



Derby City Council

Annual Report of the Standards Committee 2013/14

The Standards Committee of Derby City Council Annual Report 2013/14

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Foreword by the Chair

This has been an extremely busy year for Members of the Standards Committee.

The business of the committee has included:

- Development and implementation of guidance to all Members to assist with the declaration of interests, which is now a pre-requisite document for all Council agendas.
- Review of the Planning Committee protocols for Members.
- Consideration of the progress and outcomes of complaints, both formal and informal.
- Consideration of the Code of Conduct training for Members and Co-opted Members.
- Amendments to the procedure for considering complaints, to provide additional clarity.
- Clarification of the publication of the outcome of complaints.

In stark contrast to previous years, the volume of Code of Conduct related complaints has significantly increased and this has contributed to additional demands placed on Members of the Committee, especially our Independent Members, who also attend Council meetings from time to time.

Finally, I would like to thank all Independent, Co-opted and Elected Members of the Standards Committee. In addition, I would also like to thank the Council Officers who support the work of the Standards Committee.

Councillor Tittley Chair of the Standards Committee 2013/14

July 2014

The Role of the Standards Committee

The Standards Committee promotes and maintains the high standards of conduct among Derby City Council's 51 Elected Members and co-opted members.

The Standards Committee:

- plays a vital role in promoting and maintaining high standards of conduct by Council Members;
- adds to the feeling of ethical well-being in the Authority;
- gives the public extra confidence that representatives are acting honourably in accordance with the principles of public life; and
- underpins trust and confidence in local democracy.

The Standards Committee is responsible for the following activities:

- assisting the Elected and Co-opted Members to observe the Members' Code of Conduct;
- advising on and monitoring the operation of the Members' Code of Conduct;
- determining complaints referred by the Monitoring Officer; and
- ensuring Elected and Co-opted Members receive training and advice on matters relating to the Members' Code of Conduct.

Members of the Committee 2013/14

Councillor Tittley – Chair

Councillor Jackson – Vice Chair

Councillor Barker

Councillor Pegg

Councillor Skelton

Alan Cameron – Independent Person

Ian Green – Independent Person

Peter Purnell – Co-opted Member

Philip Sunderland – Co-opted Member

At the beginning of November, Ian Green was appointed as an Independent Person to the Standards Committee. The Chair and Members of the Committee wish to welcome Ian.

The Monitoring Officer and Officer Support

Councils have a statutory duty to appoint a Monitoring Officer to ensure the lawfulness and fairness of Council decision making. The Monitoring Officer effectively serves as the guardian of the Council's Constitution and the decision making process. The Monitoring Officer works closely with the Standards Committee to assist it in its role of promoting and maintaining high standards of conduct.

Derby City Council's Monitoring Officer for 2013/14 is the Director of Legal and Democratic Services, Janie Berry. Janie works closely with Steven Mason, Constitutional Services Officer, to support all Members of the Standards Committee and to ensure fairness and consistency in the progression of Code of Conduct related complaints.

Consideration of Complaints

As I referred to previously, there has been a stark contrast in the volume of Code of Conduct related complaints received during 2013/14. With my support and agreement, the Monitoring Officer has recorded not only the formal complaints but also which for a variety of reasons did not progress to a formal complaint.

The Committee has given consideration as to how complaints are recorded and published. Arrangements are now in place for the publication of upheld complaints to be viewed through the Council's website.

There have been 13 formal Code of Conduct complaints about Elected Members during 2013/14. By comparison, one complaint was received during 2012/13 and two complaints were carried over from the previous municipal year.

The Committee, for the first time, has had cause to convene as a formal hearings panel to determine the outcome of a complaint about an Elected Member. The complaint was made by an elected member about the conduct of an elected member at a public meeting at the Council House. The Standards Committee upheld the complaint and found that the subject member had breached the Code of Conduct in that the subject member failed to treat the complainant with respect and the subject member's behaviour breached the General Principles of Public Life. The Standards Committee determined that the subject member was to offer a full apology at a meeting of Council. The subject member subsequently offered a full apology at a meeting of Council and the apology was accepted.

There have also been nine informal complaints which have required preliminary consideration by the Monitoring Officer. None of these proceeded to formal complaints.

Review of Procedures which support the Code of Conduct

The current Members' Code of Conduct has been in place since July 2012. The Committee felt it was timely to review the procedures which support the Code of Conduct and as a result promote high ethical standards amongst Elected Members.

Declaration of Interests

The Committee was keen to retain high standards of ethical governance and offer as much guidance and support as it could to all Elected Members in considering whether or not to declare an interest. A Declaring Interests – Questions to Ask Yourself form was developed to assist Members and is now a supporting document with every Council agenda.

Hearings Procedure

As I have previously mentioned, there has been a formal hearing before the Standards Committee to determine the outcome of a complaint about an Elected Member. I asked the Monitoring Officer to develop a procedure to assist me and my fellow Committee Members in conducting the hearing. After the hearing had taken place, the Committee formally reviewed this procedure to ensure its robustness for the future.

Complaints Procedure

Given the volume of complaints it has been necessary for the Committee to undertake a fitness for purpose test of the procedure for considering complaints. The procedure, originally implemented in July 2012, has been amended to provide:

- further clarity on the role undertaken by the Independent Person throughout the progression of a complaint;
- greater transparency as to what does and does not constitute a complaint; and
- recognition for the hearings procedure.

THE MEMBERS' CODE OF CONDUCT

Adopted 18 July 2012

Under The Localism Act 2011 the Council must promote and maintain high standards of conduct by its members and adopt a Code of Conduct.

Part 1 General provisions

Introduction and interpretation

1.—(1) This Code applies to **you** as a member of Derby City Council.

(2) You should read this Code together with the general principles at page 2 (prescribed in Section 28 of the Localism Act).

(3) You must comply with the provisions of this Code.

(4) In this Code—

“interest” means a pecuniary or other interest required to be notified under this Code

“meeting” means any meeting of—

(a) the authority;

(b) the executive of the authority;

(b) any of the authority’s or its executive’s committees, sub-committees, joint committees, joint sub-committees, or area committees;

“member” includes a co-opted member and an appointed member.

“partner” means spouse or civil partner, a person with whom you are living as husband or wife, or a person with whom you are living as if you are civil partners

“pecuniary interest” a disclosable pecuniary interest under [relevant Regulations] and this Code.

“Register of Interests” means the Council’s register of members’ interests maintained under section 29(1) of the Localism Act 2011

“Sensitive Interest” means an interest whose disclosure to the public could lead to you, or a person connected with you, being subjected to violence or intimidation.

Scope

2.—(1) Subject to sub-paragraphs (2) to (5), you must comply with this Code whenever you act in your official capacity as a member of your authority. That is when you:

- (a) conduct the business of your authority (which, in this Code, includes the business of the office to which you are elected or appointed); or
 - (b) act, claim to act or give the impression you are acting as a representative of your authority.
- (2) Subject to sub-paragraphs (3) and (4), this Code does not have effect in relation to your conduct other than where it is in your official capacity.
- (3) In addition to having effect in relation to conduct in your official capacity, paragraphs 3(2)(c), 5 and 6(a) also have effect, at any other time, where that conduct constitutes a criminal offence for which you have been convicted.
- (4) Conduct to which this Code applies (whether that is conduct in your official capacity or conduct mentioned in sub-paragraph (3)) includes a criminal offence for which you are convicted (including an offence you committed before the date you took office, but for which you are convicted after that date).
- (5) Where you act as a representative of your authority—
 - (a) on another relevant authority, you must, when acting for that other authority, comply with that other authority's code of conduct; or
 - (b) on any other body, you must, when acting for that other body, comply with your authority's code of conduct, except and insofar as it conflicts with any other lawful obligations to which that other body may be subject.

General obligations

3.—(1) You must treat others with respect.

(2) You must not—

- (a) do anything which may cause your authority to breach any equality laws
- (b) bully any person;
- (c) intimidate or attempt to intimidate any person who is or is likely to be—
 - (i) a complainant,
 - (ii) a witness, or

- (iii) Involved in the administration of any investigation or proceedings, in relation to an allegation that a member (including yourself) has failed to comply with his or her authority's code of conduct; or
- (d) do anything which compromises or is likely to compromise the impartiality of those who work for, or on behalf of, your authority.

4. You must not—

- 1) disclose information given to you in confidence by anyone, or information acquired by you which you believe, or ought reasonably to be aware, is of a confidential nature, except where—
 - (i) you have the consent of a person authorised to give it;
 - (ii) you are required by law to do so;
 - (ii) the disclosure is made to a third party for the purpose of obtaining professional advice provided that the third party agrees not to disclose the information to any other person; or
 - (iv) the disclosure is—
 - (aa) reasonable and in the public interest; and
 - (bb) made in good faith and in compliance with the reasonable requirements of the authority; or
- 2) prevent another person from gaining access to information to which that person is entitled by law.

5. You must not conduct yourself in a manner which could reasonably be regarded as bringing your office or authority into disrepute.

6. You—

- (1) must not use or attempt to use your position as a member improperly to confer on or secure for yourself or any other person, an advantage or disadvantage; and
- (2) must, when using or authorising the use by others of the resources of your authority—

- (i) act in accordance with your authority's reasonable requirements;
- (ii) ensure that such resources are not used improperly for political purposes (including party political purposes); and

must have regard to any applicable Code of Recommended Practice on Local Authority Publicity made under the Local Government Act 1986¹.

7.—(1) When reaching decisions on any matter you must have regard to any relevant advice provided to you by—

- (a) your authority's chief finance officer; or
- (b) your authority's monitoring officer,

where that officer is acting pursuant to his or her statutory duties.

(2) You must give reasons for all decisions in accordance with any statutory requirements and any reasonable additional requirements imposed by your authority.

¹ A copy of the Code of Recommended Practice on Local Authority Publicity can be found at <http://www.communities.gov.uk/publications/localgovernment/publicitycode2011>

Part 2

Pecuniary Interests

You must disclose the pecuniary interests listed below. There can be a criminal penalty if you do not.

8. Notification of Pecuniary Interests

A pecuniary interest is an interest of yourself or your Partner within the following descriptions:

Subject	Prescribed description
Employment , office, trade, profession or vacation	Any employment, office, trade, profession or vocation carried on for profit or gain
Sponsorship	Any payment or provision of any other financial benefit (other than from the relevant authority) made or provided within the relevant period in respect of any expenses incurred by M in carrying out duties as a member, or towards the election expenses of M. This includes any payment or financial benefit from a trade union within the meaning of the Trade Union and Labour Relations (Consolidation) Act 1992(a)
Contracts	Any contract which is made between the relevant person (or a body in which the relevant person has a beneficial interest) and the relevant authority – (a) under which goods or services are to be provided or works are to be executed; and (b) which has not been fully discharged.
Land	Any beneficial interest in land which is within the area of the relevant authority.
Licences	Any licence (alone or jointly with others) to occupy land in the area of the relevant authority for a month or longer.
Corporate tenancies	Any tenancy where (to M's knowledge) –

- (a) the landlord is the relevant authority; and
- (b) the tenant is a body in which the relevant person has a beneficial interest.

Securities

Any beneficial interest in securities of a body where-

- (a) that body (to M's knowledge) has a place of business or land in the area of the relevant authority; and
- (b) either-
 - (i) the total nominal value of the securities exceeds £25,000 or one hundredth of the total issued share capital of that body; or
 - (ii) if the share capital of that body is of more than one class in which the relevant person has a beneficial interest exceeds one hundredth of the total issued share capital of that class.

9. Non-participation where you have a pecuniary interest

- (1) Where you have a pecuniary interest in any business of your authority you must disclose the interest and withdraw from the room or chamber where a meeting considering the business is being held unless
 - a) you have obtained a dispensation from the authority's Monitoring Officer or Standards Committee;
 - b) it is a meeting at which the public can speak in which case you may address the meeting but must then immediately withdraw.
- (2) If the interest is not registered and is not the subject of a pending notification, you must notify the Monitoring Officer of the interest within 28 days.
- (3) Where an executive member may discharge a function alone and becomes aware of a pecuniary interest in a matter being dealt with or to be dealt with by them, the executive member must notify the Monitoring Officer of the interest and must not take any steps or further steps in the matter.

10. Dispensations

- (1) The Council may grant you a dispensation, but only in specified circumstances, to enable you to participate and vote on a matter in which you have a pecuniary interest.
- (2) Applications for dispensation must be made in writing to the Monitoring Officer before the meeting at which the matter is to be discussed.

11. Offences

- (1) It is a criminal offence to
 - (a) Fail to notify the Monitoring Officer of any pecuniary interest within 28 days of election
 - (b) Fail to disclose a pecuniary interest at a meeting if it is not on the register
 - (c) Fail to notify the Monitoring Officer within 28 days of a pecuniary interest that is not on the register that you have disclosed to a meeting
 - (d) Participate in any discussion or vote on a matter in which you have a pecuniary interest
 - (e) As an executive member discharging a function acting alone, and having a pecuniary interest in such a matter, failing to notify the Monitoring Officer within 28 days of the interest.
 - (f) Knowingly or recklessly providing information that is false or misleading in notifying the Monitoring Officer of a pecuniary interest or in disclosing such interest to a meeting
- (2) The criminal penalties available to a court are to impose a fine not exceeding level 5 on the standard scale² and disqualification from being a councillor for up to 5 years.

12. Notification of Gifts and Hospitality

- (1) You must, within 28 days of receipt notify the Monitoring Officer of any gifts and hospitality you have received with an estimated value of offers over £100
- (2) You must disclose the receipt of that gift or hospitality and its nature and extent where it is relevant to the matter under consideration unless it was registered more than 3 years before

14. Interests arising in relation to overview and scrutiny committees

- (1) In any business before an overview and scrutiny committee of your authority (or of a sub-committee of such a committee) where—

² Currently £5000.

(a) that business relates to a decision made (whether implemented or not) or action taken by the executive or another of your authority's committees, sub-committees, joint committees or joint sub-committees; and

(b) at the time the decision was made or action was taken, you were a member of the executive, committee, sub-committee, joint committee or joint sub-committee mentioned in paragraph (a) and you were present when that decision was made or action was taken,

(2) You may only attend a meeting of the overview and scrutiny committee for the purpose of answering questions or giving evidence relating to the business, and you must leave the room where the meeting is held immediately after making representations, answering questions or giving evidence.

Part 3
Registration of Members' Interests

14. Registering your interests

- (1) You must notify the Monitoring Officer of any interest you have within 28 days of:
- (a) becoming a member
 - (b) disclosing an interest in any matter being considered at a meeting (if that interest is not already on the Register of Interests)
 - (c) (if you are an executive member) becoming aware of an interest in any matter to be dealt with, or being dealt with
- (2) Any interests notified to the Monitoring Officer will be included in the register of interests.
- (3) A copy of the register will be available for public inspection and will be published on the authority's website.

Sensitive interests

- 15.—**(1) Where you consider that you have a sensitive interest, and the Monitoring Officer agrees:
- (a) if the interest is entered on the Register of Interests, any copy of the Register of Interests made available for inspection and any published version of the register will exclude details of the interest, but may state that you have an interest, the details of which are withheld
 - (b) if the interest is not entered on the Register of Interests, at any relevant meeting you must disclose the fact that you have a disclosable interest, but not the nature of the interest
- (2) You should, within 28 days of becoming aware of any change of circumstances which means that your interest is no longer sensitive, notify the Monitoring Officer.

PROCEDURE FOR CONSIDERING COMPLAINTS THAT MEMBERS HAVE BREACHED THE CODE OF CONDUCT

1. Monitoring Officer (MO) acknowledges receipt of the complaint within 5 working days of receipt.
2. MO informs the subject member of:
 - (a) the complaint, giving a summary of it and the name of the complainant; and
 - (b) their right to consult, through the MO, one of the Independent Persons (IP) appointed by the Council. The MO will inform the subject member that this is an on-going support role. The IP shall make a written record of any conversations with the subject member, that both agree to be a correct record. The MO shall make the IP aware they he may be interviewed by the police if the complaint is referred to them.
3. MO decides, in consultation with a IP (other than one consulted by the subject member under para 2(b)), within 20 workingdays of receipt of the complaint, that:
 - (a) the complaint does not come within the remit of the Code of Conduct.
 - (b) the complaint does not cross the threshold of seriousness to warrant an investigation;
 - (c) it is not in the public interest to investigate the complaint;
 - (d) he/she should seek to resolve the complaint without the need for an investigation (e.g. by an apology or training by the subject member);
 - (e) the Complaint should not be investigated because it could be considered to be vexatious, malicious, obsessive or partisan;
 - (f) the Complaint should not be investigated because it is broadly similar to a complaint against the same member about the same alleged incident; or
 - (g) an investigation should take place.

4. Before coming to his/her decision under para 3 the MO may request further information and/or clarification from the complainant and/or the subject member and the time period shall be extended accordingly.
5. If the MO decides that the complaint should be investigated, or his/her attempts to resolve the complaint without an investigation do not succeed, then he/she will carry out an investigation or appoint an investigator to carry out an investigation on his/her behalf.
6. The investigator appointed under para 5 by the MO may be:
 - (a) a senior officer of the Council;
 - (b) a senior officer of another Council; or
 - (c) an external investigator with relevant experience.
7. A report into an investigation shall include the investigator's findings on whether the Code has been breached.
8. Before finalising his/her report the Investigator shall send a copy of it to both the complainant and subject member and give them at least 5 working days to comment on it.
9. If the investigator's final report finds there has not been a breach of the Code the MO can, in consultation with the IP, decide to:
 - (a) take no action; or
 - (b) refer the report for a hearing before the Standards Committee.
10. If the investigator's report finds there has been a breach of the Code then the MO must refer the matter for a hearing before the Standards Committee
11. When the matter has been referred to a hearing before the Standards Committee by the MO, it will at all times adhere to the Procedure for Hearings which provides for the following:
 - (a) allow the investigator to present his/her report and call witnesses;
 - (b) allow the complainant to make representations and call witnesses;

- (c) allow the subject member to make representations and call witnesses;
 - (d) decide if the subject member has breached the Code of Conduct; and
 - (e) decide what sanction should be imposed if they decide the Code has been breached.
12. The sanctions the Standards Committee can impose if they find a breach of the Code are one or more of the following:
- (a) Censuring the member (an apology may also be recommended);
 - (b) reporting its findings to Council for information;
 - (c) recommending to the member's Group Leader (or in the case of ungrouped members, recommending to Council or to Committees) that he/she be removed from any or all Committees or Sub-Committees of the Council;
 - (d) recommending to Council that the member be replaced as Executive Leader of the authority;
 - (e) recommending to the Leader of the Council that the member be removed from the Cabinet, or removed from particular Portfolio responsibilities;
 - (f) recommending the Monitoring Officer to arrange training for the member; or
 - (g) recommending to Council that the member be removed from all outside appointments to which he/she has been appointed or nominated by the authority.
13. In reaching a decision as to whether there has been a breach of the Code and if so what sanction should be imposed the Standards Committee will consult and take into account the views of the IP who will attend such hearings.
14. Following any final decision by the MO or the Standards Committee at whatever stage the MO shall inform the complainant and the subject member of the decision and the reasons for it within 10 working days.
15. Wherever there has been a decision that the subject member has breached the Code of Conduct that decision and the reasons for it shall be published in a prominent position on the Council's website

16. Wherever there is a decision that the subject member has not breached the Code of Conduct that decision shall be put on the Council's website in a prominent position if the subject member wishes it to be.
17. Any decision of the MO or Standards Committee shall be final and binding.
18. The MO will every 6months take a report to the Standards Committee giving:
 - (a) the number of complaints received and brief details;
 - (b) how they are progressing;
 - (c) what decisions have been made; and
 - (d) what action has, where appropriate, been taken.
19. The MO has delegated power, in consultation with the IP and the Chair of the Standards Committee, to approve a departure from these arrangements when he/she considers it is expedient to do so to secure the effective and fair consideration of any matter.
20. In all cases where the MO is unable to perform his/her role his/her deputy will do so.

DECLARING INTERESTS – QUESTIONS TO ASK YOURSELF

What matters are being discussed?



**D
P
I**

Does the business relate to or is it likely to affect a disclosable pecuniary interest (DPI)? This will include the interests of yourself or your partner:

- any employment, office, trade, profession or vocation that they carry on for profit or gain
- any sponsorship they receive including any expenses as a Councillor, election expenses, including any expenses from a Trade Union
- any contracts made between the Council and them
- any beneficial interest they have in land in Derby
- any land licence or tenancy they have in Derby
- any current contract leases or tenancies between the Council and them
- any organisation which has land or a place of business in Derby and in which they have a relevant interest in its shares or its securities

No
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Yes →

Declare interest and leave (or obtain a dispensation)

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Does the business affect the well-being or financial position of (or relate to the approval, consent, licence or permission) for:

- Any member of your family or
- Any person with whom you have a close association; or
- Any organisation of which you are a member or are involved in its management (whether or not appointed to that body by the Council). This would include membership of a governing body or trustee of a charity

Where an executive member may discharge a function alone and becomes aware of a pecuniary interest in a matter being dealt with or to be dealt with by them, the executive member must notify the Monitoring Officer of the interest and must not take any steps or further steps in the matter.

You have an interest if any business before an overview and scrutiny board relates to a decision made (whether implemented or not) or action taken by the executive or another of your authority's committees; and at the time the decision was made or action was taken, you were a member of the executive or committee and you were present when that decision was made or action was taken. You may only attend a meeting of the overview and scrutiny board for the purpose of answering questions or giving evidence relating to the business and you must leave the room where the meeting is held immediately after making representations, answering questions or giving evidence.

THESE MATTERS ARE EXPLAINED MORE FULLY IN THE MEMBERS' CODE OF CONDUCT

IF IN ANY DOUBT PLEASE SPEAK TO THE MONITORING OFFICER

Contacts

For further information about the role of the Standards Committee or standards issues in general, please contact any of the following:

Janie Berry

Director of Legal and Democratic Services
and Monitoring Officer
Derby City Council
1st Floor
Council House
Corporation Street
Derby
DE1 2FS
Telephone: 01332 643616
Email: janie.berry@derby.gov.uk

Phil O'Brien

Head of Democratic Services
Derby City Council
1st Floor
Council House
Corporation Street
Derby
DE1 2FS
Telephone: 01332 643644
Email: phil.o'brien@derby.gov.uk

Steven Mason

Constitutional Services Officer
Derby City Council
1st Floor
Council House
Corporation Street
Derby
DE1 2FS
Telephone: 01332 643653
Email: steven.mason@derby.gov.uk

More details on Council's Standards Framework and how to submit a complaint are also available on the Council's website: www.derby.gov.uk