

## **STANDARDS AND ETHICS COMMITTEE**

**Venue:** Town Hall, The Crofts,  
Moorgate Street,  
Rotherham. S60 2TH

**Date:** Thursday 15 June 2023

**Time:** 2.00 p.m.

### **A G E N D A**

**1. Apologies for Absence**

To receive the apologies of any Member who is unable to attend today's meeting.

**2. Declarations of Interest**

To receive declarations of interest from Members in respect of items listed on the agenda.

**3. Exclusion of Press and Public**

To consider whether the press and public should be excluded from the meeting during consideration of any part of the agenda.

Agenda Items 7 (Appendix 2), 8 and 9 are all exempt from the press and public.

**4. Minutes of the previous meeting held on 19th January, 2023 (Pages 3 - 6)**

To consider and approve the minutes of the previous meeting held on 19<sup>th</sup> January, 2023 as a true and correct record of the proceedings.

**5. Training Update**

To give a verbal update on planned training for the Parish Councils and the various visits planned to Parish Councils.

**6. Consideration of Granting of a Dispensation relating to Housing Matters (Pages 7 - 10)**

To consider the granting of dispensations to enable Members of the Council who have Council tenancies to participate and vote on Council business related to Housing.

7. Outcome of Standards and Ethics Sub-Committee Hearing re Alleged Breach of the Code of Conduct - Maltby Town Councillor (Pages 11 - 23)

To receive and note the outcome of a Standards and Ethics Sub-Committee Hearing which took place on 4<sup>th</sup> April 2023 in relation to an alleged breach of the Code of Conduct by Maltby Town Councillor C. McMahon

8. Consideration of Complaints (Pages 25 - 30)

To give consideration to a report updating the Committee on the Complaints received against Members of the Council, and Town and Parish Councillors alleging a breach of the Code of Conduct.

9. A Review of Concerns Raised Pursuant to the Whistleblowing Policy (Pages 31 - 36)

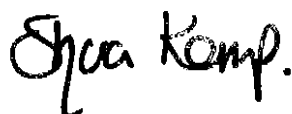
To give consideration to a report regarding concerns raised pursuant to the Whistleblowing Policy and the actions taken to address these matters.

10. Urgent Business

To determine any item which the Chair is of the opinion should be considered as a matter of urgency.

11. Date and Time of Next Meeting

The next meeting of the Standards and Ethics Committee will take place on Thursday, 14<sup>th</sup> September, 2023, commencing at 2.00 p.m.



**S. KEMP,**  
Chief Executive.

**STANDARDS AND ETHICS COMMITTEE**  
**19th January, 2023**

Present:- Councillor McNeely (in the Chair); Councillors Bacon, Z. Collingham, Griffin, Hughes, Wilson, Parish Councillors Buckley and Swann and also Mr. P. Edler (Independent Member).

Apologies for absence were received from Councillors Tarmey, Yasseen and Mrs. M. Carroll and Mrs. A. Bingham, Mrs. M. Evers and Mrs. K. Penney (Independent Members).

**20. DECLARATIONS OF INTEREST**

Parish Councillor Buckley declared a personal interest in Minute No. 25 (Review of Complaints) on the basis that he had some knowledge of one of the complaints.

**21. EXCLUSION OF PRESS AND PUBLIC**

**Resolved:-** That, under Section 100A(4) of the Local Government Act 1972, the press and public be excluded from the meeting for Minute Nos. 25 (Review of Complaints) and 26 (Review of Concerns raised pursuant to the Whistleblowing Policy) on the grounds that they involve the likely disclosure of exempt information as defined in Paragraph 3 of Part 1 of Schedule 12A to the Local Government Act 1972.

**22. MINUTES OF THE PREVIOUS MEETING HELD ON 15TH SEPTEMBER, 2022**

**Resolved:-** That the minutes of the previous meeting held on 15<sup>th</sup> September, 2022 be approved as a true and correct record of the proceedings.

**23. PLEDGE OF CIVILITY AND RESPECT - PARISH AND TOWN COUNCILS**

Consideration was given to a report presented by the Service Manager regarding the Civility and Respect Pledge, its aims and objectives and the requirements for a Local Council to sign up the Pledge.

The Civility and Respect Pledge was the response by the National Association of Local Councils (NALC) to the growing concerns about the impact bullying, harassment, and intimidation were having on Parish and Town Councils, Councillors, Clerks and Council staff and the resulting effectiveness of local councils. As such NALC were recommending it was the time to put civility and respect at the top of the agenda and start a culture change for the local council sector.

**STANDARDS AND ETHICS COMMITTEE - 19/01/23**

The Civility and Respect Pledge was easy for Parish and Town Councils to sign up to and would enable Parish and Town Councils to demonstrate that they were committed to standing up to poor behaviour across the sector and to drive through positive changes which supported civil and respectful conduct.

NALC were inviting all Parish and Town Councils to take the Civility and Respect Pledge.

The Deputy Monitoring Officer and Service Manager had attended a recent webinar about the Civility and Respect Pledge and the presentation delivered was shared with the Committee. The presentation covered:-

- The Project Group.
- Mission and Objectives.
- Civility Consortium Model.
- The Civility Pledge – Branding.
- Bespoke Training.
- E-Learning Modules.
- On Demand HR Podcast.
- Recruitment Guide.
- Governance Support.
- Step By Step Guide including Communication.
- Legal Framework.
- Second Early Day Motion.
- Members of Parliament Drop In Sessions.
- Levelling Up Briefing.
- Collaboration Workstream.

Discussion ensued about the commitment of Town and Parish Councils to signing up to the Pledge to forge through a change in culture and behaviour and the ability of the Committee to monitor and evaluate. The Pledge would then mean treating Councillors, Clerks, employees, members of the public, and representatives of partner organisations and volunteers with civility and respect in their roles.

Town and Parish Councils would be contacted to encourage them to sign up to the Civility and Respect Pledge within a week of the Committee meeting. The decision would remain with the Town and Parish Councils whether to accept the Pledge and to take it forward.

The Committee welcomed the concept of the Pledge of Civility and Respect and hoped as many Town and Parish Councils would accept as possible irrespective of which Code of Conduct they were signed up to. The costs to sign up and attend the training sessions were relatively low.

The Committee would monitor progress at six monthly intervals whilst continuing to lobby and support the change for improved sanctions.

**Resolved:-** (1) That the content of the report and in particular the aims and objectives of the Civility and Respect Pledge and requirements for Town and Parish Councils to sign up to the Civility and Respect Pledge be noted.

(2) That all Town and Parish Councils in the Borough be encouraged to sign up to the Civility and Respect Pledge.

**24. CODE OF CONDUCT - DATA PROTECTION AND CONFIDENTIAL INFORMATION**

Consideration was given to the report presented and submitted by the Service Manager which provided guidance to Members in respect of their obligations relating to the Code of Conduct and in particular the use of Personal Data.

The detailed guidance attached to the report provided more specific information as to how Councillors were able to use personal information which they came into possession of in their role as a Councillor and how to avoid breaching data protection requirements. This guidance would be provided to Members and Parish and Town Council Clerks.

The Committee welcomed the guidance and the clarity this provided.

**Resolved:-** (1) That the report be received and the contents noted.

(2) That the guidance note be circulated to Members via the Members' Newsletter and forwarded to the Parish and Town Council Clerks.

**25. REVIEW OF COMPLAINTS**

Consideration was given to the report presented by the Service Manager detailing the progress with the handling of complaints relating to breaches of the Council's Code of Conduct for Members and Town and Parish Councillors. The report listed the current cases of complaint and the action being taken in respect of each one.

Reference was made to each related case and recommended outcomes/actions identified were highlighted.

**Resolved:-** That the report be received and the contents noted.

**26. REVIEW OF CONCERNS RAISED PURSUANT TO THE WHISTLEBLOWING POLICY**

Consideration was given to the report and appendix presented by the Service Manager, which provided an overview of the Whistleblowing cases which have been received over the past year.

Particular reference was made to the appendix to the report which set out clearly the description of the concerns received and action taken.

**Resolved:-** That the Whistleblowing concerns raised over the previous year and the actions taken to address these matters be noted.

**27. URGENT BUSINESS**

The Chair advised that there were no urgent items of business requiring the Committee's consideration.

**28. DATE AND TIME OF NEXT MEETING**

**Resolved:-** That the next meeting of the Standards and Ethics Committee be held on Thursday, 9<sup>th</sup> March, 2023, commencing at 2.00 p.m. at the Town Hall.

Public Report  
Standards and Ethics Committee

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**Committee Name and Date of Committee Meeting**

Standards and Ethics Committee - 15 June 2023

**Report Title**

Standards and Ethics Committee – Consideration of Granting of a Dispensation re Housing matters

**Is this a Key Decision and has it been included on the Forward Plan?**

No

**Strategic Director Approving Submission of the Report**

N/A

**Report Author(s)**

Stuart Fletcher, Service Manager (Commercial and Property)  
01709 823523 stuart.fletcher@rotherham.gov.uk

**Ward(s) Affected**

Borough-Wide

**Report Summary**

This report is in relation to the Standards Committee considering the granting of dispensations to enable members of the Council who have Council tenancies to participate and vote on Council business related to Housing.

**Recommendations**

That the Committee:

1. Resolves that it is appropriate for any Members of the Council who are tenants of Rotherham Borough Council to be granted a dispensation pursuant to section 33(2) (e) of the Localism Act to allow them to participate and to vote on matters in relation to housing (provided that those functions do not relate particularly to the tenancy or lease of the Council Member concerned). Such requests should be submitted in writing to the Monitoring Officer

**List of Appendices Included**

None

**Background Papers**

None

**Consideration by any other Council Committee, Scrutiny or Advisory Panel**

None

**Council Approval Required**

No

**Exempt from the Press and Public**

No

**Standards and Ethics Committee - Consideration of Granting of a Dispensation re Housing matters**

**1. Background**

1.1 The Localism Act and the Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012 introduced “Disclosable Pecuniary Interests” and new rules on the grant of dispensations to allow Council Members to take part in decisions or vote on matters in which they have a Disclosable Pecuniary interest (“DPI”).

1.2 Where a Member has a DPI, they cannot speak and/or vote on a matter in which they have such an interest, unless they have obtained a dispensation in accordance with the requirements of section 33 of the Localism Act.

1.3 The grounds for the grant of a dispensation under section 33(2) of the Localism Act are, if, after having regard to all relevant circumstances, the Council considers that:

- (a) Without the dispensation the number of Members prohibited from participating in or voting on any particular business would be so great a proportion of the body transacting the business as to impede the transaction of that business.
- (b) Without the dispensation the representation of different political groups on the body transacting any particular business would be so upset as to alter the likely outcome of any vote relating to the business.
- (c) The grant of the dispensation would be in the interests of the inhabitants of Rotherham.
- (d) Without the dispensation every Member of the Executive would have a DPI prohibiting them from participating/voting in any particular business to be transacted by the Executive.
- (e) It is otherwise appropriate to grant the dispensation.

1.2 Bearing in mind the number of Members who are tenants it is likely that paragraph (b) above would apply in relation to the transaction of some Council business and therefore the granting of a dispensation in the circumstances set out within the report would be appropriate.

1.3 In order to obtain a dispensation on any of the five grounds set out under section 33 of the Localism Act, a Member must make a written request to



the Council's Monitoring Officer. Any grant of a dispensation must specify how long it lasts for, up to a maximum period of four years.

- 1.4 For the sake of completeness, prior to the Introduction of the Localism Act 2011 the national model Code of Conduct for Members specifically stated that Members would not have a prejudicial interest in certain circumstances that potentially affected the majority or a large number of Members. These general exemptions included an interest in any business of the Council which related to housing, where the Member was a tenant of Rotherham Borough Council. (provided that, those functions did not relate particularly to the Member's own tenancy or lease

## **2. Key Issues**

- 2.1 The Committee is asked to consider whether it would be appropriate to grant a dispensation to any Members who are Tenants of the Council and who submit a written request for the grant of a dispensation pursuant to section 33(2) (e) of the Localism Act, to allow them to participate and to vote on matters in relation to housing (provided that those functions do not relate particularly to the tenancy or lease of the Council Member concerned).

## **3. Options considered and recommended proposal**

- 3.1 The options for the Committee are to either grant or refuse to grant the dispensation and the recommendation is set out above.

## **4. Consultation on proposal**

- 4.1 None

## **5. Timetable and Accountability for Implementing this Decision**

The dispensation would available to members immediately following the granting of such by the Committee.

## **6. Financial and Procurement Advice and Implications**

- 6.1 None

## **7. Legal Advice and Implications**

- 7.1 The Council and the Standards and Ethics Committee have a statutory duty to promote and maintain high standards of conduct. The granting of Dispensations is delegated to the Standards and Ethics Committee within the Councils Constitution and specifically within the Standards and Ethics Terms of Reference.

## **8. Human Resources Advice and Implications**

None

## **9. Implications for Children and Young People and Vulnerable Adults**

None

**10. Equalities and Human Rights Advice and Implications**

None

**11. Implications for Partners**

None

**12. Risks and Mitigation**

None

**13. Accountable Officer(s)**

Bal Nahal, Head of Legal Services

*Report Author:* Stuart Fletcher, Service Manager (Commercial and Property)

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This report is published on the Council's [website](#).

Public Report  
Standards and Ethics Committee

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**Committee Name and Date of Committee Meeting**

Standards and Ethics Committee - 15 June 2023

**Report Title**

Outcome of Standards and Ethics Sub-Committee Hearing re Alleged Breach of the Code of Conduct – Maltby Town Councillor C McMahon

**Is this a Key Decision and has it been included on the Forward Plan?**

No

**Strategic Director Approving Submission of the Report**

N/A

**Report Author(s)**

Stuart Fletcher, Deputy Monitoring Officer/Service Manager, Legal Services  
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**Ward(s) Affected**

Borough-Wide

**Report Summary**

This report sets out the outcome of a Standards and Ethics Sub Committee Hearing which took place on 4<sup>th</sup> April 2023 in relation to an alleged breach of the Code of Conduct by Maltby Town Cllr C McMahon.

**Recommendations**

It is recommended that the Committee:

1. Note the outcome of the Standards and Ethics Sub-Committee Hearing on 4<sup>th</sup> April 2023.

**List of Appendices Included**

Appendix 1 Decision Notice in respect of the Hearing on 4<sup>th</sup> April 2023  
Appendix 2 Minutes of the Sub-Committee Hearing on 4<sup>th</sup> April 2023

**Background Papers**

None

**Consideration by any other Council Committee, Scrutiny or Advisory Panel**

No

**Council Approval Required**

No

**Exempt from the Press and Public**

Appendix 2 to this report will be considered in the absence of the press and public as being exempt under Paragraph 1 of Part 1 of Schedule 12A to the Local Government Act 1972 (as amended March 2006) (information relating to an individual – in particular complainants and witnesses at the sub-committee hearing).

## **Outcome of Standards and Ethics Sub-Committee Hearing re Alleged Breach of the Code of Conduct – Maltby Town Councillor C McMahon**

### **1. Background**

- 1.1 A Hearing of the Standards and Ethics Committee Sub-Committee took place on 4<sup>th</sup> April 2023. The Decision Record in respect of the Hearing is at Appendix 1.
- 1.2 Two similar complaints were considered at the Hearing to the effect that Councillor McMahon had been disrespectful to and bullied the Maltby Council clerk, at a meeting of the Town Council on the 12<sup>th</sup> May 2022. The details of the complaint, Councillor McMahon's response and the evidence heard by the Sub-Committee are set out in the minutes of the hearing which are at Appendix 2.
- 1.3 As set out in the Decision Record, the Sub-Committee found that Cllr McMahon's conduct did not amount to a breach of the Town Council's Code of Conduct. Specifically, the Sub-Committee found neither bullying nor disrespect proved on the balance of probabilities. However, the Sub-Committee found that the conduct of the Town Council was not such that upheld or promoted high standards of Conduct as required by Section 27(1) of the Localism Act 2011.
- 1.4 As such the Sub-Committee made the following Resolutions:
  - (1) The Sub-Committee directed the Monitoring Officer to provide advice to Maltby Town Council as to the future conduct of their meetings in presenting this decision to them.
  - (2) That training be provided to both Councillors and Officers at the Town Council to ensure that future meetings are conducted appropriately.
  - (3) That this decision be reported to Maltby Town Council.
- 1.5 Members are asked to note the Decision of the Sub-Committee.

### **2. Key Issues**

- 2.1 The key issues are set out above.

### **3. Options considered and recommended proposal**

- 3.1 The Sub-Committee considered the evidence and the options open to them having made a finding on the evidence presented.

### **4. Consultation on proposal**

- 4.1 As required by the Localism Act 2011, one of the Committee's Independent Persons was consulted by the Sub-Committee during the Hearing on 4<sup>th</sup> April 2023.

### **5. Timetable and Accountability for Implementing this Decision**

- 5.1 The Decision Record and outcome of the hearing has been presented to the Maltby Town Council by the Monitoring Officer at their meeting on the 1<sup>st</sup> June 2023.

**6. Financial and Procurement Advice and Implications**

- 6.1 The officer time in dealing with this complaint is met within existing Legal Services resources.

**7. Legal Advice and Implications**

- 7.1 The Council and the Standards and Ethics Committee have a statutory duty to maintain and promote ethical standards. Pursuant to the Localism Act 2011, the Council is required to adopt an appropriate Code of Conduct and arrangements for the investigation of allegations of breach of the Code of Conduct.

**8. Human Resources Advice and Implications**

- 8.1 None

**9. Implications for Children and Young People and Vulnerable Adults**

- 9.1 None

**10. Equalities and Human Rights Advice and Implications**

- 10.1 None

**11. Implications for Partners**

- 11.1 None

**12. Risks and Mitigation**

- 12.1. None

**13. Accountable Officers**

Bal Nahal, Head of Legal Services

*Report Author:* Stuart Fletcher, Deputy Monitoring Officer/Service Manager,  
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**ROTHERHAM METROPOLITAN BOROUGH COUNCIL**

**STANDARDS AND ETHICS COMMITTEE**

**RECORD OF THE DECISION OF THE STANDARDS AND ETHICS  
SUB-COMMITTEE MEETING HELD ON 4<sup>TH</sup> APRIL, 2023**

**SUBJECT MEMBER:** Councillor C McMahon (Maltby Town Council)  
(in attendance)

**COMPLAINANTS:** Mrs. S. Biggins and Ms. S. Youngman

**THE COMPLAINTS SUB-COMMITTEE**

Councillor R. McNeely (Rotherham MBC) (in the Chair)  
Councillor D. Tarmey (Rotherham MBC)  
Mr. A. Buckley, Parish Council Representative  
Mr. P. Edler, Independent Member  
Ms. K. Penney, Independent Member

**INDEPENDENT PERSON**

Mr. P. Beavers

**ROTHERHAM MBC OFFICERS**

Mr. P. Horsfield (Monitoring Officer/Legal Adviser to the Sub-Committee)  
Mr. S. Fletcher (Investigating Officer)  
Mrs. D. Pons (Governance Adviser)

**The Complaint**

At a meeting of the Rotherham Standards and Ethics Sub-Committee held on Tuesday, 4<sup>th</sup> April, 2023, consideration was given to a complaint against Councillor C McMahon (Subject Member).

The complaint related to:-

- The approach of the Subject Member to the Clerk in Chairing of a meeting of Maltby Town Council and whether this amounted to a breach of the Code of Conduct of Maltby Town Council.

The Panel comprised Councillor McNeely (in the Chair); Councillor D. Tarmey, Mr. A. Buckley, Mr. P. Edler and Ms. K. Penney.

Mr. P. Beavers also attended the hearing in his role as Independent Person, along with Mr. P. Horsfield as Legal Adviser to the Panel.

Mr. S. Fletcher, Investigating Officer, was invited to present the report of the investigation into whether there had been a breach of the Members' Code of Conduct of Maltby Town Council and which fell within the remit of Rotherham Borough Council's Standards and Ethics Committee.

The Investigating Officer took the Sub-Committee through the complaint and the evidence provided as to whether the Subject Member's conduct in this matter amounted to a breach of the Council's Code of Conduct.

### **Evidence**

The Sub-Committee heard the evidence submitted as part of the investigation in relation to the Complaints together with witnesses.

The Sub-Committee also heard the evidence provided by the Subject Member as a part of the investigation together with witnesses

The Investigating Officer, the Subject Member and his support, left the room to allow the Sub-Committee to consider the evidence with the advice of the Independent Person and the Monitoring Officer.

### **The Findings of the Sub-Committee**

The Panel considered the evidence from both parties and all the documents referred to in the Investigating Officer's report.

The Sub-Committee considered, in consultation with the Independent Person, whether the Subject Member's conduct in this matter amounted to a breach the Code of Conduct

After hearing all of the evidence and verbal submissions made before them, the Sub-Committee considered, in consultation with the Independent Person, the key issues which had been highlighted in the report and evidence.

The Investigating Officer, the Subject Member and his supporter were asked to return and were advised of the decision.

The Sub-Committee found neither bullying nor disrespect proved on the balance of probabilities. However the Sub-Committee found that the conduct of the Town Council was not such that upheld or promoted high standards of Conduct as required by Section 27(1) of the Localism Act 2011. As a consequence the Sub-Committee directed the Monitoring Officer to provide advice to Maltby Town Council as to the future conduct of their meetings in presenting this decision to them and recommended that training be provided to both Councillors and Officers at the Town Council to ensure that future meetings are conducted appropriately.

**Resolved:-** That the conduct of Maltby Town Council was not such that upheld or promoted high standards of conduct as required by Section 27(1) of the Localism Act 2011 and as a consequence-

(1) The Sub-Committee directed the Monitoring Officer to provide advice to Maltby Town Council as to the future conduct of their meetings in presenting this decision to them.



(2) That training be provided to both Councillors and Officers at the Town Council to ensure that future meetings are conducted appropriately.

(3) That this decision be reported to Maltby Town Council.

Signed:  (Chair of Sub-Committee)

Dated: 17<sup>th</sup> April, 2023

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of the Local Government Act 1972.

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