the member or officer concerned will be given sufficient notice to allow for preparation of that report.

Where, in exceptional circumstances, the member or officer is unable to attend on the required date, then an overview and scrutiny committee shall in consultation with the member or officer arrange an alternative date for attendance and/or a substitute as appropriate.

Unless in exceptional circumstances, any witnesses required to attend any meetings will be restricted to:-

- (a) any Cabinet member involved in the decision the subject of the call in
- (b) any officer who in the view of the chair of the meeting would be able to supply evidence materially able to assist at the meeting.

The Council has designated the Head of Democratic Services as the statutory scrutiny officer who is required to discharge the following functions:

- (a) to promote the role of the Council's overview and scrutiny committees
- (b) to provide support to the Council's overview and scrutiny committee and the members of the committees
- (c) to provide support and guidance to:
  - (i) members of the Council,
  - (ii) members of the executive of the Council, and
  - (iii) officers of the Council – in relation to the functions of the Council's overview and scrutiny committees

### **4.1.109. Call in**

“Call in” is a statutory right for members of the Council to call in a key decision of Cabinet, an individual Cabinet member, an officer with delegated authority or under joint arrangements after it is made but before it is implemented subject to the following provisions.

Call in does not apply to Cabinet decisions that make recommendations to the Council because those decisions will not be implemented in any event until the matter has been considered and agreed by the Council. These are decisions such as setting the council tax and agreeing the annual revenue and capital budgets.

- When a call in has been triggered, the call in process will be managed by the Monitoring Officer in consultation with the chair of the relevant overview and scrutiny committee and the members who have triggered the call in. The chair of the relevant overview and scrutiny committee will maintain responsibility for the conduct of any meeting at which the decision called in is considered.
- Call in is not intended to be a mechanism for voicing objection to or dislike of any particular decision. It should only be used in exceptional circumstances and where there is evidence to show that one of the following may apply:

- (a) that there has been inadequate consultation with stakeholders prior to the decision being made;
- (b) that there was inadequate evidence or information on which to base a decision and that not all relevant matters were fully taken into account;
- (c) that the decision materially departs from the budget and policy framework;
- (d) that the decision is disproportionate to the desired outcome;
- (e) that the decision has failed to take into account the provisions of the Human Rights Act 1998 and or the public sector equality duty;
- (f) that the decision-maker has failed to consult with and take professional advice from all relevant officers including the Monitoring Officer and the Chief Finance Officer, as appropriate, or has failed to have sufficient regard to that advice;
- g) that the decision exceeds the powers or terms of reference of the decision maker responsible for the decision; or
- (h) that the access to information rules have not been adhered to.

#### **4.1.110. Advice should be sought from the Monitoring Officer on these matters**

When a decision is made by the Cabinet or an individual Cabinet member that decision will be published widely by electronic means. This includes:

- (a) displaying it on the Council website
- (b) sending a copy of the decision electronically to all members of the Council identifying which overview and scrutiny committee's remit the decision falls within

The decision will be in the form of a notice and bear the date upon which it is published and will specify that the decision will come into force, and may be subsequently implemented, at the expiry of five working days after the date of publication, unless it is called in under these call in rules.

To call the decision in a call in notice must be received by 5.00pm and must:

- (a) clearly states the decision(s) which is/are being called in by reference to the decisions as set out on the decision notice
- (b) clearly states the grounds for the call in as laid out above as applied to each decision being called-in and the evidence on which the grounds are based
- (c) is signed by the Chair of the Committee or any two or more members of the Committee or any eight member of the Council (not including cooptees). If electronic notification is being used an email in accordance with the requirements of this paragraph must be submitted by each member supporting the call in.

#### **4.1.111 Limitations of call in**

The call in procedure is restricted to decisions made by Cabinet or individual Cabinet members, decisions made by joint committees of the Executive and decisions made by officers under delegation from the Executive.

Where a decision has been taken in circumstances where the special urgency provisions apply, as set out in the access to information rules (Part 4), that decision will not be subject to call in.

The call in procedure will also not apply where the decision taken needs to be implemented urgently. A decision will be urgent if any delay likely to be caused by the call-in process would seriously prejudice the Council's or the public interest.

In this case the record of the decision, and notice by which is it made public shall state whether in the opinion of the decision making person or body, the decision is one that requires urgent implementation and the reasons why, and the Monitoring Officer should confirm that as such it is not subject to call in.

The chair of the relevant overview and scrutiny committee must agree both that the decision taken was reasonable in all the circumstances and to it being treated as a matter of urgency.

The consent to the decision being taken as a matter of urgency will be recorded on the published notice of the decision and must be reported to the next available meeting of the Council, together with the reasons for urgency.

### **4.1.112. Post call in**

The Monitoring Officer will determine the validity of the call in as soon as possible. The Monitoring Officer may, if appropriate, reject a request for call in if, in their opinion, it fails to meet any of the grounds listed in 4.5.65 above, or if they consider it is in any way vexatious, frivolous or otherwise inappropriate.

Examples include but are not limited to:

- (a) the cited grounds bear no relevance to the decision that is identified for call-in;
- (b) the requisition cites grounds for which no relevant evidence is produced in support;
- (c) those requisitioning the call-in signed the requisition before it was complete (e.g. signed a blank form in advance or emailed consent without detailing the grounds and evidence);
- (d) the call-in includes material which could be defamatory;
- (e) the requisition is being used for improper purposes (e.g. to admonish an officer); or
- (f) the decision is in accordance with the advice or recommendations provided to the decision maker by the overview and scrutiny committee.

If the call in is determined not to be valid, the Monitoring Officer will inform those members submitting the notice of the call in of the reasons for that determination.

If accepted as valid, the Monitoring Officer will then advise the original decision maker of the call in.

- The Monitoring Officer shall then call a meeting of the relevant overview and scrutiny committee on such a day as they shall determine in consultation with the relevant chair and in any event within five working days of the Monitoring Officer accepting the validity of the call in notice.
- Having considered the decision in light of the grounds and evidence for the call in, the options available to the Scrutiny Committee are as follows:
  1. The Scrutiny Committee decides not to offer any comments on the Notice. In this situation the decision of the Cabinet will stand.
  2. The Scrutiny Committee decides to offer comments or objections, which will be referred back to the next Cabinet meeting.
  3. The Scrutiny Committee may refer the Notice, without comment, to the Council. The matter will then be considered by the Council (a standard item appears on all Council summons to consider referrals from Scrutiny Committees). Any comments or objections from Council will be referred back to the Cabinet at the earliest opportunity. (Call in protocol is detailed below).

The Cabinet will be required to consider any objections and comments but will not be bound by them unless it is contrary to the Policy Framework or contrary to or not wholly consistent with the Budget.

- The decision maker shall reconsider any decision referred to them following call-in, take into account any views expressed by the relevant overview and scrutiny committee and may either amend or confirm the original decision or require further specified work to be undertaken before making a final determination.
- Having been referred to the next Council meeting the Council has two options: (i) amend the policy / budget framework to accommodate the called-in decision, in which case the decision is implemented immediately; or (ii) require the decision maker to reconsider the decision again and refer it to a meeting of the Cabinet to be held within five working days of the Council meeting. The Cabinet may choose to amend or confirm the decision and there will be no further right of call in.

If an overview and scrutiny committee or the Council does not meet within the time permitted by these rules or such extended time as may be agreed or if it does but does not refer the decision back to the decision making body or person, the decision will become effective on the date of the meeting or expiry of the period in which the meeting should have been held, whichever is the earlier.

#### **4.1.113. Extension of time limit**

In exceptional circumstances the time limit of ten working days for convening a meeting of an overview and scrutiny committee to consider the called in decision may be extended as agreed by the original decision maker and/or the Leader where practical considerations or any unforeseen factor make such an extension appropriate.

#### **4.1.114. Pre decision call in and the forward plan**

The overview and scrutiny committees should consider the forward plan as the chief source of information regarding forthcoming key decisions and in doing so, may identify a forthcoming

decision on the forward plan relevant to the remit of the committee and examine the issues around it.

In order not to obstruct the council in its business, the overview and scrutiny committee may call in an executive decision in advance of its actually being taken. In such a situation all the time-limits apply as above, except that a key decision cannot actually be implemented any sooner than it would have been had the overview and scrutiny committee not called it in.

Where the overview and scrutiny committee has called-in a key decision from the forward plan before its due date, the decision cannot be called-in again after the final decision has been taken.

#### **4.1.114. Party whip**

Government guidance views party or group “whipping” as incompatible with overview and scrutiny functions. Whipping arrangements should not be applied to overview and scrutiny committees and members should be free to comment and vote on matters under

**Call in Procedure:**

**Date:** Meeting to be 'called 'within 5 working days of the receipt of Call-in Notice. The Statutory Scrutiny Officer to consult with Chair and Cabinet Member (and Leader).

**Agenda:**

Will include:

- Original decision report and all paperwork considered by the Cabinet / Call in Notice / Cabinet Minute.
- PQT item will refer only to "questions in relation to the called in item."
- No minutes of the last meeting to be included.
- Wording to be set out under the main agenda item as follows:

"Following the receipt of a Notice of Call-in within the required deadline, from Councillors XXXXXXXXXX calling in the decision of the Cabinet set out in Minute CA.XXX of the meeting held on XXX, a meeting of the Committee has been convened in order to consider the matter in accordance with the reasons set out on the Notice of Call-In.

In considering the matter, the options available to the Scrutiny Committee are as follows:

1. The Scrutiny Committee decides not to offer any comments on the Notice. In this situation the decision of the Cabinet will stand.
2. The Scrutiny Committee decides to offer comments or objections, which will be referred back to the Cabinet at the meeting arranged for XXX.
3. The Scrutiny Committee may refer the Notice, without comment, to the Council. The matter will then be considered by the Council on XXX (a standard item appears on all Council summons to consider referrals from Scrutiny Committees). Any comments or objections from Council will be referred back to the Cabinet at the earliest opportunity, in accordance with the Council Constitution.

The Cabinet will be required to consider any objections and comments but will not be bound by them unless..."it is contrary to the Policy Framework or contrary to or not wholly consistent with the Budget"

**Procedure at meeting:**

- Public Questions (limited to 30 minutes)
- Call-in Members to present their reasons for the Call-in of the decision.
- Cabinet Member to respond to the issues raised
- Further questions/comments from Committee Members
- Summary by the Chair and move to consideration of the options available to the Committee (as listed on the agenda).
- Vote if necessary

Cabinet members each have a portfolio of responsibility which is allocated by the Leader.

The Leader may also determine the extent, if any, of the decision making responsibility delegated to individual Cabinet members.

**The Leader** will be the principal spokesperson for the Council; Provide political leadership and direction to the style, priorities, strategic policy and strategic management initiatives of the Council and will lead the reform agenda within Bury through effective policy, performance and governance measures to meet the challenges and pressures arising from reducing resources, an ageing population and continued resident expectations.

**The Deputy Leader** will support the Leader of the Council in discharging the responsibilities set out in the Leader's role specification and will be his statutory deputy. The Deputy Leader will also discharge the specific responsibilities as set out in the role specification for the Leader of the Council during periods when the Leader of the Council is absent.

### **Role and Responsibilities of a Cabinet Member**

The duties of a cabinet member are:

- (1) To have the responsibility for, and provide a lead on, the initiation of policy.
- (2) To decide the executive action to be taken in implementing those matters of Council policy allocated to them within their portfolio, seeking advice from the Executive Management Team where appropriate.
- (3) To take personal responsibility, and to be held accountable, for any decisions taken, and to share with the appropriate service managers responsibility for the performance of services within their portfolio.
- (4) To respond to or deal with any issues arising at council meetings relating to their portfolio.
- (5) To act as spokesperson within and outside the authority on those services and functions within their portfolio.
- (6) To be a member of, and attend, Cabinet Committees and to share the collective responsibility for decisions taken by the Cabinet.
- (7) To act as an advocate for the council within the Authority and outside.
- (8) To provide regular reports on progress and to undertake consultation on decisions as required.
- (9) To attend Overview and Scrutiny Committee and Scrutiny Panels to discuss decisions taken or support the policy formulation process.
- (11) To develop partnership working with other agencies and contribute as a key player to delivering a partnership agenda.
- (12) To represent the council on outside bodies.
- (13) To represent the council and contribute the Bury perspective on national, regional and sub-regional bodies.
- (14) To consult interested parties, ward councillors and citizens as part of the development and review of policy.

(15) As part of the Cabinet to be involved in:

- providing support to all councillors to help them develop constructive roles as Ward Members
- leading the community planning process for the council
- the consultation on, and drawing up of, the revenue and capital budgets
- leading the search for continuous improvement
- taking decisions on resources and priorities to deliver the strategies and budget approved by full council – promoting and participating in Member development

**Cabinet Structure 2021-22**

<b>Leader and Cabinet Member for Finance and Growth Cllr E O'Brien</b>		<b>Deputy Leader and Cabinet Member for Children, Young People and Skills Cllr T Tariq</b>	<b>Cabinet Member for Health and Wellbeing Cllr A Simpson</b>		<b>Cabinet Member for Environment, Climate Change and Operations Cllr A Quinn</b>
<b>Finance</b>	<b>Business Growth and Infrastructure</b>	<b>Children and Young People</b>	<b>Operations</b>	<b>OCO</b>	<b>Operations</b>
Financial Strategy and planning inc MTFS Budget Board governance, saving tracker and QIPP Financial management, assurance and reporting DSG Accounting inc Treasury Management, Cashiers, Pay Services (Creditor Payments/Accounts Payable/Payroll) Audit Revenues and benefits processing Insurance	Economic development  Regeneration  Strategic planning for land use and development  Housing development inc Affordable Housing  Development management  Covid Recovery Plan	Lead member for the purposes of s 19 of Children Act 2004. Corporate Parenting Youth and connexions Children's social care MASH Children's & Complex safeguarding Fostering and adoption Early Help, Early years and school readiness Emergency Duty team (EDT) Youth offending team Children's Caldicott Guardian Service Children and Young people in care SEN team Education welfare and Children's psychology School academies and colleges School crossing patrols	Wellness operation (sport, physical activity, lifestyle, nutrition, BEATS) Leisure Facilities	Commissioning health and social care Commissioning secondary care and community services inc emergency and planned care, cancer and mental health Support at home Quality: patient safety, clinical effectiveness, patient experience Infection control Commissioning of primary care (GP) services Referral and booking services Medicines optimisation Adult safeguarding Public health Mortality inc LeDer Strategic development unit (strategic planning and development, provider relationships, reviewing team) Care homes CHC/complex care Transforming care	Waste inc Recycling Street cleansing Parks and countryside Environmental Health and Pest Control Climate Emergency Flooding Street Scene (Highways, Street Lighting and Grounds Maintenance) Parking Engineers Transport and workshop TfGM Clean Air Implementation Walking and Cycling

		Troubled Families		Bury EST Adults Caldicott Guardian Service Liaison with LCO and Persona Social Care operations through the DASS Integrated Neighbourhood Teams	Strategic Transport
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<b>Cabinet Member for Corporate Affairs and HR</b> <b>Cllr Tahir Rafiq</b>		<b>Cabinet Member for Communities</b> <b>Cllr Richard Gold</b>	<b>Cabinet Member for Culture and The Economy</b> <b>Cllr Charlotte Morris</b>			<b>Cabinet Member for Housing Services</b> <b>Cllr Clare Cummins</b>
<b>Corporate Core Services</b>	<b>Operations</b>	<b>Corporate Core Services</b>	<b>Corporate Core Services</b>	<b>Operations</b>	<b>Business Growth and Infrastructure</b>	<b>Business Growth and Infrastructure</b>

<p>ICT Procurement Corporate Complaints, FOI's, EIAs Information Governance inc GDPR and Data Protection Legal and Democratic Services inc Monitoring, Registrars, Elections HR/OD inc HR Traded Services and Bury ACES Customer Contact inc PALS Equality and Diversity Risk Management Policy and Reform Adult learning Performance and Business Intelligence (inc Public Health intelligence) Transformation</p>	<p>Cleaning and catering  School and college transport  Depot/stores  Facilities Management  Architectural practice  Enforcement</p>	<p>Health and Safety Resilience and Emergency Planning Community Safety (Strategic and Operational) Communications Marketing and Engagement including Neighbourhood engagement, interfaith, veterans, cohesion and VCFA Community Hubs/Covid Response Community Grants Civic Venues Libraries and Archives</p>	<p>Culture and Tourism  Arts and Museums  Town of Culture</p>	<p>Market Operations  Licensing  Trading standards</p>	<p>Town Centre Recovery Boards  Business engagement, support and recovery</p>	<p>Liaison with Six Town Housing and Tenant Management Organisations (eg Springs)  Estates, property and asset management  Building control  Urban renewal  Homelessness and Asylum  Housing Strategy</p>
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**Membership of committees**

Mayor of Council - Councillor Tim Pickstone

Deputy Mayor of Council - Councillor Shaheena Haroon

<b>Cabinet Post</b>	<b>Cabinet Member</b>	<b>Deputy Cabinet Support Members</b>
Leader, Finance and Growth	Councillor Eamonn O'Brien	Finance and Growth (Ramsbottom Town Plan) - Councillor Kevin Thomas
Deputy Leader, Children, Young People and Skills	Councillor Tamoor Tariq	Children Services - Councillor Clare Walsh
First Deputy, Health and Wellbeing	Councillor Andrea Simpson	Health & Wellbeing - Councillor Debbie Quinn
Communities	Councillor Richard Gold	Communities - Councillor Ummrana Farooq
Environment, Climate Change and Operations	Councillor Alan Quinn	Environment, Climate Change and Operations - Councillor Kevin Peel and Councillor Nathan Boroda
Corporate Affairs and HR	Councillor Tahir Rafiq	Corporate Affairs and HR - Councillor Joan Grimshaw
Culture and The Economy	Councillor Charlotte Morris	N/A
Housing Services	Councillor Clare Cummins	N/A

**Overview and scrutiny committee (11)**

Councillor Russell Bernstein (Chair)

Councillor Clare Walsh

Councillor Kevin Peel

Councillor Lucy Smith

Councillor Nathan Boroda

Councillor Gavin McGill

Councillor Ummrana Farooq

Councillor Liam-James Dean

Councillor Dene Vernon

Councillor Michael Powell

Councillor Carol Birchmore

**Health scrutiny committee (11)**

Councillor Trevor Holt (Chair)

Councillor Joan Grimshaw

Councillor Shaheena Haroon

Councillor Martin Hayes

Councillor Sandra Walmsley

Councillor Tom Pilkington

Councillor Khalid Hussain

Councillor Roger Brown

Councillor Jordan Lewis

Councillor Cristina Tegolo

Councillor Carol Birchmore

**Children and Young People's Scrutiny Committee (11)**

Councillor Steve Wright (Chair)

Councillor Mary Whitby

Councillor Tom Pilkington

Councillor Sam Butler

Councillor Debbie Quinn

Councillor Ciaran Boles

Councillor Kevin Thomas

Councillor Paul Cropper

Councillor Jo Lancaster

Councillor Luis McBriar

Councillor Gareth Staple Jones

**Licensing and safety Committee (11)**

Councillor Sandra Walmsley (Chair)

Councillor Trevor Holt

Councillor Joan Grimshaw

Councillor Karen Leach

Councillor Clare Walsh

Councillor Yvonne Wright

Councillor Jack Rydeheard

Councillor Jordan Lewis

Councillor S Wright

Councillor Mike Smith

Councillor Gavin McGill

**Planning control committee (11)**

Councillor Gavin McGill (Chair)

Councillor Martin Hayes

Councillor Kevin Thomas

Councillor Ciaran Boles

Councillor Debbie Quinn

Councillor Nathan Boroda

Councillor Jackie Harris

Councillor Dene Vernon

Councillor Jo Lancaster

Councillor Cristina Tegolo

Councillor James Mason

**Audit committee (9)**

Councillor Mary Whitby (Chair)

Councillor Martin Hayes

Councillor Beth Mortensen

Councillor Sam Butler

Councillor Ummrana Farooq

Councillor Iain Gartside

Councillor Jack Rydeheard

Councillor Steve Wright

Councillor Mike Smith

Co-opted - Independent Member

**Employment Panel (9)**

Councillor Tahir Rafiq (Chair)

Councillor Joan Grimshaw

Councillor Trevor Holt

Councillor Sam Butler

Councillor Richard Gold

Councillor Russell Bernstein

Councillor Roger Brown

Councillor Tim Pickstone

Councillor James Mason

**Standards committee (9)**

Councillor Tim Pickstone (Chair)

Councillor Martin Hayes

Councillor Mary Whitby

Councillor Tahir Rafiq

Councillor Sam Butler

Councillor Lucy Smith

Councillor Yvonne Wright

Councillor Russell Bernstein

Councillor Gareth Staple Jones

Independent Person(s)

**Health and wellbeing board (4)**

Councillor Andrea Simpson

Councillor Eamon O'Brien

Councillor Tamoor Tariq

Councillor Debbie Quinn

Core Voting Members:

A nominated representative from the Voluntary Sector – Sajid Hashmi

Executive Director of Children Young People and Culture – Isobel Booler

Executive Director for Strategic Commissioning – Will Blandamer

Director of Community Commissioning across the Council and CCG and Director of Adult Social Services – Adrian Crook

Director of Public Health – Lesley Jones

Two nominated representatives from the GP Clinical Commissioning Group –Dr Schryer and Geoff Little

A nominated representative from the Local Healthwatch – Ruth Passman

A nominated representative from Greater Manchester Police – Suzanne Downey

A nominated representative of Greater Manchester Fire Service – Val Hussain

A nominated representative from Northern Care Alliance – Tyrone Roberts

A representative of the LCO – Kath Wynne Jones

A nominated representative from Pennine Acute NHS Trust – Steven Taylor

A nominated representative from Pennine Care Foundation Trust – Keith Walker

A nominated representative from Six Town Housing – Sharon McCambridge

**Corporate parenting board (11)**

Councillor Tamoor Tariq (Chair)

Councillor Eamonn O'Brien

Councillor Clare Walsh

Councillor Clare Cummins

Councillor Kevin Peel

Councillor Tim Pickstone

Councillor Liam-James Dean

Councillor Jo Lancaster

Councillor Luis McBriar

**Radcliffe cabinet committee (7)**

Voting members:

Councillor Eamonn O'Brien (Chair)

Councillor Clare Cummins

Councillor Charlotte Morris

Non-voting members:

Councillor Mike Smith

Councillor Carol Birchmore

Councillor Jo Lancaster

Councillor Beth Mortenson

**Strategic commissioning Board (8)**

All members of Cabinet to attend

Opposition Leaders of the three Largest parties to attend also in a non-voting capacity

Other voting members:

Clinical Director x 4 Voting

Lay Member – Quality

Lay Member - PPI

Lay Member – Finance and Audit

Governing Body Registered Nurse

Chief Executive and Accountable Officer

Joint Chief Finance Officer (S151 responsibilities)

Joint Executive Director of Strategic Commissioning

**Appointment of Shadow Cabinet for 2021/2022**

Position	Appointees
Leader, Finance, Housing and Regeneration	Councillor Nick Jones
Deputy Leader, Environment and Climate Change	Councillor Paul Cropper
Public Health and Adult Social Care	Councillor Roger Brown
Children, Young People and Skills	Councillor Jo Lancaster
Communities, Leisure and Culture	Councillor Luis McBriar
Corporate Affairs, Transformation and HR	Councillor Russell Bernstein
Transport and Highways	Councillor Jackie Harris

## Schedule for Review New Article 9

Section	Update	Comments	Initial Review Date	Subsequent Review Date
Part 1 - Introduction and summary	No amends		May 2022	
Part 2 - Articles of the constitution	Number of changes required including a reduction in the number of Articles		Nov 2021	May 2023
Part 3 - The functions scheme	Light touch review in conjunction with the review of the procedure rules.	Include Committee Terms of Reference	May 2022	May 2024
Part 4 - Procedure rules				
	Review and updated the Council and Committee rules		Nov 2021	May 2023
	Section 2 - Access to information rules		May 2023	May 2025
	Section 3 - Budget and policy framework procedure rules		May 2023	May 2025
	Section 4 - Cabinet procedure rules		Nov 2021	May 2023
	Section 5 - Overview and scrutiny rules		Nov 2021	May 2023

	Section 6 - Contracts procedure rules		May 2022	May 2024
	Section 7 - Financial regulations		May 2023	May 2025
	Section 8 – Officer Employment Procedure Rules		May 2022	May 2023
Part 5 - The codes and guidance				
	Section 1 - Councillor code of conduct	Review as per agreement at Standards	Nov 2021	May 2023
	Section 2 - Employee's code of conduct		May 2022	May 2024
	Section 3 - Protocol on member and officer relations		Nov 2021	May 2023
	Section 4 - Anti-fraud and corruption - Whistleblowing policy	Review as per agreement at Audit	May 2022	May 2024
	Section 5 - Monitoring officer protocol		Nov 2021	May 2023
	Section 6 - Public participation guide		May 2022	May 2024
Part 6 - Councillors allowance scheme		Awaiting outcome of IRP	Nov 2021	Update Annually – IRP every 4 years

Part 7 - Cabinet portfolios, membership of committees and the Council's management structure	Section 1 - Cabinet member portfolios Section 2 - Membership of committees Section 3 - Organisational structure	Need to amend and update	Nov 2021	Annually
Part 8 - Covid-19 interim arrangements		To Be Removed		
Part 9 – Version History and schedule for review				Update Annually

<b>Committee Terms of Reference (to be appended to the Constitution)</b>
Audit Committee
Corporate Parenting Board
JCC Corporate
JCC Teachers
JCC Health and Safety
Cabinet
Employment Panel
Health and Wellbeing Board
Licensing and Safety Committee
Overview and Scrutiny
Strategic Commissioning Board (to be replaced by the Locality Board)
Planning Control Committee
Youth Cabinet
East Lancashire Railway Trust Board
Democratic Arrangements Forum
Standards Committee
Joint Health Overview and Scrutiny Committee

# Article 1 - The Council and the constitution

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This article explains the Council's priorities and values, and the Constitution which is published on the Council's website. The Council has decided to operate a leader and cabinet model of governance.

## Strategic priorities and values of the council

### 1.1 Priorities

The Council and its partners have adopted a 10 year strategic plan called Bury 2030 to provide strategic direction of the Council's work. Bury 2030 sets out priorities in order to improve the quality of life of the people in Bury and the measures used to show how far those priorities have been met. A delivery plan that sets out what actions the Council will take to achieve the priorities of Bury 2030 is agreed each year by the Cabinet and progress is reported on a quarterly basis. The Let's Do It strategy has forged the following LETS principles that will guide the Council's work:

#### **Local** neighbourhoods

We know that is relationships, not services, which truly make the difference to people's lives. We want to build on this through empowered local communities where individuals, families and communities are in control and at the heart of decision making. We will bring our collective talent, energies and community power together for the greater good by:

- Engaging people where and how they live
- Hearing all voices and learning from them
- Trusting and helping each other, always working together
- Listening when others talk, helping and enabling
- Supporting development and growth and removing barriers to collaboration

#### An **Enterprising** spirit

We are known for our spirit of enterprise and innovation and we will harness that spirit to raise aspirations to grow and develop our people and businesses. We will remove the barriers that prevent people from getting on and connect local people to opportunities through their skills, confidence and relationships by:

- Demonstrating pride in our collective and individual achievements and in the place where we live
- Ensuring everyone has an equal voice and equal life chances by harnessing and nurturing all talents
- Championing innovation, always looking for ways to improve quality of life for all
- Being courageous and stepping out of our comfort zone to help ourselves and others
- Opening doors at every opportunity

Delivering **Together**

A new relationship between public services, communities and businesses which is based on co-design and accountability for shared decision making; it is about doing 'with' not 'to' by bringing a greater focus on wellbeing, prevention and early intervention. We will take responsibility for making a difference by:

- Committing to making a positive, practical difference in addressing and tackling our challenges
- Valuing and developing the role and voices of people and communities to share and deliver, wherever we can
- Empowering residents and groups to take decisions and harness resources
- Strength through cultural diversity
- Growing relationships and new connections across boundaries
- Demonstrating dignity, kindness and respect in everything we do.

## A **Strengths-based** approach

Our vision is for a place in which people are helped to make the best of themselves, by recognising and building on strengths not deficits of all our children, families and our communities, and taking an evidence-led understanding of risk and impact to ensure the right intervention at the right time. We will do this by:

- Really listening to understand each other and our shared potential
- Being flexible and putting our energies into where we can make the most positive difference asking 'what matters to you?'
- Being open to trying new things and doing things differently
- Valuing the skills, strengths and successes of individuals and communities.

## 1.2 Powers of the Council

The Council's duties and powers are set out in the law of England. A duty that requires the council to act in a particular way. A power that gives the Council discretion to act. The arrangements are complex and detailed.

The Council must meet high ethical and other standards in everything it does; it must comply with legal requirements; and it must use public money and other resources economically, efficiently and effectively, accounting fully for its actions. In order to discharge these responsibilities, members and senior officers must ensure the proper governance of the council's affairs and the stewardship of its resources.

Powers are exercised by the Council and its functions carried out in accordance with the functions scheme (part 3). The council operates the "leader and cabinet" model of Executive arrangements

## 1.3 The constitution

This Constitution and all its appendices form the Constitution of the Council of the Metropolitan Borough of Bury (known as Bury Council).

## 1.4 Purpose of the Constitution

The purpose of the constitution is to set out in a single place and clear language how the council works and how it makes decisions to

- a) enable the Council to provide clear leadership to the community in partnership with citizens, businesses and other organisations
- b) support the active involvement of citizens in the process of council decision-making
- c) help Councillors represent their constituents more effectively
- d) enable decisions to be taken efficiently and effectively
- e) create a powerful and effective means of holding decision-makers to public account
- f) ensure that no one will review or scrutinise a decision in which they were directly involved
- g) ensure that those responsible for decision making are clearly identifiable to local people and that they explain the reasons for decisions
- h) provide a means of improving the delivery of services to the local community

## **1.5. Meaning of the Constitution**

If the constitution gives the council a choice about what to do, the council must choose the option that it thinks is closest to the purpose of the constitution.

## **1.6 Review and changes to the Constitution**

Reviews and changes to the Constitution will be in accordance with the functions scheme.

## **1.7 Suspension of the constitution**

The only power to suspend the Constitution is in accordance with the council procedure rules.

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## Article 2 - Councillors

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This article explains who Councillors are, what they must do and how long they serve.

Information about Councillors and the wards they represent and how to stand for election as a Councillor is on the Council's website and at Council contact centres.

### 2.2.1. Number of Councillors and areas they represent

The Council has 51 elected members called Councillors. Each Councillor represents an area of the district known as a ward. The voters of each ward elect a Councillor to represent them.

### 2.2.2. Who can be a Councillor?

Anybody may stand for election as a Councillor provided they are:

- a) registered to vote in local government elections in the district, or have lived or worked there for the 12 months preceding the day of election, and are
- b) not stopped by law from holding office as a Councillor

### 2.2.3. Elections

Anyone over 18 residing in the district is entitled to vote and be included on the electoral register.

The running of the elections is the responsibility of the Returning Officer. Electoral registration is the responsibility of the Electoral Registration Officer.

The Chief Executive of the council is the Electoral Registration Officer and Returning Officer. The Council has an elections office that helps the Chief Executive discharge these functions.

Electoral registration and elections are subject to strict rules and further information can be obtained from the Council's elections office or the Electoral Commission.

### 2.2.4. When elections happen and how long Councillors are elected for

Elections for one of the three seats in each ward will usually take place on the first Thursday in May every year. People elected as Councillors commence office on the fourth day after being elected and finish on the fourth day after four years.

### 2.2.5. Roles and functions of all Councillors

All Councillors must:

- a) together be the makers of overall policy for the district in relation to its functions
- b) contribute to plans and policies jointly with partners in matters that require cooperation and collaboration between those partners

- c) represent, and speak up for their communities
- d) deal with individual casework and speak up for citizens
- e) balance different interests within their ward and represent it as a whole
- f) be involved in Council decision making
- g) be available to represent the council on other bodies; and
- h) maintain the highest standards of conduct and ethics
- i) together be the corporate parents for children looked after by the council.

## 2.2.6. Rights to information

Councillors have rights of access to council information in accordance with the access to information rules (part 4).

## 2.2.7. Responsibilities

Councillors must follow the Councillor code of conduct (part 5 section 1) and must follow this constitution and the rules, principles and codes within it whilst conducting Council business.

## 2.2.8. Allowances

Councillors will be entitled to receive allowances in accordance with the Councillors' allowance scheme (part 6).

## 2.2.9. Ceasing being a Councillor

A Councillor will cease being a Councillor if:

- a) they resign by giving written notice, or
- b) they fail to attend meetings of the Council for a period of six months without prior approval of the Council meeting, or
- c) if they are stopped by law from holding office, or
- d) the period for which they were elected has come to an end and they have not been re-elected.

## 2.2.10. Political or other groups

Councillors may join a political group of two or more Councillors who belong to the same political party or have some other common interest. Political groups are recognised by law and in the constitutional arrangements within the Council.

The number of places that each political group has on the Council determines how many places are allocated to members of that political group on Council committees and other bodies.

There is no constitutional or legal requirement that a member of a group must vote on any matter in the same way as their political group. Usually on policy matters a political group will have a collective view and will vote together on the issue.

There are certain functions of the Council that are regulatory or quasi-judicial e.g. planning. A political group may not direct its members how to decide such matters. Similarly the political group should not direct its members how to decide matters for consideration at any of the Council's three scrutiny committees.

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## Article 3 - Citizens and the Council

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Bury Council is keen to engage with citizens living or working in the Borough and involve them in council activities. This article describes how Bury citizens can take part.

### 2.3.1. Citizens' rights

Citizens have the right:

- a) to take part in question time at any meeting of the Council where the agenda includes public question time;
- b) to speak during public speaking time at meetings of the Planning and Regulatory Committee;
- c) to contribute to investigations by Overview and Scrutiny Committees;
- d) to be consulted or in some other way participate in Council decision making in accordance with the arrangements the council has for such consultation and participation; and
- e) to receive information in accordance with the access to information rules
- f) to attend any public meeting

### 2.3.2. Citizens' responsibilities

A healthy democracy depends upon active citizenship. Citizens are encouraged to make conscientious use of their roles as both voters and members of a wider community. In particular, citizens are encouraged to:

- a) vote at every opportunity;
- b) respect the expression of differing opinions in public debate;
- c) promote tolerance and respect between their fellow citizens; and
- d) seek information about the decision-making role of Councillors and respecting the Council procedures which give effect to a representative democracy. The rights and responsibilities of citizens is set out in more detail in the public participation guide (part 5)

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# Article 4 - The Council meeting

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This article explains the role of the Council meeting (which is when all councillors attend a formal meeting) and the role of the Mayor.

## 2.4.1. Council meetings

Types of Council meetings.

There are three types of Council meeting:-

- a) The Annual Meeting.
- b) Ordinary Meetings.
- c) Extraordinary Meetings.

## 2.4.2. Rules applying to Council meetings

The Council rules (in Part 4 section 1) will apply to Council meetings.

## 2.4.3. Functions of the council meeting and functions scheme

The functions of the Council meeting are set out in the Functions Scheme (part 3)

## 2.4.4. The Mayor

### Election

The Mayor and the Deputy Mayor are elected by Council annually. The Deputy Mayor following their term of office will assume the role of Mayor, subject to agreement at Annual Council.

Without prejudice to above, the Leaders of the political groups represented on the Council agree that the determination of the Mayor and Deputy Mayor in future years, will be agreed by the Majority group in consultation with the other Group Party Leaders.

The Mayor and Deputy Mayor cannot be members of the Cabinet or a Deputy Cabinet Member.

### Functions

The Mayor and, in their absence, the Deputy Mayor will have the following roles and functions:

- a) to uphold and promote the purpose of the Constitution;
- b) to decide what the Constitution means if there is a dispute, on advice from the Monitoring Officer;
- c) to chair Council meetings so that decisions can be taken efficiently and with regard to the rights of Councillors and the interests of the community;

- d) to make sure that Council meetings are a place for debating matters of concern to the local community and the place at which members who are not on the Cabinet are able to hold the Cabinet to account;
- e) to promote public involvement in the Council's activities and in the democratic process;
- f) to attend those civic and ceremonial functions which they or the Council consider appropriate; and
- g) to approve, as urgent, decisions which will not be subject to call in, when no chair of a Scrutiny Committee is available.
- h) to Chair meetings of the Standards Committee.

## Roles

The Mayor fulfils several roles:

- a) Ceremonial role - The Mayor is the ceremonial head of the whole Council and its district wide representative at civic and social occasions. The Mayor has considerable discretion in exercising the ceremonial aspects of the office.
- b) Non-political role - It is important that the Mayor maintains a non-political stance especially when chairing Council meetings. The Mayor must act entirely neutrally allowing different opinions to be fully and fairly presented and debated subject to any relevant procedure rules.
- c) Mayor's announcements - Any Group Leader or Committee Chair may approach the Mayor before a Council meeting to suggest items for the Mayor to use in making announcements to Council. The Mayor has complete discretion as to which items they may think appropriate to announce.
- d) Rules of debate - The Mayor 's role in conducting meetings is to enforce the Council rules at the Council meeting as set out in part 4.
- e) Casting vote - If there are equal numbers of votes for and against, the Mayor will have a second or extra casting vote. There will be no restriction on how the Mayor chooses to exercise a casting vote.

# Article 5 - The Leader and the Cabinet

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The Leader of the Council is the Councillor who is the political Head of the Council. This article explains how the Leader is elected and what they do. It also explains how the Cabinet works and what it does. The Leader and Cabinet model are part of the Council's Executive arrangements. More information about the Cabinet is set out in Part 3 of the Constitution.

## 2.5.1. Leader of the council

### Election

At the Annual Meeting, Council will elect a Councillor to be the leader of the council ("the Leader")

### Role

The Leader is the political leader of the Council who, together with the Chief Executive, provides overall leadership of the Council and its staff.

The Leader will normally Chair meetings of the Cabinet, will lead in the formulation, co-ordination and presentation of the Cabinet's policies and will work closely with the Chief Executive on the carrying out of policies by the Council.

### Ceasing being leader of the Council

The Leader will stay as the Leader of the Council until:

- a) four years from the date of their election; or
- b) they resign from office; or
- c) they are suspended from being a Councillor, although they may resume office at the end of the period of suspension; or
- d) they are no longer a Councillor; or
- e) they are removed from office by resolution on notice at a Council meeting; or
- f) by simple resolution of a motion without notice at a meeting of Council following a change in political control of the Council, as signalled to the Monitoring Officer, a change in political control being a change in the composition of the various political groups such that a different group or combination of groups now comprise a majority of the membership of the Council.

If Council passes a resolution to remove the Leader as outlined in (e) or (f) above, it will elect a new leader at that or a subsequent meeting.

## 2.5.2. The Cabinet

### Role

The Cabinet has responsibility for all functions of the Council which are not by law, or under the functions scheme set out in part 3 section 4, the responsibility of another part of the Council.

### Membership

The Cabinet must consist of a minimum of the Leader and two other Councillors up to a maximum of 10 Councillors. The Leader appoints the Cabinet members and shall designate one of the Cabinet members as Deputy Leader.

### Functions of individual members of the Cabinet

The Leader will decide what functions will be carried out by individual Cabinet members. The Leader will notify the Chief Executive and the Monitoring Officer of these functions in writing. The Monitoring Officer will make sure that they are set out in part 7 of the Constitution and Council be informed at its next meeting. Changes to the functions of individual Cabinet members will only take effect when the Leader has notified the Monitoring Officer.

### Meetings of the Cabinet

Meetings and other activities of the cabinet must comply with the cabinet rules (part 4 section 4).

The Leader may appoint deputy cabinet members to provide informal support to one or more portfolio areas. Deputy Cabinet Members are not members of the Cabinet, have no delegated Cabinet authority, and may not take Cabinet decisions.

## 2.5.3. Description of Cabinet arrangements

The following parts of the constitution comprise the Cabinet arrangements:

- the Cabinet rules (part 4 section 4)
- Article 7 - Joint Arrangements
- The functions scheme in part 3
- Cabinet portfolios scheme in part 7
- Budget and policy framework rules in part 4 section 3
- Access to information rules in part 4 section 2

# Article 6 – Council Committee Structure

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## Scrutiny committees

Scrutiny is a statutory role fulfilled by Councillors who are not members of the Cabinet.

The role of the Overview and Scrutiny Committees is to help develop policy, to carry out reviews of Council and other local services, and to hold decision makers to account for their actions and decisions.

The Council has established three scrutiny committees:

- The Overview and Scrutiny Committee
- The Children and Young People’s Scrutiny Committee
- The Health Scrutiny Committee

The Council is also a member of several joint scrutiny committees. Their remit is set out in Part 3 of the Constitution.

## The Audit Committee

The Audit Committee is responsible for providing assurance on the Council's audit, governance (including risk management and information governance) and financial processes in accordance with the functions scheme. The Audit Committee will appoint an Independent Person.

## The Standards Committee

The Standards Committee is responsible for promoting and maintaining high standards of conduct by Councillors, co-opted members and church and parent governor representatives in accordance with the functions scheme. The Standards Committee will appoint up to three independent persons.

- **Standards Hearings Panel - Sub Committee**

The Standards Committee will set up a sub-committee called the Standards Hearings Panel. The Independent Person is invited to attend all meetings of the Hearing Panel. The Panel will consider complaints under the code of conduct that cannot be resolved informally.

## The Radcliffe Cabinet Committee

The purpose of this proposed Committee is to provide executive political leadership for the delivery of the Strategic Regeneration Framework. It also will provide a forum for crossparty engagement.

# Planning, Licensing and other functions

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## Planning Control Committee

The committee determines applications for planning and listed building consents which are not decided by an officer.

## The Licensing and Safety Committee

The committee fulfils the council's licensing duties not undertaken by an officer as set out in the functions scheme at part 3 section 6.

The committee may establish one or more sub-committees consisting of three members of the licensing and safety committee to fulfil functions delegated to the licensing hearings panel as set out in the functions scheme at part 3 section 6.

- **Licensing Hearings Panel**

2.8.3.2. The Licensing Hearings Panel fulfils the council's licensing duties not undertaken by an officer as set out in the functions scheme at part 3 section 6.

## Health and Wellbeing Board

The board will carry out the statutory functions as required by the Health and Social Care Act 2012, and any other functions delegated to it, as set out in part 3 section 3 of the constitution.

## Employment Panel

The Employment Panel is responsible for the employment functions as set out in the Officer Employment Procedure Rules including acting as the Investigating and Disciplinary Committee in relation to the statutory officers of the Council and other related functions including Appeals against dismissal and grievances by employees of the Council and applications for premature retirement.

## Corporate Parenting Board

To oversee the council's and partner agencies responsibilities towards all children and young persons in care and care leavers and how their life chances can be improved.

## Corporate Joint Consultative Committee

To establish a regular method of consultation and negotiation between the Council and the Trade Unions regarding Conditions of Employment and their application, always providing that no questions relating to an individual employee or to discipline shall be within the scope of the Committee

## Joint Consultative Committee Teachers

To provide a regular basis for representatives of the recognised Teachers' Associations to meet with members of the Local Education Authority.

The membership and composition off the Committees is set out in Parts 3 and Part 7 of the Constitution.

# Article 7 - Joint Arrangements

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This articles explains how the council works with other bodies.

## 2.7.1. Joint arrangements generally

### Joint arrangements for Council functions

The Council may establish joint arrangements with one or more local authorities to exercise Council, or a mixture of Council and Cabinet functions, or to advise the Council on any matter. These arrangements may involve the appointment of a joint committee with these other local authorities, including the determination of terms of reference.

### Joint arrangements for Cabinet functions

The Cabinet may establish joint arrangements with one or more councils to exercise Cabinet functions. These arrangements may involve the appointment of joint committees, including the determination of terms of reference.

## 2.7.2. Joint arrangements with the NHS Clinical Commissioning group

On the 10 July 2019 the Council agreed to the setting up of the Strategic Commissioning Board as a joint committee of the Council to operate from 1 October 2019. The Report makes it clear that this joint committee will not replace either of the existing statutory bodies (the local Authority and the Clinical Commissioning Group), instead it will be a Joint Committee of the two statutory organisations established under Regulation 10(2) of the NHS Bodies and Local Authorities Partnership Arrangements Regulations 2000.

The Board was to be given wide ranging responsibility for all matters relating to health, social care and the Council's "health related" functions delegated to it (subject to reserved matters).

On 4 September 2019 the Cabinet agreed to delegate its Cabinet functions for health, social care and health related functions with effect from 1 October 2019. (see Part 3 Section 6 Functions).

## 2.7.3. Appointments to joint committees

a) Except as in (b) below, the Cabinet may appoint only members of the Cabinet to a joint committee dealing solely with cabinet functions, and those members need not reflect the political composition of the council as a whole.

b) Councillors who are not members of the Cabinet may be appointed to a joint committee in line with the rules governing political proportionality.

Access to information rules (Part 4 Section 2) will apply to Members of Joint Committees in the same way as they do to Members of the Council.

## 2.7.4. Greater Manchester Combined Authority and Joint Committees

Joint arrangements include the Council's participation in the following Joint Committees:

GM Combined Authority

GM Waste & Recycling Committee

GMCA Audit Committee

GM Transport Cttee (formerly TfGMC)

GM Culture & Social Impact Fund Cttee

GM Work & Skills Executive

Health & Social Care Partnership Board

Health & Social Care - Joint Commissioning Board

GMCA & AGMA Scrutiny Committees

Clean Air Charging Authorities Committee

Air Quality Administration Committee

AGMA Executive Board

Draft Joint Development Plan – Places for Everyone Committee

Statutory Functions Committee

Police and Crime Panel

Police & Crime Steering Group

GM Health Scrutiny Committee

Planning and Housing Commission

GM Pensions Fund Management Panel

## **2.7.5. Delegation to and from other local authorities**

Full Council or the Cabinet may delegate their respective powers and functions to another Local Authority or the Cabinet of another local authority.

The decision whether or not to accept such delegation from another Local Authority will be taken by full Council or the Cabinet as appropriate.

## **2.7.6. Contracting out**

Full Council, for functions it is responsible for, and the Leader or Cabinet Members, for Cabinet functions, may contract out to another body or organisation functions which may be carried out by an officer subject to the relevant legislative requirements.

## **2.7.7. Consultative committees**

### **Standing Advisory Council on Religious Education (SACRE)**

In accordance with the Education Act 1996 (as amended) the council has established a Bury SACRE to provide advice on matters concerned with the provision of religious education and collective worship as set out in the.

The council appoints the membership in accordance with the legislation, in four groups, as follows:

- Group (A)
  - One Roman Catholic representative (nominated by the Roman Catholic hierarchy);
  - One Free Church representative (nominated by Churches together in Bury);
  - One representative of other faiths as a whole;
  - One representative of the Bahá'í faith;
  - One representative of the Muslim faith;
  - One representative of the Sikh faith. One representative of the Jewish faith. One representative of the Buddhist religion.
  - Other than for the Roman Catholic and Free Church representatives the representatives should, as far as possible, be nominated by the appropriate local faith group.
- Group (B)
  - Three Church of England representatives (nominated in consultation with the Diocesan Education Authority).
- Group (C)
  - Three teachers' representatives, with one drawn from each of the primary, secondary and special education sectors (nominated through recommendation of recognised teacher associations) and one co-opted member.
- Group (D)
  - Three Bury Council members as local education authority representatives

## 2.7.8. Other bodies

### Bury Integrated Safeguarding Partnership

The Bury Integrated Safeguarding Partnership was formed on the 29th September 2019 following the integration of the former Local Safeguarding Children's Board and the Adult Safeguarding Board. **The arrangement bring together a number of partners the Local Authority, Clinical Commissioning Group and Greater Manchester Police** as well as other partners to work together and ensure those in need have services that help and enable them to lead a safe and happy life. The Board is chaired by an independent person.

Bury Integrated Safeguarding Partnership consists of:

- The BISP Strategic Partnership
- A Children's Business Group and an Adults Business Group
- Five Sub Groups: 'Case Review', 'Learning and Development', 'Quality Assurance', 'Complex Safeguarding' and 'Schools, Colleges and Adult Learning'
- Working Groups, as required

### Community Safety Partnership Board

In accordance with legislative requirements the Council has established a community safety partnership, chaired by the Cabinet Member with responsibility for community safety.

### Other partnerships

The council may, from time to time, work in partnership with one or more organisations in order to achieve a shared objective or aim, or in accordance with statutory requirement. The Council has an agreed framework for partnerships' governance and maintains a register available for public inspection of such partnerships which are considered strategic.

# Article 8 - The Chief Executive and other Staff

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This Article sets out that the Council will have a Chief Executive, who is in charge of the Council's staff and works with Councillors to carry out the aims and objectives of the Council. The Article also sets out other senior staff posts and indicates which senior staff posts also have additional roles as the Head of Paid Service, the Monitoring Officer and the Chief Finance Officer.

## 2.8.1. Chief Executive

The council employs a Chief Executive who carries out the functions in the functions scheme at part 3 on behalf of the Council and the Executive.

## 2.8.2. Senior officers

The Council will employ people in senior posts (Directors and Assistant Directors) who will assist the Chief Executive. The functions of the Chief Executive can be exercised by Senior Officers are set out in the functions scheme.

## 2.8.3 Designation of statutory officers

Council is required by law to designate senior officers as

- The Head of Paid Service,
- The Monitoring Officer,
- The Chief Finance Officer (herein referred to as S151 officer) and,
- The Statutory Scrutiny Officer.

The Head of Paid Service, Statutory Scrutiny Officer and S151 Officer cannot also be the Monitoring Officer; the Head of Paid Service, S151 Officer and Monitoring Officer cannot also be the Statutory Scrutiny Officer.

The Chief Executive is designated as the Head of Paid Service and is responsible for the way in which the discharge of the Council's functions by Officers is co-ordinated, the number and grade of Officers needed and how they are organised and deployed in the Council, and reporting to Council as necessary. (See Officer functions Part 3).

The Solicitor to the Council is designated as the Monitoring Officer and is responsible for maintaining the constitution, ensuring decision-making is fair and lawful and reporting any actual or potential breach of a legal requirement to the Council meeting or Executive, and for dealing with complaints that Councillors have breached the Councillor Code of Conduct and reporting as necessary to the Standards Committee (See Officer functions Part 3).

The Executive Director of Finance is designated as the Section 151 Officer appointed to fulfil the role set out in that section of the Local Government Act 1972 and is responsible for the proper administration of the Council's financial affairs including reporting the actual spending or potential misspending of money to the Council meeting or Cabinet. (See Officer functions Part 3).

The Head of Democratic Services is designated as the Statutory Scrutiny Officer and is responsible for promoting the role of the Council's Overview and Scrutiny Committees, providing support to the Council's overview and scrutiny committees and their Members.

The Council will provide the Statutory Officers with such officers, accommodation and other resources as are in the opinion of each of those officers sufficient to allow their individual duties, as specified in law, to be performed.

## **2.8.4. Conduct**

Officers will comply with the code of conduct for employees (Part 5) and will follow the protocol on member/officer relations (part 5).

## **2.8.5. Employment**

The recruitment, selection and dismissal of officers will comply with the employment rules (part 4).

# Article 9 - Decision-making

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This Article sets out how the Council takes decisions.

## 2.9.1. Principles of decision making

When the Council takes a decision it will:

- a) be clear about what the Council wants to happen, how it will be achieved, who is accountable for the decision and who is accountable for implementing it and monitoring implementation;
- b) consult properly and have regard to the professional advice from its Officers;
- c) have regard to the public sector equality duty and respect for natural justice and human rights;
- d) make the decision public unless there are good reasons for it not to be;
- e) give due weight to all material considerations, only take relevant matters into account, and make sure the action is proportionate to what the council wants to happen;
- f) explain what options were considered and give the reasons for the decision; and
- g) follow the proper procedures as set out in the Constitution.

## 2.9.2. Responsibility for decision making

The Council's activities are described in law as functions. The Council as a whole cannot make every decision. The Council has adopted the Leader and Cabinet arrangement and therefore unless stated all functions are exercised by the Cabinet.

How the council and cabinet discharge those functions are set out in the functions scheme. Decisions may be delegated to Officers and this will be set out in the Officer Scheme of Delegation. (Part 3).

## 2.9.3. Decision rules

The decision making procedures for all Council, Cabinet and Committee meeting decision making is set out in part 4.

## 2.9.4. Codes

In making decisions and conducting its business the Council and the bodies and person(s) exercising functions on its behalf will have regard to the codes and guidance set out in part 5 of this constitution.

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# Article 10 - Finance, Contracts and Legal Matters

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This Article sets out how the Council manages its financial, contractual and legal arrangements including the use of the Common Seal of the Council.

## 2.10.1. Financial management

The management of the Council's financial affairs shall be conducted in accordance with the financial rules set out in Part 4 of this Constitution.

## 2.10.2. Contracts

Every contract made by the Council shall comply with the Contracts Procedure Rules set out in Part 4 of this Constitution.

## 2.10.3. Legal proceedings

The Council Solicitor is authorised to institute, defend or participate in any legal proceedings in any case where such action is necessary to give effect to decisions of the Council or in any case where the Council Solicitor considers that such action is necessary to protect the Council's interests.

## 2.10.4. Authentication of documents

Where any document is necessary to any legal procedure or proceedings on behalf of the Council, it shall be signed in writing or electronically by the Council Solicitor or other person authorised by him/her, unless any enactment otherwise authorises or requires, or the Council has given requisite authority to some other person.

## 2.10.5. Signing of Contracts

Any contract entered into on behalf of the Council must be signed or sealed in writing or electronically in accordance with the Council's Contract Procedure Rules in part 4 of this Constitution.

## 2.10.6. Common Seal of the Council

The Common Seal of the Council shall be kept in a safe place in the custody of the Council Solicitor. A decision of the Council, or of any part of it, will be sufficient authority for sealing any document necessary to give effect to the decision. The Common Seal shall be affixed to those documents which in the opinion of the Council Solicitor should be sealed. The affixing of the Common Seal shall be attested by the Chief Executive or Council Solicitor or some other person authorised by him/her.

The Common Seal of the Council can also be executed electronically in accordance with the provisions of the Electronic Communications Act 2000.

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