

**AGENDA FOR  
STANDARDS COMMITTEE**



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**To: All Members of Standards Committee**

**Councillors :** S Walmsley (Chair), A Booth, D Green,  
M Hayes, K Hussain, T Rafiq, D Vernon 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>	Wednesday, 3 April 2024
<b>Place:</b>	Bury Town Hall, Committee Rooms A & B
<b>Time:</b>	6.00 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.

## **AGENDA**

### **1 APOLOGIES FOR ABSENCE**

### **2 DECLARATIONS OF INTEREST**

Members of the Standards Committee are asked to consider whether they have an interest in any matter on the agenda, and, if so, to formally declare that interest.

### **3 MINUTES OF THE LAST MEETING & ANY MATTERS ARISING (Pages 3 - 6)**

Minutes of the meeting held on the 13<sup>th</sup> February 2024 are attached.

### **4 GUIDE TO THE CODE OF CONDUCT (Pages 7 - 12)**

Information from Democratic Services is attached.

### **5 MEMBER INDUCTION**

### **6 MEMBER COMPLAINTS UPDATE**

### **7 APPOINTMENT OF INDEPENDENT PERSONS**

### **8 URGENT BUSINESS (Pages 13 - 14)**

A report from the Council's Monitoring Officer is attached.

### **9 NEXT MEETING DATE**

To confirm the next Standards Committee meeting.  
2024-2025 Municipal year timetable of meetings- 6.00pm, Tuesday, 2<sup>nd</sup> July 2024.

**Minutes of:** STANDARDS COMMITTEE

**Date of Meeting:** 13<sup>th</sup> February 2024

**Present:** Councillor S Walmsley (in the Chair)  
Councillors A Booth, D Green, M Hayes, K Hussain, T Rafiq,  
D Vernon and M Whitby

**Also in attendance:** Jacqui Dennis, Director of Law and Democratic Services.  
Michael Cunliffe, Democratic Services.  
Independent Persons: Craig Ainsworth and Stuart Birtwell

**Public Attendance:** No members of the public or press were present at the meeting.

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**1 APOLOGIES FOR ABSENCE**

Apologies for absence were submitted by J Gallagher, Head of Democratic Services.

**2 DECLARATIONS OF INTEREST**

There were no declarations of interest.

**3 MINUTES OF THE LAST MEETING & ANY MATTERS ARISING**

The Minutes of the last meeting held on 21<sup>st</sup> September 2023 were approved as a correct record.

The only matter arising was to arrange a code of conduct working group which took place in early November 2023.

**4 MEMBER CODE OF CONDUCT-TASK AND FINISH GROUP REVIEW**

Jacqui Dennis, Bury Council's Monitoring Officer provided Members of the Standards Committee with the results of the Code of Conduct, task and finish group. This was held on the 9<sup>th</sup> November 2023 and the report included recommendations for elements of a revised code to be considered by this Committee in the first instance, then be considered by all Members at Council.

In early 2023, the Standards Committee proposed that a working group was established to review the current code of conduct and consider whether revisions should be made following the LGA's revised code of conduct.

The membership of the working group was made for up of 3 Members of the Standards Committee (one from each party), one independent person and the Monitoring Officer.

Consideration was given to review the Council's existing Code of Conduct for Members following the publication of the Local Government Ethical Standards report

produced by the Committee on Standards in Public Life (CSPL) and the Local Government Association's (LGA) Model Code of Conduct (LGA's Model Code).

Documents used at the working group included:-

- The existing Bury code of conduct
- Proposals to comply with The Local Government Ethical Standards report Best Practice recommendations

The 15 Best Practice recommendations were analysed by the working group with explanations on how Bury Council already complies or what steps it should take in order to comply where it was considered appropriate. The proposals submitted by the working group were included within the agenda packs.

The Monitoring Officer thanked the Members and independent person for their input at the working group and if the amendments were approved these would be ratified at Council in March.

It was suggested that as part of new Councillor inductions in May 2024 and providing training to existing Members, a helpful user guide to accompany the code should also be produced for Members to provide practical assistance to the code. This would be beneficial as any slight amendments to the user guide would not require a change to the code contained in the Council's constitution.

The topic of bullying and harassment was discussed again and the Chair referred to the ACAS code as a good definition to understand the term. The Monitoring Officer added that the current HR policy on this topic was currently being reviewed.

A discussion took place on some of the reasons for amendments being undertaken and the Monitoring Officer confirmed that independent people sitting on committees such as this are covered by the Council's insurance.

The Monitoring Officer suggested that the guidance document be included in a Standards Committee agenda on an annual basis and be added into the work programme for 2024-25.

A small number of minor amendments in relation to certain words, font styles and formatting would be checked by the Monitoring Officer before the final version was produced which would refer to the guidance document that would be produced by May 2024.

**It was agreed:-**

That the Standards Committee approve the updated and amended Model Code produced by the Monitoring Officer and the working group. A report would then be produced and submitted to the next Full Council meeting in March 2024 for approval.

## **5 COUNCILLOR COMPLAINTS UPDATE**

The Monitoring Officer provided a verbal update to Members of the Standards Committee and gave a brief overview of Councillor complaints over the past year for

the Council. There had only been a few cases and the figures over the last 12 months were lower than previously.

Any reoccurring themes would be looked at with a view to tackling any issues via Member training.

On a different topic, Member safety was also discussed at length with a link to the rise in social media usage.

The Monitoring Officer intended to bring a report on Councillor complaints to a future meeting of the Standards Committee.

**It was agreed:-**

That the verbal update be noted.

**6 ETHICAL GOVERNANCE UPDATE**

The Monitoring Officer provided a verbal update to Members of the Standards Committee on ethical governance and was seeking Members views on the subject. Communication updates could be provided within one place on governance matters via a newsletter format.

The Chair stated this would be a good idea and making Members repeat training every 4 years after re-election would remind Councillors of any risks and the high standards of conduct required in the role.

It was suggested a one-page quarterly update would suffice and the Monitoring Officer was happy to tackle any issues or provide guidance on certain areas that Members suggested.

**It was agreed:-**

That the verbal update be noted.

**7 URGENT BUSINESS**

No urgent business was reported.

**8 NEXT MEETING DATE**

The next Standards Committee meeting was provisionally scheduled to take place at 6.00pm on Wednesday the 3<sup>rd</sup> April 2024 at Bury Town Hall.

**COUNCILLOR S WALMSLEY**  
**Chair**

**(Note: The meeting started at 6.00pm and ended at 6.55pm)**

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This document provides a quick guide as to some example behaviours which have been considered against the Member Code of Conduct. This guide should be read in conjunction with the code of conduct. The guide will be reviewed annually by the Standards Committee.

The Local Government Association provides a detailed accompanying Guidance on Local Government Association Model Councillor Code of Conduct

<https://www.local.gov.uk/publications/guidance-local-government-association-model-councillor-code-conduct>

#### **Impartiality of officers of the council**

You must not try and force them to act differently, change their advice, or alter the content of that report, if doing so would prejudice their professional integrity.

#### **Disrepute**

Behaviour that is considered dishonest and/or deceitful can bring your local authority into disrepute.

**EG** A councillor posted a tweet reading “Cllr Blogs why don’t you just throw in the towel, just go before you cause any more damage to the reputation of the council. You and some members of your cabinet have failed. I hope that the SFO is brought in to investigate your conduct. #failedleadership.” The complainant stated that she found the tweet ‘very offensive’ and bullying and also considered that the tweet would reasonably bring the councillor’s office and the authority into disrepute. The councillor was found to have brought his authority into disrepute by reducing public confidence in the council.

**EG** A councillor brought his role and authority into disrepute by taking advantage of a local authority mistake and failing to prevent local authority-employed contractors from working on his privately-owned home. The local authority mistakenly sent decorators to the home, an ex-local authority property. The councillor only told the local authority about the mistake after the work had been completed and then said he could not be charged for the work.

**EG** The chair of a local authority made a deeply inappropriate remark at a local authority meeting that was reported in the local media and was accused of bringing his role and authority into disrepute. It was clear in both the meeting and the local media reporting that other councillors expressed concerns about his comments and found them inappropriate. It was found that he had not brought his authority into disrepute but that he had brought his role into disrepute.

#### **Acting as a private individual**

**E.G** An argument with a neighbour which does not relate to local authority business would not engage the code, even if your neighbour happens to know you are a

councillor and therefore complains to the local authority about being treated disrespectfully. **HOWEVER**

**E.G** A councillor and an officer had a personal relationship. The councillor sent and encouraged the officer to send inappropriate social media messages, including messages of a sexual nature, during office hours. The panel rejected arguments that the councillor had been acting in an entirely personal capacity. It found that the councillor could not divorce himself from his role as the officer's quasi-employer and that, when sending or encouraging the officer to send the messages during working hours, he was acting in his official capacity.

**E.G** Attempting to misuse your position as a councillor would include if you threaten to use your position improperly to block someone's planning, licence or grant application. In effect you would be doing something that only a councillor could do even if as a matter of fact, you did not have the power to do so. That may include an assumption, for example, that you would put inappropriate pressure on officers or fellow councillors or lobby behind the scenes for a particular outcome. It should not be up to a member of the public to have to work out whether you are in fact on a planning committee.

**E.G** Another example would be disclosing confidential information improperly you had received because of your role as a councillor.

**E.G** A councillor returning from a party got into an argument with a taxi driver. When he arrived home, he refused to pay the fare and when he spoke to the manager of the taxi company, he said that he was a councillor and would make sure that the taxi driver's licence was withdrawn by the council. While he was entitled to dispute the payment if he was dissatisfied with the service he had received he was found to have breached the code by invoking his office and seeking to misuse his position to intimidate the manager and driver and to seek to gain an advantage for himself, notwithstanding the fact that he did not in reality have the ability to carry out his threat.

## Respect

**EG** The complaint alleged that the councillor posted on their blog a highly critical comment and an offensive caption about a former councillor, who had passed away and whose funeral had taken place the previous day. The councillor was found to have breached the provisions of his local authority's Code of Conduct relating to councillors treating others with respect; as well as conducting themselves in a manner which could reasonably be regarded as bringing their role or their authority into disrepute.

**EG** The complaint alleged that a councillor commented under a pseudonym on a local authority blog referring to possible nepotism in the awarding of a contract to a local firm by the local authority. The standards committee found that the councillor had breached the Code of Conduct in making the posts because he had failed to treat others with respect and, in doing so, he had conducted himself in a manner which brought his role and his local authority into disrepute.



**EG** The complaint alleged that a councillor had made remarks of an abusive, insulting and personal nature to the complainant, a police officer, and also made a number of unfounded allegations about him during two telephone calls to a police station made in his capacity as a ward councillor. It was found that the comments amounted to an unacceptable personal attack on the complainant and that the councillor had breached the respect provisions in his local authority's Code of Conduct.

### **Bullying**

The Advisory, Conciliation and Arbitration Service (ACAS) characterises bullying as offensive, intimidating, malicious or insulting behaviour, an abuse or misuse of power through means that undermine, humiliate, denigrate or injure the recipient. Bullying might be a regular pattern of behaviour or a one-off incident, happen face-to-face, on social media, in emails or phone calls, happen in the workplace or at work social events and may not always be obvious or noticed by others.

Examples of bullying include but are not limited to:

- Verbal abuse, such as shouting, swearing, threats, insults, sarcasm, ridiculing or demeaning others, inappropriate nicknames, or humiliating language
- Physical or psychological threats or actions towards an individual or their personal property
- Practical jokes
- Overbearing or intimidating levels of supervision, including preventing someone from undertaking their role or following agreed policies and procedures
- Inappropriate comments about someone's performance
- Abuse of authority or power, such as placing unreasonable expectations on someone in relation to their job, responsibilities, or hours of work, or coercing someone to meet such expectations
- Ostracising or excluding someone from meetings, communications, work events or socials
- Sending, distributing, or posting detrimental material about other people, including images, in any medium
- Smear campaigns.

Examples of harassment include but are not limited to:

- Sending unwelcome emails
- Unnecessarily repetitive, intrusive questioning
- Unwelcome physical contact such as touching or invading 'personal space'
- Haranguing
- Intimidation
- Inappropriate remarks or questioning such as comments about someone's appearance, lewd comments, and offensive jokes
- Overbearing or intimidating levels of supervision, including preventing someone from undertaking their role or following agreed policies and procedures
- Inappropriate comments about someone's performance

- Placing unreasonable expectations on someone in relation to their job, responsibilities, or hours of work, or coercing someone to meet such expectations
- Sexual harassment

**EG** The complaint alleged that a councillor had behaved in a disrespectful and harassing manner towards two fellow female councillors and officers. It was established that the councillor had made unwarranted and inappropriate physical contact with the councillors and officers at an official event and had also made remarks towards the officers which were patronising and demeaning. The councillor was found to be in breach of the Code of Conduct.

**Discrimination**

**EG** The complaint alleged that a councillor ‘liked’ several racially discriminatory comments on social media and one comment advocating violence against Travellers. The panel found that ‘Liking’ of the offensive comments did amount to a failure to treat those who were the subject of such comments with respect and a failure to promote equalities in breach of the Code of Conduct.

**EG** A councillor was a member of the local authority’s recruitment panel to appoint a new chief executive. Five applicants were shortlisted. After one candidate had finished his presentation and left the room the councillor said, “good candidate, shame he’s black”. The panel found that the Code of Conduct had been breached.

**Impartially of officers**

**EG** A councillor became involved in a social care case on behalf of a constituent during which time he inappropriately sought to influence operational decision-making and sent discourteous and disrespectful correspondence to the officers. In doing so, he lost sight of his overall responsibility to the local authority to allow its officers to perform their statutory functions. He was found to have breached the Code of Conduct.

**EG** A councillor who, over a period of six months, persistently sought to influence the decisions of officers dealing with a complaint by his son and daughter-in-law against their local authority tenant neighbour was found, through his actions, to have compromised the impartiality of the officers and to have used his position improperly to promote the interest of his family and to have brought the role of councillor into disrepute in breach of the Code of Conduct.

**Confidential Information**

**EG** A councillor was assisting a resident in an adoption process, which the resident decided to subsequently withdraw from. The resident’s estranged parent contacted the councillor for information as to what was happening with the case and the councillor inadvertently shared confidential information as she had not realised that father and son were estranged. This was found to be a breach of the code.

**EG** A councillor circulated information about an officer’s medical condition to other councillors and a local headteacher with whom he was acquainted. He was found to have disclosed information which should reasonably be regarded as being of a confidential nature and without the officer’s consent in breach of the Code of Conduct.

**Misuse of position**

**EG** The complaint alleged a councillor used his computer equipment provided by his local authority for private purposes by downloading inappropriate adult pornographic images and sending a number of letters to a local newspaper, which he falsely represented as being from members of the public. He was found to have misused the local authority's equipment in breach of the code and had brought his office into disrepute.

**EG** A councillor used local authority notepaper in an attempt to avoid parking penalties incurred by his son. He also dishonestly attempted to renew a parking permit for disabled drivers. He was convicted of attempting, by deception, to evade the parking penalties dishonestly. He was also found by his local authority to have breached this paragraph of the code.

### **Bias and Pre-determination**

**EG** The complaint alleged that a councillor had behaved in a disrespectful and harassing manner towards two fellow female councillors and officers. It was established that the councillor had made unwarranted and inappropriate physical contact with the councillors and officers at an official event and had also made remarks towards the officers which were patronising and demeaning. The councillor was found to be in breach of the Code of Conduct.

**EG** A district councillor also belongs to a parish council that has complained about the conduct of an officer of the district council. As a result of the complaint the officer has been disciplined. The officer has appealed to a councillor panel and the councillor seeks to sit on the panel hearing the appeal. The councillor should not participate.

### **Contrast this with:**

**EG** The complaint about the officer described above is made by the local office of a national charity of which the councillor is an ordinary member and is not involved with the local office. The councillor should be able to participate in this situation because the matter is not concerned with the promotion of the interests of the charity.

### **Improper involvement of someone with an interest in the outcome**

**EG** A local authority receives an application to modify the Definitive Map of public rights of way. A panel of councillors are given delegated authority to make the statutory modification Order. They have a private meeting with local representatives of a footpath organisation before deciding whether the Order should be made. However, they do not give the same opportunity to people with opposing interests.

### **Commenting before a decision is made**

**EG** A local authority appoints a barrister to hold a public inquiry into an application to register a village green. The barrister produces a report where he recommends that the application is rejected. A councillor attends a meeting in one of the affected wards and says publicly: "speaking for myself I am inclined to go along with the barrister's recommendation". He later participates in the local authority's decision to accept the barrister's recommendation. At the meeting the supporters of the application are given an opportunity to argue that the recommendation should not be accepted.

This is unlikely to give rise to a successful claim of predetermination or bias. The statement made by the councillor only suggests a predisposition to follow the recommendation of the barrister's report, and not that he has closed his mind to all possibilities. The subsequent conduct of the meeting, where supporters of the application could try and persuade councillors to disagree with the recommendation, would confirm this.

**EG** A developer entered into negotiations to acquire some surplus local authority land for an incinerator. Planning permission for the incinerator had already been granted. Following local elections there is a change in the composition and political control of the local authority. After pressure from new councillors who have campaigned against the incinerator and a full debate, the local authority's executive decides to end the negotiations. This is on the grounds that the land is needed for housing and employment uses.

The local authority's decision is unlikely to be found to be biased, so long as the eventual decision was taken on proper grounds and after a full consideration of all the relevant issues.



<b>Classification:</b> Open	<b>Decision Type:</b> Non-Key
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<b>Report to:</b>	Standards Committee	<b>Date:</b> 03 April 2024
<b>Subject:</b>	Breach of the Six Month Rule	
<b>Report of</b>	Jacqui Dennis, Monitoring Officer	

## 1. Summary

1.1 Under the Local Government Act 1972, there is a requirement on all members to attend a formal meeting of the authority in any six-month period (“Six-month rule”).

1.2 The Local Government Act 1972 says (insofar as is relevant to parish and community councils) that “... if a member of a local authority fails throughout a period of six consecutive months from the date of his last attendance to attend any meeting of the authority, he shall, unless the failure was due to some reason approved by the authority before the expiry of that period, cease to be a member of the authority.”

1.3 Disqualification is not discretionary and occurs by operation of law upon the expiry of the time period. Once a member has been rendered disqualified, they must not attend any meeting or participate in any decision-making. To do so would raise questions as to the legality of any decision which could be declared null and void by a court.

1.4 The effect of this provision is that a member automatically ceases to hold office as soon as the six-month period expires if that member’s council has not formally approved the councillor’s absence before that date.

1.5 Only Full Council can authorise an extension of the 6-month rule for a member. Any extension cannot be retrospective and must be made by a member in writing and presented to Council for consideration prior to the end of the 6-month period.

1.6 This means that before the six-month period runs out the Council will:

1.6.1 consider any request for an extension to the six-month rule; and

1.6.2 must decide (by a resolution) whether or not it approves the request.

## 2. Failure to attend a meeting

2.1 Cllr Mason has been a Bury Councillor for approximately 5 years.

2.2 On the 5<sup>th</sup> May 2022 Cllr Mason was re-elected for a further 2-year term.

2.3 Cllr Mason has not attended any council meeting of since the 12<sup>th</sup> October 2023. There hasn’t been any reasons given for his lack of attendance at meetings despite numerous contact being sent by the Democratic Services team.

(2.4) There was a Council meeting on the 20<sup>th</sup> March 2024. Were Cllr Mason to have attended this meeting, there would not have been any failure to attend a council meeting throughout a period of six consecutive months within the meaning of s 85(1) of the Local Government Act 1972 (“LGA 1972”). s.85 of the Local Government Act 1972 states that

when a Council Member fails to attend any meeting for six consecutive months from the date of their last attendance, they cease to be a member of the authority, unless the Council accepts a reason for the failure to attend before the six months period expires. Councillor Mason has not applied to Council for a dispensation prior to the expiry of the six month period. If a Member once loses their office through failure to attend for the six months period, the disqualification cannot be overcome by the Member subsequently resuming attendance.

(2.5) Cllr Mason is not currently a member of any committee, sub-committee, joint committee, joint board or other body (within the meaning of s 85(2) of the LGA 1972).

(2.6) It follows from (5), that as things stand Cllr Mason will fall foul of s 85(1) of the LGA 1972 on the 12<sup>th</sup> April 2024.

### **3. Recommendation(s)**

The Standards Committee notes that as of the 12<sup>th</sup> April 2024, 6 months will have passed since Councillor Mason last attended a meeting of the authority, at the time of writing, no request has been made for an extension of the 6 month rule, prior to the end of the six month period.

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#### **Report Author and Contact Details:**

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