



Leicester
City Council

SECOND DESPATCH

MEETING OF THE STANDARDS HEARING SUB-COMMITTEE

TUESDAY, 21 OCTOBER 2025

Further to the minute for the above meeting which has already been circulated, please find attached the following:-

**CONSIDERATION OF INVESTIGATOR'S REPORT INTO A
COMPLAINT AGAINST A COUNCILLOR - COMPLAINT NO.
2024/15**

Officer contacts

Jessica Skidmore (Governance Services Officer)
E-mail: Jessica.skidmore@leicester.gov.uk /
governance@leicester.gov.uk
Governance Services, Granby Wing, City Hall, Leicester, LE1 1FZ

Minute Item 6

DECISION NOTICE

HEARING PANEL (STANDARDS SUB-COMMITTEE)

COMPLAINT 15/2024

Held: 21ST OCTOBER 2025

MEMBERS OF THE HEARING PANEL

Ms Fiona Barber (Independent Member) - Chair

Mr Mike Galvin (Independent Member)

Councillor Dr Susan Barton

SUMMARY OF DECISION:

The Standards Hearing Sub-Committee, having taken into consideration the written evidence and representations from the (i) Investigator Mr Alex Oram; (ii) the Subject Member Councillor Patrick Kitterick and (iii) the Statutory Independent Person Mr David Lindley finds the following:

RESOLVED:

a) **That Councillor Kitterick has breached paragraph 2(a) of the City Council's Code of Conduct by failing to treat others with respect.** On 11th November 2024 during a briefing he received from three senior officers over a matter that affected his Ward he was aggressive, angry, rude and offensive. He impugned the credibility and integrity of the officers by using language that questioned their motives, and the veracity of their briefing. His comments extended to personal criticism of officers, going beyond legitimate critique of the issues.

b) That Councillor Kitterick has breached paragraph 2(b) of the City Council's Code of Conduct by bullying. His repeated interruptions, aggressive tone and personal criticism of the Director of Housing amounted to being offensive, insulting and humiliating. This conduct went well beyond what could reasonably be considered as robust criticism of ideas, policies and issues and it amounted to a misuse of power.

c) That Councillor Kitterick has breached paragraph 2(d) of the City Council's Code of Conduct by failing to respect the confidentiality of information entrusted to him as an Elected Member. He used information provided in a briefing and disclosed it immediately to a journalist. We are satisfied that officers were clear in the meeting that the information being imparted was sensitive, and that it was being provided in confidence. Regardless of this, we find that as an experienced Councillor of over 22 years he knew, or ought reasonably to have been aware, that the content of the briefing was confidential.

d) That Councillor Kitterick has, for all of the above reasons, breached paragraph 2(i) of the Code of Conduct by bringing the Council into disrepute. His conduct has both adversely affected the reputation of the Council's Elected Members in being able to fulfil their role and has had the effect of reducing public confidence in the Council being able to fulfil its functions and duties.

RECOMMENDATIONS:

The Hearing Panel makes the following recommendations to the Standards Committee:

- i. Councillor Kitterick to send a written apology, within 14 days of the Committee hearing to take place on 29th October 2025, to all three officers for the disrespect shown to them.
- ii. Written censure of Councillor Kitterick by issuing of this Decision Notice to him by the Monitoring Officer on behalf of the Standards Committee.
- iii. That there be a press release of the findings

- iv. That a copy of the investigative report be released into the public domain

- v. That the findings of the Panel be reported to Full Council, with a recommendation for a motion of censure to be passed.

- vi. That the Monitoring Officer arranges training for Councillor Kitterick on the Code of Conduct.



Independent investigation into
allegations concerning

Councillor Patrick Kitterick
of
Leicester City Council

Report on a Code of Conduct complaint
from
Mr Richard Sword

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28 May 2025

1: Purpose

- 1.1 On 3 December 2024, Mr Richard Sword, Leicester City Council's Strategic Director City Development and Neighbourhoods, submitted a formal complaint to the City Council's Monitoring Officer about the conduct of Councillor Patrick Kitterick.
- 1.2 It was alleged that during an informal member briefing on 11 November 2024, Councillor Kitterick was disrespectful towards officers, including bullying of one of them. It was further alleged that after the meeting, Councillor Kitterick contacted the local press and disclosed information that had been given to him at the briefing in confidence.
- 1.3 The purpose of this report is to provide a summary and analysis of the evidence gathered during the investigation, along with our considerations as to whether any aspects of the allegation against Councillor Kitterick should be upheld. Our recommendation will be based on whether a full assessment of the relevant facts supports the conclusion that one or more of the paragraphs of the Council's Code of Conduct have been breached.

2: Councillor Kitterick's official details

- 2.1 Councillor Kitterick has been a member of the City Council since May 2003. He is a member of the Green Party, representing Castle ward.
- 2.2 Councillor Kitterick currently sits on the following City Council Committees:
 - Castle Community Meeting
 - Governance and Audit Committee
 - Licensing and Public Safety
 - Overview Select Committee
 - Planning and Development Control Committee

3: Relevant legislation and protocols

The Localism Act 2011

- 3.1 Section 27 of the Localism Act 2011 (the Act) provides that a relevant Authority must promote and maintain high standards of conduct by members and co-opted members of the Authority. In discharging this duty, the Authority must adopt a code dealing with the conduct that is expected of members when they are acting in that capacity. For the purposes of this investigation, the relevant Authority is Leicester City Council.
- 3.2 Section 28 of the Act provides that the Authority must secure that its Code of Conduct is, when viewed as a whole, consistent with the following principles:- Selflessness; Integrity; Objectivity; Accountability; Openness; Honesty; Leadership.

- 3.3 Under 28(6) of the Act, Local Authorities must have in place (a) arrangements under which allegations can be investigated and (b) arrangements under which decisions on allegations can be made. By section 27(7), arrangements put in place under subsection (6)(b) must include provision by the appointment of the Authority of at least one “independent person” whose views are to be sought, and taken into account, by the Authority before it makes its decision on an allegation that it has decided to investigate. For the purposes of this investigation, the relevant Authority is Leicester City Council.

Leicester City Council’s Code of Conduct

- 3.4 Under Section 27(2) of the Localism Act, the City Council established a Code of Conduct for members (the Code).
- 3.5 The Code adopted by the Council includes the following paragraphs:

‘The Code sets out the minimum expected standards of behaviour. You must, for example:

a. Treat others with respect

You must respect other people, as well as respect the role they perform. Examples of disrespectful behaviour might include angry outbursts; use of inappropriate language such as swearing; ignoring someone who is attempting to contribute to a discussion; attempts to shame or humiliate others; nit-picking and fault-finding and the sharing of malicious gossip or rumours.

Members will engage in robust debate at times and are expected to challenge, criticise and disagree with views, ideas, opinions and policies. But you should do this in a respectful way in order to build up healthy working relationships and public trust and confidence. You should focus criticism or challenge upon ideas and policies rather than personalities. (In relation to Member meetings, see Table 2 for agreed Protocol for Member behaviour in meetings)

The circumstances in which the behaviour occurs are relevant to determining whether it is disrespectful. This will include where it occurs, with whom it occurs and the relationship of the people involved. It must also be balanced with the Member’s right to Freedom of Expression. This extends to the expression of views that may shock, disturb or offend the beliefs of others. Freedom of Expression is protected more strongly in some contexts than others. In particular, a wide degree of tolerance is accorded to political speech. Public servants (i.e. officers) are subject to wider levels of acceptable criticism than other members of the public when matters of public concern are being discussed. However, the limits are not as wide as they are between elected politicians.

b. Not bully others

Bullying may be characterised as offensive, intimidating, malicious, insulting or humiliating behaviour, an abuse or misuse of power through means that undermine, humiliate, denigrate or injure the recipient. It may be a regular pattern of behaviour or a one-off incident, happen face to face or virtually and may not always be obvious or noticed by others.

d. Respect the confidentiality of information which you receive as a Member

In addition, you must (i) not disclose confidential information to third parties other than in accordance with the law and (ii) not act to prevent a third-party gaining access to information to which they are entitled in law’.

Table 2: Protocol - Member Conduct in Meetings

As agreed by The Standards Committee

Political interaction is one of the most powerful of the checks and balances which are built into policy development and service delivery. Such interaction should be robust and challenging but must stay within the Code of Conduct for Members. This protocol applies to all meetings held within the Council.

Members should at all times:-

1. Treat others with respect

- Allow others to speak and explain their position without persistent interruption*
- Avoid unreasonable or excessive personal attack*
- Challenge unacceptable behaviours in others*
- Apologise immediately if they are aware they have caused personal offence*

2. Not bully or intimidate others

- Avoid language that is abusive, malicious, insulting, humiliating, defamatory or offensive*
- Avoid intimidating body language*

3. Be aware of the need to respect confidentiality and treat information as such where appropriate

4: The investigation

Our appointment

- 4.1 This investigation was conducted by Alex Oram and Mark Hedges on behalf of the Council's Monitoring Officer. Alex has been investigating allegations against councillors since 2003, both as a director of ch&i and prior to that, for Standards for England, where he was responsible for conducting many of their most complex, politically sensitive and high-profile investigations into member

conduct. Mark has been conducting investigations for ch&i associates since 2016. Prior to this he served for 21 years as a detective in the Police Service.

The complaint

- 4.2 On 3 December 2024, Mr. Richard Sword, the City Council's Strategic Director for City Development and Neighbourhoods, submitted a complaint to the City Council's Monitoring Officer. The complaint concerned the conduct of Councillor Kitterick during an informal member briefing held on 11 November 2024. In attendance (via Microsoft Teams) were Mr Sword, Mr Wallace, Mr Burgin, Councillor Kitterick and Councillor X.
- 4.3 In his complaint, Mr Sword explained that the meeting had been arranged so that he and his colleagues could brief the relevant ward councillors on the potential purchase of a former student halls of residence (the 'Yoho building') ahead of any formal executive decision or public announcement.
- 4.4 Mr Sword alleged that during the meeting, Councillor Kitterick was repeatedly disrespectful towards officers, constantly interrupted them and did not listen to their presentation. Mr Sword wrote: *"During the meeting, Cllr Kitterick had periods of angry outbursts, accusing officers of mis-leading members, constantly ignored officers' attempts to contribute to the meeting/presentation or respond to his points. His whole approach was to humiliate officers, nitpicking on points, and then making rather odd suggestions about the proposal such as "just be honest with us for a change, this is just the Dawn centre on steroids" suggesting the proposal is something very different to what it actually was and "I am not being hoodwinked by you lot again, this is just nonsense, why can't you just be honest" evidently suggesting officers were consistently lying and misleading members. All attempts to discuss these points were re-buffed by him abruptly, despite officer's best attempts to engage."*
- 4.5 Mr Sword stated that Councillor Kitterick was particularly intimidating towards Mr Chris Burgin, the Council's Director of Housing. He wrote: *"He made several personal derogatory comments about Chris's performance and delivery as a Director of Housing: "and you Chris, have resided over some of the worst and poorest delivery of housing in Leicester's history", this is simply factually incorrect. Given the acute challenges our housing team are facing I found this particularly offensive, and a genuine attempt to undermine / intimidate Chris during his presentation to members. Furthermore, I can confirm during Chris's recent 1-2-1 he formally raised this with me as his line manager, explaining that he found the behaviour of considerable concern and something that had caused him some personal distress."*
- 4.6 Mr. Sword further alleged that within hours of the briefing's conclusion, the City Council received an enquiry from a local journalist concerning the proposed acquisition of the Yoho Building. Councillor Kitterick subsequently confirmed to Mr. Sword via email that he had disclosed information regarding the proposed purchase to the journalist. Mr. Sword stated that he had explicitly communicated at the outset of the briefing that the information presented was commercially sensitive and that its disclosure could jeopardise the entire project. Additionally,

Mr. Sword highlighted the intended use of the Yoho Building to house vulnerable adults, asserting that Councillor Kitterick's information sharing could pose a future risk to the building and its residents.

4.7 Mr Sword concluded his complaint by stating: *“The meeting demonstrated the worst behaviour of a councillor I have witness (sic) in my career, and moreover the approach was evidently designed to be offensive, intimidating and humiliating towards my officers and undermine the very advice being given to councillors. Furthermore, information afforded to Cllr Kitterick in a briefing, which was clearly confidential, was given to the press within hours of the briefing and this demonstrates a clear lack of respect for the confidentiality of the information which he received as a member.”*

4.8 Mr Sword said that whilst he had considerable respect for Councillor Kitterick, his consistent and increasingly erratic behaviour towards his officers over the past 12 months had brought him to the point of having to formalise his concerns.

Our approach

4.9 During this investigation, we have considered documents sent to us by the City Council and Mr Burgin. We have conducted interviews (via videoconference) with Mr Sword, Mr Burgin, Mr Wallace and Councillor X. And Mark Hedges met with Councillor Kitterick at the City Council offices.

4.10 As part of this process, we sent this report in draft to Councillor Kitterick and Mr Sword. We invited them to comment on both its factual accuracy and our provisional considerations regarding whether the Code had been breached. We did not receive any comments.

The evidence

Background

4.11 The Yoho Building, comprising 134 units originally constructed as student accommodation, is situated within Castle Ward, which is currently represented by Councillors Kitterick, Sahu, and Gregg. Following the owners' entry into receivership, City Council officers identified the Yoho Building as a potential site for 'temporary accommodation'. Mr. Matt Wallace, the Council's Director of Estates, informed us that the City Council was facing a significant housing crisis, underscoring the need for the type of accommodation that the Yoho Building could provide.

4.12 Mr Sword and Mr Burgin, the City Council's Director of Housing, stated that the meeting with the relevant ward members was arranged because Councillor Kitterick had asked to be kept informed of any potential major acquisitions. Mr. Sword explained his rationale for the meeting: *“I wanted to engage with him around it, be transparent and hear his views and what his issues were, not least because the building sits within his ward. I knew some of the issues he would have already, but I wanted to engage and understand so that at the end of it, we could walk away and see each other's points of view.”*

- 4.13 Mr Wallace recalled a meeting months earlier where Councillor Kitterick had been very considered and sanguine about the City Council's housing needs, acknowledging the necessity of rapidly acquiring units to address the demand. Mr. Wallace emphasised that his role required swift action, there is currently a massive demand for housing, and opportunities to acquire buildings like the Yoho Building can easily be lost without prompt decision-making. As such, his own preference would have been to have purchased the Yoho building before informing councillors, *"We were dealing with the loss adjusters and they just wanted to liquidise the assets. Therefore, there was the potential to get the building at below market value. We could get a good price and vacant possession, which is important for us"*
- 4.14 Mr. Sword and Mr. Wallace stated that despite the above, they did not anticipate gaining Councillor Kitterick's support for the proposal. Mr. Wallace elaborated that Councillor Kitterick held strong views regarding National Described Space Standards (NDSS), which the units in the Yoho Building did not currently meet. Indeed, on 15 October 2024 (in response to being invited to the meeting) Councillor Kitterick wrote: *'...In order not to waste time my main query will be as to how the council proposes to resolve the issue of the space standards of the rooms at YOHO which currently stand at an average of 23sqm which from my research is smaller than most Travelodge rooms on Humberstone Gate.'* Mr. Wallace told us that while the City Council generally adheres to NDSS recommendations, they are not legally mandated. He further noted that the Yoho Building units were otherwise of a high standard and that the proposal included a plan to convert them over time to meet the NDSS requirements.
- 4.15 Mr Sword told us that Councillor Kitterick is an intelligent and very experienced politician; *"I'd like to think that we have mutual respect for each other. My experience of him is that he can bring forward robust challenges and ask very detailed forceful questions, and I have no issue with that."* Mr Sword said though that over the last couple of years, possibly coinciding with Councillor Kitterick moving to an opposition role, *"at times his behaviour has become more aggressive and there have been moments where I have seen him politically grandstand about issues and politics during meetings with officers. The reality is that officers are not politicians; they are there to put forward an approach. You can challenge their approach, but they are not politicians."*

The meeting of 11 November 2024

- 4.16 Mr Sword's Executive Assistant emailed all three ward councillors¹ on 14 October 2024 providing three possible dates for the proposed meeting. After Councillors Kitterick and X provided their availability, it was agreed that the meeting would be held on 11 November 2024. As part of the investigation, Councillor X and Councillor Kitterick provided us with the email correspondence they had with Mr Sword's Executive Assistant, along with the Teams invite they received for the meeting. Both highlighted the fact that none of the

¹ The third ward councillor, Councillor Y was invited to the meeting but did not attend.

correspondence indicated that the subject of the meeting was in any way confidential.

- 4.17 This briefing was conducted remotely via Microsoft Teams. While the officers and Councillor X could be seen and heard, Councillor Kitterick did not activate his camera. Councillor Kitterick informed us that his decision not to turn on his camera was based on two reasons: firstly, the unreliability of his home broadband signal, and secondly, his discomfort with being on camera.
- 4.18 Mr Sword told us that when he introduced the meeting, he tried to give some relevant context to the proposed purchase of the Yoho building. Mr Sword was clear that when doing so, he told members it was a private briefing. Mr Sword told us: *“I said that the information was confidential, and it was a closed-door briefing. I didn’t labour the confidentiality aspect, but I was clear about it.... The reason the meeting was confidential was that at that point we had not made any decisions about the building. The building was in receivership and was not being openly marketed. The previous owners had gone into liquidation and the bank had repossessed it, so the price we had negotiated was confidential. We also didn’t want to circulate the location of the building. At one point during the meeting, questions were asked about why the building was in receivership and about how the price was made up. Matt Wallace asked me if it was okay to answer these questions. I said that the briefing was confidential and that we needed to be open and transparent, so we should answer the questions, because the answers would come out at a later stage anyway... I’m sure it was obvious to Councillor Kitterick that the information was confidential regardless of the warnings that were given. Both Matt and Chris[Burgin] told me we were very clear about the confidential nature of the meeting.”*
- 4.19 Mr Burgin told us: *‘Richard [Sword] was clear when he spoke at the beginning of the meeting that the information we were going to provide needed to stay between the four walls. He was clear who the seller was, and how we had got to this stage (in that the bank owned the commodity - there were sensitivities around that). Also, that we had not yet bought it and were still doing due diligence... any externalisation of that may damage the proposed deal. Neither councillor made any comment to Richard about this.’*
- 4.20 Mr Wallace’s account of the start of the meeting fully supported Mr Sword’s recollection. Mr Wallace told us: *‘I felt that Richard was quite clear at the beginning of the meeting about the confidential nature of the information we were going to present. That we were speaking to them as it was on their patch, and that we wanted to do it because it was the right thing to do for the city.’*
- 4.21 Mr. Wallace further noted that he understood that Mr Sword had been more apprehensive than he regarding the potential disruption the briefing might cause. Mr Wallace said that while the ‘politics’ surrounding the decision was always going to be relevant to him, Councillor Kitterick *‘is not a stupid guy. He knew there was a housing need, and I’ve seen him be supportive and embrace projects in that spirit... Chris was going to explain the housing need, which he is very good at. Then we were going to say that we appreciated it was former student accommodation and probably suboptimal, but the units are fantastic. They are*

slightly smaller than normal units, but they are spot on and only four years old. I didn't think twice about it."

- 4.22 Councillor X told us that they joined the meeting before Councillor Kitterick and that they immediately considered it an odd atmosphere. They said, *"When I joined, it was really icy. No one said anything. Nothing at all. No one welcomed me, or started any 'small talk'. Eventually, I started chatting with Matt Wallace about a LCFC game. There was an atmosphere from the very start, even before Patrick arrived. And I was completely unaware why."*
- 4.23 Councillor X's recollection of the start of the meeting was that Mr Burgin went straight into his PowerPoint presentation. Councillor X told us that if officers were claiming that Mr Sword started the meeting, then he could have done no more than invite Mr Burgin to begin his presentation. And when we asked Councillor X whether Mr Sword made it clear that the information being provided was confidential, they told us: *'At no point before or during the meeting did he tell us that information was confidential. I wasn't aware that it was confidential at all. Richard didn't say it was a confidential meeting or that Chatham House rules applied. It definitely wasn't said at the very beginning.'*
- 4.24 Councillor Kitterick told us that he joined the meeting a few minutes late and when he did, it seemed that there was some small talk going on between Councillor X and Mr Wallace. Councillor Kitterick's account of the start of the meeting aligned with Councillor X's, in that he told us that he could not recall anything being said before Mr Burgin started his presentation. In response to the suggestion that he and Councillor X had been told that the information being provided during the briefing was confidential, Councillor Kitterick told us: *"I mean, my recollection is usually good. I would pride myself that I would recall if it was private and confidential. Would I put my life on that he never said it? No. Do I absolutely believe that he didn't give a briefing that it was private and confidential? Do I have any recollection that the PowerPoint presentation said it was private and confidential? No. The only things I can produce which are objective evidence [are] the email introduction and the Teams meeting notification."*
- 4.25 We have seen both the emailed invitation to the meeting and the Teams notification; neither referred to the briefing including confidential information.

Matters related to the allegation that Councillor Kitterick failed to treat officers with respect / bullied Mr Burgin during the meeting.

- 4.26 During the course of this investigation, we received the PowerPoint presentation used by officers during the briefing and a transcript of the comments Councillor Kitterick made through the Microsoft Teams instant messaging (IM) function. However, as there was no video or audio recording of the meeting, our determination of Councillor Kitterick's verbal statements and the manner in which they were delivered has been based on the oral testimonies provided by those who were present. We set out this evidence below, followed by our considerations on the material facts.

Chris Burgin

- 4.27 Mr Burgin told us that the plan for the briefing was that following Mr Sword's introduction, he would present the first eight slides of the presentation and then hand over for Mr Wallace to explain the ninth slide. Mr Burgin told us: *'I think I only made it to slide three, before Councillor Kitterick started to interrupt me and talk over me. I was happy to take questions as we went through it, but Councillor Kitterick quickly started to say what I deemed to be unacceptable things and was talking over me. I was trying to explain that more specific information would be shared further into the presentation. He just kept ranting on about all the things that were wrong with it. He said it was the Dawn Centre on steroids (the Dawn Centre being our singles hostel). He then went on to state that I was the worst Director of Housing that the Council had ever had, shouting examples of Hospital Close, St Leonards Court lift replacement, District Heating metering [and] the Lees as examples of why this was the case. He even threw in things that happened before my time, such as Lower Hastings Street Women's Hostel. He suggested I was lying to him, and misleading members about the Yoho building. He started asking me to tell the truth.'*
- 4.28 Mr Burgin said that while Councillor Kitterick had his camera turned off throughout the meeting, the tone of his voice came across *"as aggressive, angry, rude and offensive."* Mr Burgin said this was not the first time that Councillor Kitterick had thrown some of these accusations at him; on these occasions, he had shrugged them off because, as a senior officer and head of the service area, he had to expect critical comment. Mr Burgin also commented that he had high opinion of Councillor Kitterick, saying, *"I have always seen Councillor Kitterick as a good councillor, someone who is robust, clearly well educated, cares about his area and is willing to challenge officers as he has done with me. I think he is good at his job."*
- 4.29 Mr Burgin said that Councillor Kitterick's conduct at the meeting of 11 November *"felt different. [Councillor Kitterick] was much more agitated. Much angrier. Much more aggressive. And it was a much more prolonged period of insult...The difference between Councillor Kitterick's previous accusations and this one was that previously, he had framed his comments as failings by the Housing Division, whereas this time, he was specific that I was the worst Director of Housing."*
- 4.30 Mr Burgin told us that after Councillor Kitterick's initial *"rant"* at him, he made further comments using the Teams IM facility (found at annex A of this report). Mr Burgin said that he could understand many of Councillor Kitterick's concerns and regarded Councillor Kitterick's contributions via IM as fairly reasonable. Mr Burgin told us though that he and his colleagues were never really able to talk informally with the councillors about their preliminary plans for managing the building (bearing in mind that things were at a very early stage and the building had not yet been purchased) because Councillor Kitterick's interruptions effectively prevented them from having that discussion.
- 4.31 Mr Burgin also told us that Councillor X seemed interested in finding out more about the project and asked some really sensible questions. Mr Burgin said, *'I felt a bit sorry for them during the meeting, and it was one of the main reasons*

we carried on and got through the presentation. They remained quiet through Councillor Kitterick's speeches and statements, but did jump in at particular points where they had relevant questions. We then did our best to respond to and answer these questions. They were mildly challenging but genuinely interested. I'm not sure they were sold on the project either way, but the presentation did not come over as well as it could have because of Councillor Kitterick's ranting."

Matt Wallace

- 4.32 By way of context, Mr Wallace told us that while he respects Councillor Kitterick and thinks him 'a smart bloke', Councillor Kitterick appears to have a total distrust of officers, believing them to be 'the Mayor's lackeys. I understand where he is coming from, but we are trying to just do our jobs and build houses for the homeless. We don't have any ulterior motives."
- 4.33 Mr Wallace said that Councillor Kitterick "seemed pretty unstable throughout the meeting and went through periods of ignoring us. It almost seemed like he was disturbed, and he was just ranting. Richard [Sword] gave an intro, and then Chris [Burgin] presented a PowerPoint, and we started talking through it. We are all well-versed on this, as the housing need has been an issue for quite a while. Chris was trying to explain the need and set context. And it just sort of deteriorated from there. Councillor Kitterick just lost the plot. He was really critical, and it seemed like political showboating. It seemed like he already knew about the building, which was not unusual as we had been interested in it before and it's in his ward. He completely sidewinded it by saying words like 'You expect to come in here, tell us you're going to do this, and we are going to buy substandard property for our people'. We were trying to say "Hang on. What we're saying is, the building is going to serve a need." I thought Chris handled this admirably and tried to give a structured response. But then Patrick [Kitterick] came back with just verbal abuse really. He was cutting off Chris, saying that Chris was incompetent. For the years he had been there, this was the worst housing crisis, and it was caused by him and his team. It was disgraceful, to be fair. Chris is trying really hard, and he has got a big challenge. It was awful what Councillor Kitterick subjected him to and tantamount to bullying..."
- 4.34 Mr Wallace told us that during the meeting, Councillor Kitterick accused officers of trying to 'railroad', 'hoodwink' and 'con' members into 'agreeing to be part of a sham'. Mr Wallace asserted that in fact, he and his colleagues considered the Yoho building to be an excellent opportunity for the City Council to meet an urgent need. Mr Wallace said that Mr Burgin had "got it all panned out, but because Councillor Kitterick wasn't allowing him to explain, and wasn't listening to him when he was trying to explain it, Councillor Kitterick would have never got that back story ... because he was just too hell bent on saying, 'You guys just go off and do it anyway.' He was like a cocked gun through Chris's presentation. He went off after about the second slide. Chris had barely started before he [Councillor Kitterick] interrupted. I think he just thought the building was not up to standard, and he wasn't going to listen to what Chris had to say."

4.35 In terms of Councillor Kitterick's tone and manner during the meeting; Mr Wallace described him as being abrasive and argumentative, *"interrupting Chris. Not allowing Chris to do his presentation. And not listening to Chris when he tried to explain. When I did my bit about the market and numbers, Councillor Kitterick was still trying to argue with me. But it was easy to bat back, as it appeared his argument was being made up on the hoof without any proper research. I was more concerned about the total disrespect he was showing my colleague."*

Richard Sword

4.36 Mr Sword told us that after he handed over to Mr Burgin, *"I think Chris only got to the first slide before Councillor Kitterick interjected and said, 'why don't we cut to the chase and stop this nonsense'. We were all thinking, hang on a minute. I felt sorry for Councillor X to be honest, I don't think they even knew where the Yoho building was, and so the presentation was pertinent to them. Councillor Kitterick was immediately aggressive and was not letting anyone else speak. I tried to answer a question from Councillor X, and he immediately spoke over me. Councillor X was asking really good, measured questions, and it was clear that they wanted to know more about the proposal."*

4.37 Mr Sword told us that while he and his fellow senior officers are used to robust conversation, *"there was absolutely no reason for Councillor Kitterick to say that Chris was the worst Housing Director we have ever had. That he has got the poorest record. There was no reason to bring that into the meeting."* Mr Sword told us that he took some contemporaneous notes which he said included the following comments being made by Councillor Kitterick to Mr Burgin:

- *"Just be honest with us for a change. This is the Dawn Centre on steroids."*
- *"I'm not being hoodwinked by you lot again."*
- *"This is nonsense."*
- *"Why can't you just all be honest?"*
- *"You, Chris, have presided over some of the worst and poorest delivery of housing in Leicester's history."*

4.38 Mr Sword said *"It was very specific and personalised towards Chris. Chris actually interjected when he said this and said he had had enough. In hindsight I probably should have stopped the meeting at this point. And I feel a bit responsible for the impact that Councillor Kitterick's comments had on Chris. I think we were only at slide four at this point, so we had not given the information that we wanted to."*

4.39 Mr Sword wanted it noted that he had spoken with Councillor Kitterick previously about his behaviour towards officers and understood that the Monitoring Officer had done the same. Mr Sword told us that in hindsight, maybe trying to deal with Councillor Kitterick's behaviour informally had been the wrong approach, because it appears to have emboldened him. Mr Sword added that while the impact of Councillor Kitterick's behaviour on Mr Burden had caused him significant concern, he had also been worried about Councillor Kitterick *"because his behaviour was so erratic... at heart I think he is a good guy."*

Councillor X

- 4.40 Councillor X told us that prior to the meeting, they knew little about its purpose and had not even heard of the Yoho building. They told us: *“I thought Patrick [Councillor Kitterick] had called the meeting to try and get some understanding about what the plans were. From a ward councillor’s perspective, there were issues about the size of the development, the number of people. The building is literally in the city. It was apparently once a student building. I wasn’t aware of it. It’s not a well-known student building.”*
- 4.41 Councillor X said that they believed that Councillor Kitterick had somehow heard about the potential purchase prior to the meeting and had serious concerns about the size. Councillor X said, *“There’s accommodation in Leicester called the Dawn Centre. It has a lot less rooms than the Yoho building, but how it came across at the meeting was that they’re looking to make the Yoho building the same sort of demographic as the Dawn Centre, but four times the size in a residential street with very little support for the people they’re looking to put in there. So. there were lots of issues around that.”*
- 4.42 When we asked Councillor X for their recollection of the meeting, their focus initially was on the way in which they felt they had been treated. They told us: *‘...it felt like alpha males trying to score points. What really annoyed me about it was, it was like I was superfluous. I was asking what I thought were perfectly relevant and reasonable questions. Richard wasn’t particularly interested. He could have quite easily deflected his animosity from Patrick onto my questions. We’ve all been in awkward meetings and you deflect, where you ignore the negative, and you focus on the positive. That’s not what happened. I was ignored in that meeting, even though I was then trying to ask some relevant questions about particular bits to try and bring it back on track, because you could just tell it was getting spiky. I would say that Richard Sword was at fault because he was the senior employee there. I’ve held and I still have senior roles in my work outside the Council. I’ve been in tricky meetings where you have to manage personalities and people. But what you do not do is go head-to-head. You do not turn your camera off midpoint. You do not sideline the other person, who is making very reasonable comments. I’m not saying it was an easy meeting. There were contentious points being made. And it wasn’t helped by Chris Burgin, who for whatever reason wanted to go through his presentation from slide one. We already knew a lot of the information in his presentation. We wanted to get to how many rooms? how much? etc. It was a bit like they were trying to do a bit of a flannel and sales pitch. So, there were points where we said “Can we move on?” But he still wanted to finish his bit before we moved on. There was one upmanship at play. And people trying to point score.... So from my point of view, I thought all three of them [officers] were out of order for that. It felt a really sexist meeting, and I was really annoyed. Patrick delivered his bit, and he can be contentious. He says things in a particular way that I wouldn’t. But for me, that meeting had a whole different set of issues. The whole thing seemed like sexist men there going to do battle. They’d already got an idea. There was a preconceived idea of how it was all going to be, and it didn’t matter that I was*

there. Made no difference. I asked really valid questions,...that's what they should have focused on. But that didn't happen. It absolutely didn't happen.

they left me to one side. And therefore, we missed a vital opportunity to really resolve some of these issues.”

- 4.43 When we asked Councillor X for their recollection of Councillor Kitterick's behaviour, they told us: *'In terms of what Patrick said to Chris; there were comments that were a bit derogatory. I can't remember an exact example, but it was along the lines of 'You're not doing your job properly'. I think this was because he had real concerns about what would happen with that amount of people in the Yoho building, when we already have serious issues around the Dawn Centre. Patrick said it's basically going to be Dawn Centre on steroids. Which I think is a valid concern...I think Patrick said things in a way that I wouldn't necessarily have said things. But then, equally, I think he's got 20 years worth of dealing with people. Patrick definitely has experience with these people. He sits on the Planning Committee. He's been involved in Hospital Close. He was involved in the Dawn Centre. He felt the officers weren't being truthful. We have to ask the questions. I can't remember Patrick saying specifically that officers were lying to him, but I definitely got the impression that we weren't being given the whole truth.'*

Councillor Kitterick

- 4.44 Councillor Kitterick told us that he knew going into the meeting that the officers were proposing that the City Council purchase the Yoho building – he had informed them beforehand, via email, that his primary objection to its potential purchase was that the units did not comply with NDSS standards. Councillor Kitterick said that he did not know the planned purpose for the building was as accommodation for asylum seekers, which he may have supported. As it was, when the officers said that the aim was to use the building as temporary accommodation dedicated to people with substance misuse issues, he had immediate concerns. Councillor Kitterick told us that he felt that the officers were using a loophole to get around the fact that the flats did not comply with NDSS standards, in that they were saying it was only temporary accommodation and that residents would not be placed there for any longer than 18 months. Councillor Kitterick said that the reality was that after the 18 months, residents would be left with the decision to remain in the Yoho building or become homeless.
- 4.45 Councillor Kitterick said that he was put in a very awkward position by the officers, because it was clear from the outset that he was not being consulted; he was simply *'being told why this is good'*. Councillor Kitterick said that from his perspective, their proposal just got worse as the presentation progressed: From the inadequate size of the units, to the proposed use for people with substance misuse issues, to the overly high cost of £11 million when studio flats can be bought for £60k. At interview, Councillor Kitterick highlighted the serious potential consequences should the proposal come to fruition and made the point that at the meeting, officers were effectively presenting a highly controversial political

decision – one that they already knew would antagonise him – and yet there was nobody present with whom he could challenge or debate it.

- 4.46 Given the above, Councillor Kitterick said that in his view (and in hindsight, he said perhaps he should have insisted) the meeting should have taken place face-to-face and with the Executive Member present. Councillor Kitterick said that it was a political meeting and therefore any comments he had would have been better made to the Political Lead rather than to the senior officers. When asked whether such comments were needed at what was meant to be just a briefing, Councillor Kitterick highlighted the fact that the officers were clearly advocating for the proposal and that when he expressed what he considered to be legitimate concerns, Mr Sword specially invited him to comment further by asking, “*What would you do then Patrick?*” Councillor Kitterick made the point that he is an opposition councillor and as such, officers cannot expect to have the same sort of meetings with him as they might have with councillors on the Executive.
- 4.47 Further to the above, Councillor Kitterick told us the City Council’s Mayoral system meant that purchasing the Yoho building could have gone through without any further debate or even given cursory scrutiny. Councillor Kitterick said that the Housing Department would have already spoken with the Planning Department to get their plans approved in theory and that the YOHO building could have been purchased quickly and without any public scrutiny: *‘The City Mayor would have issued an executive decision. We’d have had five days to call it in, which we would have done. It would have gone to the next Overview Select Committee. The Overview Select Committee would then have quashed the call in and that would have been the end of it.’*
- 4.48 Councillor Kitterick confirmed at interview that he did refer to the proposal as “*the Dawn Centre on steroids.*” Councillor Kitterick told us a little of the history of the Dawn Centre, and how, while it is ‘*not all bad*’, there are significant problems both in and around in part because it is significantly larger than initially envisaged, meaning many people with substance misuse issues have been grouped together in the same place. Councillor Kitterick expressed additional concerns about the proposed residents of the Yoho building getting even less support, saying, “*Now the simple fact is, if you have a substance misuse issue, you are meant to get three-to-five hours support. I’ve been contacted both by neighbours and users within the Housing Network that deliver this support, and they say, literally, a woman comes... in just to check that nobody’s died overnight. That’s the level. So not only is [the Yoho building] twice the size of the Dawn Centre, there clearly isn’t any of the dedicated buildings for support. I could be wrong, but certainly that’s how it was presented. And the simple fact is, the Dawn Centre closes at 10 in the evening. Presumably, this building, as it’s a general accommodation, won’t close.*”
- 4.49 Councillor Kitterick also acknowledged being critical of Mr Burgin, again referencing Mr Sword’s comment ‘*Well what would you do then Patrick?*’ as an invitation to provide an opinion. Councillor Kitterick said: “*The City Council’s record of building housing in the city is poor. I would say that to you. I would say that in public. Then, in terms of the quality of the housing, Chris is... making a proposal that we should house people in 23 sqm flats while the National Space*

number is 37 sqm. Now Chris and Matt and Richard may disagree with the criticism. They may think it's unfair. They may well think that I haven't taken due account of the lack of funding or the government rules etc. But if, in a private briefing, I'm not allowed to be critical of the performance of the Council in reference to it?

- 4.50 In terms of the specific criticisms raised in the complaint and by the officers we spoke with, Councillor Kitterick confirmed that he did reference what he saw as previous failings by the Housing Department. He told us: *"You have to remember Chris Burgin is not a local Neighbourhood Housing Officer. He's the Director of Housing". Councillor Kitterick told us that Hospital Close comprises 135 units and is only just about to start being occupied despite being purchased nearly five years after purchase; "I just said 'You haven't delivered Hospital Close'. When Richard Sword said, 'What would you do?' I said, 'Well, I'd have delivered Hospital Close for a start.'"* And in terms of St Leonard's lift, Councillor Kitterick could not recall referencing it in the meeting, but added, *"the lift is there now, yeah. But again, it took five years to get a new lift installed. And I was told that would happen within six months. So, I asked questions of the Political Lead for Housing over that period of four years. During that time, the lift did break down. There were residents who were in their 70s, who had to climb five flights of stairs."*
- 4.51 When we asked Councillor Kitterick if he had told Mr Burgin that he was the worst Director of Housing the City Council had ever had, he told us: *'I may have. I do not recollect that, but I might say the performance has been terrible... I think the housing department of Leicester City Council performs very poorly.'* Councillor Kitterick went on to say that he did not have any issues with Mr Burgin per se; his issue is with the *'unfortunate attitudes'* he sees nearly all Council Housing Departments have when dealing with those who rely on them.
- 4.52 In terms of his own manner during the meeting, Councillor Kitterick said, *"If I was in any way aggressive, it was because I was trying to express just how much I disliked this. And there was virtually no other outlet for this. It could have been a 10-day wonder in terms of decision announcement to decision being closed."* Councillor Kitterick said that he may have started employing a rhetorical style that generally saves for the Council Chamber, and that this may have come across as antagonistic over Teams when only his audio was working. Councillor Kitterick said, *"I struggle with the Teams format... it is designed to say "We are telling you what's happening"... and so when there's some criticism, we are talking over each other. That's Teams."*
- 4.53 While acknowledging that he had been highly critical and antagonistic, Councillor Kitterick did not believe he had been disrespectful, stating *"I think you'll find out that I criticised performance. I didn't call them names. My focus was on the performance, and it was specifically in response to 'what would you do then Patrick?'.... But there is rather, a chilling kind of precedent that you've got to go into I think. Can I criticise a department's performance in a private briefing, and then have the fear that I'll be under a standards investigation?"*

- 4.54 When reflecting on the complaint, Councillor Kitterick told us, *“I am absolutely quite happy to go on the record and say, ‘Would I wish for a repeat of that meeting? Did I think that that meeting was good?’ No. It was far from good. If I were to take lessons away from it, I would probably say that I would, in future, ask that when there's a briefing of that nature, when it's potentially controversial, to ensure the attendance of the Executive Member. Because, to be honest, I can reflect that it would probably be better to direct that criticism at the Executive Member, but the Executive Member wasn't there. And you can only talk to the people who are there in the group. And to be frank, there was frustration.”*
- 4.55 Finally, Councillor Kitterick suggested that had he been chairing the meeting, he would have adjourned it when things became hostile to allow a time out. He told us: *“I think that if we'd come back to it, I'd have probably gotten over my frustrations. But in the context of what happened, in that it's very frustrating when you start a Teams call [and] you're being given a PowerPoint presentation telling you this is going to be done. You're being told. You're not being consulted. You're being told.”*

Matters related to Councillor Kitterick's alleged disclosure of confidential information

- 4.56 On 13 November 2024, Mr Sword emailed Councillor Kitterick and Councillor X as follows:

‘Dear Cllr Kitterick, Cllr X

A briefing was provided to you both on the potential purchase of the Yoho building at 10am on Monday 11th November by myself and my team.

The briefing was with the intention of engaging with you as ward councillors about the council's issues in relation to temporary accommodation pressures and our proposals on the potential of the Yoho building to support individuals held in unsuitable B&B accommodation. This engagement was deliberately in advance of any formal executive decision, which is something you have asked for before. Furthermore, the proposal is about setting up additional provision which aids credible pathways to help support people on their journey and enrich their lives so they can live an independent life.

During the briefing, Officers were clear that we had shared confidential and commercially sensitive information with you in relation to the Yoho building. I am therefore extremely disappointed that within hours of the briefing that a journalist from the Leicester Mercury has contacted the council (see attached²), detailing all the information provided and clearly identifying the only Councillor briefing which has been undertaken for the Yoho building. Furthermore, the journalist now has confidential and commercially sensitive information, alongside a lot of quite frankly bizarre misinformation and conjecture.

² We have asked Mr Sword for a copy of this document, however to date it has not been forthcoming

I am incredibly disappointed with your behaviour and intend to refer this matter to the City Barrister as a misconduct complaint. Until the matter is resolved, no further proactive meetings of this nature will be offered by myself or my staff as evidently these are neither productive or constructive.

Finally, can I please remind you that the well documented national crisis around homelessness and asylum is not the sole fault of officers, and they are simply putting forward pragmatic solutions to improve the lives of people in temporary accommodation and ensure we are in compliance with the legal framework on homelessness. Officers are continuing to work tirelessly on the homelessness crisis and often in incredibly difficult circumstances.’ (sic)

- 4.57 Councillor Kitterick responded to Mr Sword’s email on 14 November 2024. He wrote: *“For the avoidance of doubt, it was me who contacted the Leicester Mercury. More than happy to discuss this with Kamal as he is delightful company.”*
- 4.58 Mr Sword told us: *“We have previously lost big housing projects because information has got out into the public domain and the vendors have increased the price of the buildings. On top of that, we didn’t want the location of the building to be known because of the vulnerable nature of the people that would be housed there. We also didn’t want people to know that we were creating a facility of this type in the city centre, hence why the meeting was confidential. I managed to keep a lid on it by putting doubt on the misinformation that Councillor Kitterick had provided the journalist and saying that if they printed it, we wouldn’t comment. And also that if they did, it would be so far removed from reality that they would be printing something that was a load of rubbish. No article was publitheyd.”*
- 4.59 Mr Wallace told us: *‘In essence, the reality is that as a result of the leak of the confidential information we could lose the building, which is a £9.5 million deal that could save us £135,000 a week. So from my perspective, the potential loss to the Council is massive. I will have to go out and find a new building, but that can’t be done in five minutes. It is very important for me when I’m entering negotiations that I play my cards close to my chest. The deal is not done, but it is not dead. So we may still be able to get it over the line. It still has to go through an executive decision process. It’s not public until we do things like planning and get executive decisions done. By then, I will have exchanged a deal and it’s unlikely that we won’t complete on it. Because the matter has now been leaked to the press, there is nothing stopping the vendors from putting the price up.’*
- 4.60 Councillor X told us that they were unaware that the meeting was supposed to be confidential until a few days afterwards when they had a conversation with Councillor Kitterick about Mr Sword’s email of 13 November.
- 4.61 Councillor Kitterick told us that he contacted the Leicester Mercury’s Political Editor after the meeting of 11 November 2024 because he thought the proposal would benefit from a ‘*public airing*’. Councillor Kitterick said that when doing so, he had no idea that the information provided during the meeting was confidential. He pointed out that confidential meetings were usually marked as such on the

meeting invite or on the information provided – in this instance, a PowerPoint presentation. Councillor Kitterick said: *“It’s not something that I was told was confidential here. I am not a leaker. Twenty odd years. You can ask if I’ve leaked anything and it’s not there.”*

4.62 Councillor Kitterick acknowledged that because he was late to the meeting, or possibly because when he did join it quickly became heated, he may have missed Mr Sword’s warning about confidentiality. Councillor Kitterick said though that even if Mr Sword had told him not to disclose any information about the proposal more widely, he may well have done so anyway. Councillor Kitterick explained: *“My fear over what will happen - I advise you to read the Dawn Centre article - my fear of the potential consequences of that decision was; it wasn’t just unwise. It’s potentially disastrous. People have literally been killed outside the Dawn Centre. I think it was sufficiently serious, and I think the officers lack appreciation of the potential consequences.”*

4.63 Councillor Kitterick also stated: *‘Let me talk about the whole confidentiality. Number one, the purchase price would have become available on the land registry website in time. So it wasn’t a secret. Number two, in terms of somehow revealing that the Yoho building was a building for vulnerable people. We’re not talking about a domestic violence refuge for women. We’re talking about something that would have had to have gone through the planning process, which, clearly, if it should go through, I will object to it on the planning grounds. It will go towards a full committee. And finally, if you’re gonna put 100 people with substance misuse issues in a building in the city centre, people are going to find out anyway... Honestly, I’m not sure whether I could have kept the confidentiality, because I would have had to have considered the overriding public interest in whether I should have kept it confidential... I probably would have taken advice if it had been private and confidential... I would have been put in an invidious position by that. I believe the Council was spending millions too much on the purchasing of a property. And the purchase of that property would mean, and I’m not being melodramatic, people will die in that building. If you have that many people in there with substance misuse issues. I can’t be unaware of the fact that if you have 100 people with substance misuse issues right in the city centre, it will also have an impact on people in the city centre, as well as the fact that will open this door to other potential owners of student accommodation to do it.’*

Investigator’s considerations on the findings of fact

4.64 To firstly consider matters relevant to the allegation that Councillor Kitterick failed to treat officers with respect / bullied Mr Burgin during the meeting.

4.65 We found all the officers we spoke with to be credible witnesses whose recollections of events were largely consistent with one another. Mr Burgin described how Councillor Kitterick interrupted him early in the presentation, talking over him, and saying things that Mr Burgin considered unacceptable. Specifically, he recalled Councillor Kitterick describing the proposed accommodation as *“the Dawn Centre on steroids,”* and stating that Mr Burgin was the *“worst Director of Housing that the Council had ever had”*, and referencing past projects as evidence of this (not all of which he had been

involved with). Mr Burgin described Councillor Kitterick's tone as "*aggressive, angry, rude and offensive*".

- 4.66 Mr Wallace's account supported that given by Mr Burgin, describing Councillor Kitterick as "*pretty unstable,*" "*ranting,*" and "*completely sidwinding*" the presentation with critical and disrespectful remarks. He specifically recalled Councillor Kitterick accusing officers of trying to "*railroad,*" "*hoodwink,*" and "*con*" members. Mr. Wallace felt Councillor Kitterick's behaviour was "*awful*" and "*tantamount to bullying.*"
- 4.67 Mr Sword's evidence, which aligned both with his own complaint and evidence from the other officers, included that Councillor Kitterick interjected almost immediately, saying that he wanted to "*cut to the chase and stop this nonsense.*" He described Councillor Kitterick as "*immediately aggressive*" and not allowing others to speak. Mr Sword also provided contemporaneous notes of specific comments made by Councillor Kitterick, including personal criticisms of Mr Burgin's professional performance and accusations of dishonesty. Mr Sword expressed regret at not stopping the meeting due to Councillor Kitterick's behaviour.
- 4.68 Councillor X's primary concern was the way that they felt all the men present effectively sidelined them, which while understandable and not something we would want to dismiss, is not a matter that falls within the scope of our considerations. In terms of Councillor Kitterick's conduct, which it should be noted they largely had sympathy for, they did recall him making "*derogatory*" comments to Mr Burgin, along the lines of "*You're not doing your job properly.*" They also noted that Councillor Kitterick "*said things in a way that I wouldn't necessarily have said things*" and referenced his open animosity towards the officers.
- 4.69 Councillor Kitterick acknowledged being highly critical of the proposal being put forward by officers and antagonistic during the meeting (agreeing that the meeting would have benefited from a time out). He told us that he did refer to the proposal as "*the Dawn Centre on steroids.*" He also stated, "*I may have told Mr Burgin he was the worst Director of Housing*". While Councillor Kitterick was keen to stress that he framed his comments as criticism of performance, rather than personal attacks, we are satisfied based on the balance of probabilities that Councillor Kitterick also made the comments attributed to him in the complaint, which included his questioning the honesty of the information the officers were providing, and Mr Burgin's competence as Director of Housing.
- 4.70 Turning to the matters related to Councillor Kitterick's alleged disclosure of confidential information: It is common ground that following the meeting, Councillor Kitterick disclosed details of the proposal to the local press which included that the Council were considering purchasing the Yoho building, the proposed use of the building and the likely purchase price. While we will consider whether this represents a failure to comply with the Code below, we firstly need to resolve the dispute over whether members were made aware that the information provided by the officers was confidential.

4.71 We consider that the evidence supporting the assertion that Councillor Kitterick was made aware that the information provided during the briefing was confidential includes:

- The oral evidence provided by the three officers present, who all said that members were told that the information was confidential at the beginning of the meeting.
- Mr Sword's recollection that he reiterated this during the meeting.
- Mr Sword's email of 13 November 2024, which again referred to the confidential nature of the information and his concern at its disclosure.

4.72 The evidence that supports the assertion that Councillor Kitterick was not told that the meeting was confidential includes:

- The oral evidence provided by both councillors present, who stated that they were not told that the information was confidential, either before or during the meeting.
- The invitation to the meeting and the associated documentation making no reference to its confidential status.

4.73 We consider it more likely than not that Mr Sword did say during the meeting that the information was being provided to the councillors in confidence. While we note the evidence of the councillors, which strongly suggests to us that more could have been done to ensure that they understood the importance of not disclosing details of the briefing more widely, we believe the officers who were present. Furthermore, while it might have been prudent to have signposted the confidential nature of the meeting on the invitation and associated documentation, we believe that Councillor Kitterick, as an experienced councillor, should have been aware that the information provided at the meeting was of a confidential and commercially sensitive nature without having been told. While it is apparent that the briefing quickly became heated and therefore the messaging around its confidential nature might not have been Councillor Kitterick's primary concern, the presentation included the fact that officers from the City Council were in the process of negotiating the purchase of the Yoho building from the administrators. This information on its own should have been sufficient to cause Councillor Kitterick to pause, and as a minimum seek advice on his subsequent disclosure from the Monitoring Officer before contacting the press.

5: Analysis

Capacity

5.1 Section 27(2) of the Localism Act 2011 requires all relevant authorities to adopt a code of conduct "dealing with the conduct that is expected of members ... when they are acting in that capacity" (our emphasis). The Council has reiterated this in its own Code.

5.2 It is clear then that the Code does not seek to regulate what members do in their purely private and personal lives. The Code only applies to members when conducting Council business or when carrying out their constituency work.

Conduct that might be regarded as reprehensible and even unlawful is not necessarily covered by the Code; a link to that person's membership of their authority is needed.

5.3 In offering our own views on this, we recognise that the Localism Act is vague on the key point of what acting in an 'official capacity' involves. We do have the following guidance from the Local Government Association:

The Code of Conduct applies to you when you are acting in your capacity as a councillor which may include when:

- *you misuse your position as a councillor*
- *your actions would give the impression to a reasonable member of the public with knowledge of all the facts that you are acting as a councillor."*

The Guidance further states,

"There is no formal description of what the role of a councillor is, but aside from formal local authority business it would include promoting and representing the local authority in the local community and acting as a bridge between the community and the local authority. The LGA's guidance for new councillors is a helpful reference point.

The code does not, therefore, apply solely when you are in local authority meetings or on local authority premises.

The code applies to all forms of communication and interaction, including:

- *at face-to-face meetings*
- *at online or telephone meetings*
- *in written communication*
- *in verbal communication*
- *in non-verbal communications*
- *in electronic and social media communication, posts, statements, and comments.*

This includes interactions with the public as well as with fellow councillors and local authority officers...

For something to fall within the code there must be a clear link to a local authority function or your role as a councillor. For example, 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."

5.4 In this case there can be no doubt that Councillor Kitterick was acting in his capacity as a member of the City Council given that he was engaged in a meeting with City Council officers in relation to the business of the City Council, the Code is therefore engaged.

Code principles

- 5.5 The intention of the Code is to ensure that the conduct of public life at the local government level does not fall below a minimum level which engenders public confidence in democracy. To objectively assess Councillor Kitterick's conduct, we need to set out clearly what we understand each requirement (relevant to these complaints) to mean, and what a breach of that requirement looks like. We then consider whether the conduct as found represents a breach of the Code or not.
- 5.6 **2.a Treat others with respect:** A failure to treat others with respect will occur when unreasonable or demeaning behaviour is directed by one person against or about another. The circumstances in which the behaviour occurred are relevant in assessing whether the behaviour is disrespectful. The circumstances include the place where the behaviour occurred, who observed the behaviour, the character and relationship of the people involved, and any provoking factors. Disrespectful behaviour can take many different forms ranging from overt acts of abuse and disruptive or bad behaviour to insidious actions such as the demeaning treatment of others. It is subjective and difficult to define. However, it is important to remember that any behaviour that a reasonable person would think would influence the willingness of fellow councillors, officers or members of the public to speak up or interact with a councillor because they expect the encounter will be unpleasant or highly uncomfortable fits the definition of disrespectful behaviour.

Examples of disrespect in a local government context might include rude or angry outbursts in meetings, use of inappropriate language such as swearing in meetings or written communications, ignoring someone who is attempting to contribute to a discussion, attempts to shame or humiliate others in public, nit-picking and fault-finding, the use of inappropriate sarcasm in communications, and the sharing of malicious gossip or rumours.

That is not to say that councillor cannot be critical about others or robustly defend themselves from criticism. In the everyday running of a local authority, it is inevitable that councillors will have disagreements with officers and other councillors from time to time. The Code of Conduct is not intended to constrain councillors' involvement in local governance, including the role of councillors to challenge the performance of officers. Councillors can question and probe poor officer performance provided it is done in an appropriate way.

The Standards Board for England Case Review 2010 (2011 Edition), which focused on the way in which local councillors should treat others, and in particular each other, provides guidance on treating others with respect by indicating a 'rule of thumb' comparison: "You're talking drivell" is likely to be an acceptable expression of disagreement. Calling someone an "incompetent moron", on the other hand, is more likely to be a failure to comply with the Code. We can see that the first comment is aimed at the expression of an idea or argument. The

second is aimed at the person and their personal characteristics. Whilst some care must be taken in adopting wholesale a test applicable to a provision of the former national model code, it is the personalisation of comments that cause the user to breach the Code

5.7 2.b Not bully others: We assess bullying using the same definition used by ACAS. Bullying may be characterised as offensive, intimidating, malicious or insulting behaviour involving an abuse or misuse of power that can make a person feel vulnerable, upset, undermined, humiliated, denigrated or threatened. Power does not always mean being in a position of authority and can include both personal strength and the power to coerce through fear or intimidation. Examples of bullying may include verbal abuse, such as shouting, swearing, threatening, insulting, being sarcastic towards, ridiculing or demeaning others with the use of inappropriate nicknames or humiliating language.

Harassment is any unwanted conduct that has the purpose or effect of violating a person's dignity or creating an intimidating, hostile, degrading, humiliating or offensive environment for them.

Bullying and harassment can happen to anyone, no matter their job, position, or workplace. It can be obvious, like physical threats or intimidation, or it can be more hidden, happening privately or in ways that are hard to spot at first. For example, it might start with small things like constant criticism or picking on someone, but over time, these actions can add up and turn into more serious behaviour, allowing the bully to isolate and control the person.

Some bullies lack insight into their behaviour and are unaware of how others perceive it. Others know exactly what they are doing and will continue to bully if they feel they are unlikely to be challenged. Bullying and harassment can sometimes be overlooked, because of common euphemisms being used by way of explanation or justification, referring to someone as having a "poor communication style" or a "bad attitude", for example, or to the problem being due to a "personality clash".

5.8 2.d Respect the confidentiality of information which you receive as a Member: We have set out the guidance provided by the Local Government Association on this aspect of the Code in full at annex B. When making our own recommendation, we will firstly consider whether the relevant information:

- Has the necessary 'quality of confidence' about it (trivial information will not be confidential, but information that you would expect people to want to be private would be).
- Was divulged in circumstances importing an obligation of confidence (information properly in the public domain will not be confidential)".

Also relevant is the judgement on confidentiality by Lord Goff in *AG v Guardian Newspapers* in which he stated:

“a duty of confidence arises when confidential information comes to the knowledge of a person...in circumstances where he has notice, or is held to have agreed, that the information is confidential, with the effect that it would be just in all the circumstances that he should be precluded from disclosing the information to others.”

If the information disclosed does have the necessary quality of confidence, any investigation must also consider whether the member disclosing it:

- had the consent of a person authorised to give it; or
- was required by law to do so; or
- only made the disclosure 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
- the disclosure was—
 - (a) reasonable and in the public interest; and
 - (b) made in good faith and in compliance with the reasonable requirements of the authority

5.9 Freedom of Speech: When considering whether any councillor has failed to comply with the Code, however, we must balance the right of others not to be subjected to unreasonable or excessive personal attack with the right of any councillor to challenge and criticise the conduct of others. Any considerations must give due regard to Councillor Kitterick’s right to free speech and to the realities of political life.

Particularly relevant to this matter are the principles that any restrictions must reflect a ‘pressing social need’ and that ‘political expression’ must be interpreted widely and include open discussion on political issues including public administration and public concern, as well as comments about the adequacy or inadequacy of the performance of public duties by others. Councillors operate in a political environment and must be free to make political points and discuss matters of public concern without undue interference.

In *Heesom v Public Service Ombudsman for Wales* [2014] EWHC 1504, it was made clear that Article 10 protects not only the substance of what is said, but also the form in which it is conveyed: “Therefore, in the political context, a degree of the immoderate, offensive, shocking, disturbing, exaggerated, provocative, polemical, colourful, emotive, non-rational and aggressive, that would not be acceptable outside that context, is tolerated.” The ruling, which drew attention to a number of earlier cases, made it clear that a higher level of protection was offered to political expression, and that political expression should be considered a broad concept, extending to comments about the performance of public duties by others. The *Heesom* ruling also stressed that unlike officers or members of the public, politicians are required to have a thick skin and be tolerant of criticism and adverse comment. In our experience, those who involve themselves in the

Town/Parish tier of local politics often do not consider themselves to be 'politicians' and therefore do not expect to deal with confrontational behaviour. The Heesom ruling though made it clear that the propositions described above apply equally at all levels of politics, including local.

That said, the Localism Act, under which the Town Council has adopted a Code of Conduct, provides that a councillor's freedom of speech may be legally restricted. In considering whether such restrictions are necessary, it is important to recognise that one of the primary objectives of the Code—and any sanctions imposed for breaches thereof—is to safeguard the reputation and rights of others from offensive, abusive, and defamatory remarks. The right to freedom of expression is not absolute. Councillors must understand that limitations can be imposed to protect the rights and reputations of others, and to enable officers to carry out their duties without undue interference. Councillors should, therefore, carefully consider both the content and manner of their communication, as well as how their conduct might be perceived. There is no reason why councillors cannot fulfil their roles in scrutinising, representing the public and constituents, or advancing political arguments in a respectful, courteous, and appropriate manner, without resorting to personal attacks, offensive language, or unnecessary disruption. Indeed, such conduct is encouraged.

Councillor Kitterick's conduct

- 5.10 We are satisfied that Councillor Kitterick had genuine concerns about the proposal that was put before him at the meeting of 11 November 2024. Councillor Kitterick spoke to us about the potential serious consequences and the deficiencies that he perceived to exist in both the suitability of the property for its proposed use and the price. We are also satisfied that Councillor Kitterick had genuine concerns about how the project might progress following the briefing, without what he considered to be the necessary scrutiny. In that context, it is understandable that he felt the need to raise his concerns robustly with the relevant officers, particularly as both he and Councillor X considered that their briefing came across more as a '*sales pitch*' for the administration.
- 5.11 When considering whether Councillor Kitterick's behaviour toward the officers represents a failure to comply with the paragraphs of the Code that require him to treat others with respect and not bully anyone, we must recognise the freedom members have to disagree with the views, opinions, and actions of others. Councillors have a responsibility to challenge, scrutinise and provide constructive criticism when necessary to ensure transparency, accountability, and that the best interests of their constituents are being met.
- 5.12 It is our view then that members should be able to express in forceful terms concerns that they have about any aspect of the running of the Council, including the actions of officers within their Authority. We of course can't comment on the veracity of Councillor Kitterick's concerns about the proposal; our considerations are limited to whether the way in which he communicated them was congruent with his responsibilities under the Code of Conduct. We are satisfied though that his concerns were expressed in good faith; this was not simply a malicious attack on City Council officers.

- 5.13 Having said that, while ideas, policies, recommendations, and advice may be challenged and criticised - Councillor Kitterick is entitled to express any concerns he might have in good faith within the correct forum – individuals should not be subject to unreasonable or excessive personal attack. This is particularly relevant when councillors make comments about the competence and integrity of Council officers. Councillors are considered collectively responsible for their authority's employees, and the comments and behaviour of individual councillors can create risks for the council corporate, up to and including legal action being brought through an employment tribunal. The standards expected of public office holders are high, and employees have a right to expect the same level of behaviour and professionalism from their employers, including councillors, as in any workplace environment.
- 5.14 The ultimate goal of any criticism by a councillor should be to improve the functioning of their Council and the services provided to the community. By maintaining a respectful and constructive approach, councillors should be able to communicate their concerns effectively while maintaining a positive working relationship with their officers. In order to do so, they must focus on the issues, not the individuals, criticising specific policies, decisions, or actions rather than attacking the personal character or abilities of Council officers. They should also maintain a respectful tone and approach when expressing their concerns, avoiding inflammatory or offensive language. Instead of solely pointing out problems, they should try and provide constructive suggestions or alternative approaches.
- 5.15 Councillor Kitterick is clearly a councillor whom the officers we spoke to have a generally high opinion of. On this occasion, though, while Councillor Kitterick may have had genuine concerns about the proposal and felt frustrated by the briefing format, the evidence is that his behaviour went beyond robust questioning and expressing strong disagreement. The descriptions of his tone as aggressive, angry, rude, and offensive, coupled with the personal nature of some of his criticisms, lead us to consider that Councillor Kitterick did, on this occasion, fail to treat officers with respect.
- 5.16 Furthermore, we consider that Councillor Kitterick's repeated interruptions, aggressive tone, and personalised criticism of Mr Burgin not only impeded the purpose of the briefing but was tantamount to bullying. While we agree that Councillor Kitterick can speak with more candour about Council business in a private briefing with senior officers (as opposed say to a public meeting / engaging with more junior officers), it does not give him the right to make offensive and personalised comments about Mr Burgin in front of his colleagues and another councillor. If a councillor believes that an officer is either not competent in their job, or has concerns about their integrity, then the City Council has proper procedures in place to allow them to be raised fairly and then properly investigated. A councillor making such accusations in an antagonistic manner during a briefing because they do not support the proposal before them is an abuse of power that creates an unacceptably hostile working environment. While we do not believe that it would necessarily have been Councillor Kitterick's

intention to have left Mr Burgin feeling personally abused, we are satisfied based on the accounts provided by the officers that this was its impact.

5.17 Turning to Councillor Kitterick's disclosure to the press: Deciding whether to publicly disclose sensitive information about ongoing Council negotiations is a serious matter. In these circumstances we would expect a councillor to balance their duties as an elected official - transparency and accountability to the electorate - against their legal and fiduciary obligations to protect the Council's negotiating position and any confidentiality rules that may apply. To decide whether any disclosure is reasonable and in the public interest, a councillor should conduct a balancing exercise weighing up the public interest in maintaining confidentiality against any countervailing public interest favouring disclosure. This will require a careful focus on how confidential the information is, on any potentially harmful consequences of its disclosure (including the loss of trust from officers), and on any factors which may justify its disclosure despite these potential consequences. In order to assist these considerations, a councillor should always seek advice from their monitoring officer before disclosure.

5.18 While we do not necessarily share Mr Sword's concerns about the need to keep the proposed use of the building confidential in order to safeguard the potential residents, we are of the view that the information pertaining to the ongoing commercial negotiations has the necessary 'quality of confidence' about it; was divulged in circumstances importing an obligation of confidence; and the disclosure of it had the potential to be detrimental to the party wishing to keep it confidential. Given that Councillor Kitterick's disclosure did not have the consent of a person authorised to give it; was not required by law / or was only made the disclosure to a third party for the purpose of obtaining professional advice, and the Monitoring Officer was not consulted, we are satisfied that he did failed to respect the confidentiality of information which he received.

6. Recommendations

6.1 Given the above, we recommend that Councillor Kitterick be found to have failed to comply with paragraphs 2a,2b and 2d of the City Council's Code of Conduct.

Annex A Teams Instant messages written by Councillor Kitterick during the meeting of 11 November 2024.

- Isn't around £100,000 for a 23sqm per studio very generous to a company going bust.
- They must be delighted that someone who are mugs have bought the building.
- https://www.rightmove.co.uk/properties/150578276#/media?activePlan=1&id=media0&channel=RES_BUY
- Check out this 1 bedroom flat for sale on Rightmove
- 1 bedroom flat for sale in Lee Street, Leicester, Leicestershire, LE1 for £60,000. Marketed by Frank Innes, Leicester
- https://www.rightmove.co.uk/properties/150578276#/media?activePlan=1&id=media0&channel=RES_BUY
- What happens if the Council does a deal with a private accommodation agency to off load it's responsibility for the homeless? What happens if you take people with chaotic lifestyles, mental health problems, those trying to overcome substance abuse, those still actively engaged in substance abuse and you just chuck them together in some private student let's in [area]? The answer is the unofficial homeless hostels the council has set up with 'The XXXX'.
- One of the few positive things to come out of pandemic was rough sleepers being taken into accommodation. With a proper programme the eventual goal should be independent living. There are plenty of agencies with considerable experience and expertise in delivering this - so you would expect L.C.C. to have partnered with one them to deliver a life changing service.
- Instead LCC have partnered with 'The XXXX' one of the Private companies that form XXXX agency and property development empire.*
- The XX's expertise is that of the Lettings Agency - procuring property in the Private sector and managing it on behalf of private landlords - which is what they've done with three or four small HMO properties in [area]. Still owned by private landlords, rented to 'The XX' and paid for by Leicester City Council. The offer to Landlords and the offer to tenants (taken from <https://www.>) speaks for itself. (Note: the little icons on the tenant's page aren't links, just graphics)
- These hostels were set up without consulting with or informing local residents, the police or even the local councillors. The Housing department should have provided a safe and supportive environment where former rough sleepers to

make a go of it. What they've done is throw 3 or 4 strangers together in shared house and left them to fight it out. Quite literally in one of the houses - responding to a 3am emergency call is how the police found out it existed. The only 'support' that seems to be offered is the threat of eviction for unacceptable behaviour. According to the police there've been a number of evictions.

- Had these hostels gone through the established process of impact assessment, consultation and planning permission then the police, councillors and local residents would have been prepared - rather than finding out because of a crisis. Though it's worth noting that had L.C.C. and 'The XX' gone through formal planning process L.C.C. they would have been turned down. This small area of [area] already has a number of hostels and the Council's own Local Plan presumes against permission for additional hostels where it would 'result in local over concentration'. On previous occasions the Council has rejected applications, in this area, for this very reason.
- This is a cheap and dirty project done in secrecy. The homeless aren't getting the supported accommodation they need, the Council is ignoring its own guidelines for maintaining the [area] community, the police are being expected to act as security staff in private hostels. The only support offered to local residents is a recommendation to report any anti-social behaviour through the council's usual channels and "make sure your home security is up to date."
- The Housing department and 'The XX ' have some explaining to do. What is the programme for getting their clients into independent accommodation? What is the timescale? What is 'The XX's strategy for tackling challenging behaviour outwith the hostels? Anti-social behaviour? Street begging? Are these hostels temporary? Only for the current occupants or a rolling occupancy? What was the impact assessment for [area]? Why was nobody informed? Is this just another revolving door project where vulnerable people are set up to fail?
- * ...
- We are a specialist housing expert and soon to be registered housing provider, who've been operating since 2015.
- Why has it gone bankrupt?
- So why can you get a bigger flat for £60k on Rightmove?
- How do you explain the statement on Facebook by a resident of Narborough Road
- They have a very different opinion to the Housing department about the XX.
- Most senior council officers don't live in the city and do not care about people who live here.

Annex B - LGA guidance pertaining to Confidentiality and access to information

As a councillor:

4.1 I do not disclose information:

a. given to me in confidence by anyone

b. acquired by me which I believe, or ought reasonably to be aware, is of a confidential nature, unless

- I have received the consent of a person authorised to give it;
- I am required by law to do so;
- the disclosure is made to a third party for the purpose of obtaining professional legal advice provided that the third party agrees not to disclose the information to any other person; or
- the disclosure is:
 1. reasonable and in the public interest; and
 2. made in good faith and in compliance with the reasonable requirements of the local authority; and
 3. I have consulted the monitoring officer prior to its release.

4.2 I do not improperly use knowledge gained solely as a result of my role as a councillor for the advancement of myself, my friends, my family members, my employer, or my business interests.

4.3 I do not prevent anyone from getting information that they are entitled to by law.

Local authorities must work openly and transparently. Their proceedings and printed materials are open to the public, except in certain legally defined circumstances. You should work on this basis, but there will be times when it is required by law that discussions, documents, and other information relating to or held by the local authority must be treated in a confidential manner. Examples include personal data relating to individuals or information relating to ongoing negotiations.

Confidential information

While local authority business is by law generally open and local authorities should

always operate as transparently as possible, there will be times – for example, when discussing a named individual, confidential HR matters or commercially sensitive information – when it is appropriate for local authority business to be kept confidential or treated as exempt information.

In those circumstances, you must not disclose confidential information, or information which you believe to be of a confidential nature, unless:

- you have the consent of the person authorised to give it
- you are required by law to do so
- the disclosure is made to a third party for the purposes of obtaining professional advice (for example, your lawyer or other professional adviser) provided that person agrees not to disclose the information to any other person
- the disclosure is in the public interest

Disclosure in the public interest

Disclosure ‘in the public interest’ is only justified in limited circumstances, when all the following four requirements are met:

- the disclosure must be reasonable
- the disclosure must be in the public interest
- the disclosure must be made in good faith
- the disclosure must be made in compliance with any reasonable requirements of your authority

In relation to the disclosure of confidential information in the public interest, the four requirements are outlined in more detail below.

1. The first requirement, that the disclosure must be reasonable, requires you to consider matters such as:

- Whether you believe that the information disclosed, and any allegation contained in it, is substantially true. If you do not believe this, the disclosure is unlikely to be reasonable.
- Whether you make the disclosure for personal gain. If you are paid to disclose the information, the disclosure is unlikely to be reasonable.
- The identity of the person to whom the disclosure is made. It may be reasonable to disclose information to the police or to an appropriate regulator. It is less likely to be reasonable for you to disclose the information to the world at large through the media.
- The extent of the information disclosed. The inclusion of unnecessary detail, and in particular, private matters such as addresses or telephone numbers, is likely to render the disclosure unreasonable.

- The seriousness of the matter. The more serious the matter disclosed, the more likely it is that the disclosure will be reasonable.
- The timing of the disclosure. If the matter to which the disclosure relates has already occurred, and is unlikely to occur again, the disclosure may be less likely to be reasonable than if the matter is continuing or is likely to reoccur.
- Whether the disclosure involves your authority failing in a duty of confidence owed to another person.

2. The second requirement, that the disclosure must be in the public interest, needs to involve one or more of the following matters or something of comparable seriousness, that has either happened in the past, is currently happening, or is likely to happen in the future:

- a criminal offence is committed.
- your local authority or some other person fails to comply with any legal obligation to which they are subject.
- a miscarriage of justice occurs.
- the health or safety of any individual is in danger.
- the environment is likely to be damaged.
- that information tending to show any matter falling within the above is deliberately concealed.

3. The third requirement, that the disclosure is made in good faith, will not be met if you act with an ulterior motive, for example, to achieve a party-political advantage or to settle a score with a political opponent.

4. The fourth requirement, that you comply with the reasonable requirements of your local authority, means that before making the disclosure you must comply with your local authority's policies or protocols on matters such as whistle-blowing and confidential information. You must first raise your concerns through the appropriate channels set out in such policies or protocols.

In summary, to decide whether the disclosure is reasonable and in the public interest, you may need to conduct a balancing exercise weighing up the public interest in maintaining confidentiality against any countervailing public interest favouring disclosure. This will require a careful focus on how confidential the information is, on any potentially harmful consequences of its disclosure, and on any factors, which may justify its disclosure despite these potential consequences. If in doubt you should always seek advice from the monitoring officer. Always keep a note of the reason for your decision.

In some situations, it is extremely unlikely that a disclosure can be justified in the public interest. These will include where the disclosure amounts to a criminal offence, or where the information disclosed is protected by legal professional privilege.

Circumstances in which a local authority can treat information as confidential

The presumption under local government law is that local authority business is open unless it falls within a specific category of confidential or exempt information as set out in legislation. These categories are:

1. information given to the local authority by a Government Department on terms which forbid its public disclosure or
2. information the disclosure of which to the public is prohibited by or under another Act or by Court Order.

Generally personal information which identifies an individual, must not be disclosed under the data protection and human rights rules.

Exempt information means information falling within the following categories (subject to any condition):

1. relating to any individual.
2. which is likely to reveal the identity of an individual.
3. relating to the financial or business affairs of any particular person (including the authority holding that information).
4. relating to any consultations or negotiations, or contemplated consultations or negotiations, in connection with any labour relations matter arising between the authority or a Minister of the Crown and employees of, or officer-holders under the authority.
5. in respect of which a claim to legal professional privilege could be maintained in legal proceedings.
6. which reveals that the authority proposes:
 1. to give under any enactment a notice under or by virtue of which requirements are imposed on a person; or
 2. to make an order or direction under any enactment
7. relating to any action taken or to be taken in connection with the prevention, investigation, or prosecution of crime.

Where information is legally classified as 'confidential' under the above categories the public must be excluded from meetings whenever it is likely in view of the nature of the business to be transacted or the nature of the proceedings that confidential information would be disclosed. Likewise, public access to reports, background papers, and minutes will also be excluded.

Where an officer recommends that a report to a decision-making committee should be treated as exempt information under the above categories the committee must still agree that the matter should be heard in a closed session. The committee may disagree with any recommendation and decide that those legal tests have not been met; or they may agree that those tests have been met but nevertheless it is in the public interest that the matter be considered in an open session. Again, you should keep a record of the rationale for the decision.

Once the local authority has agreed that the matter be treated as exempt, public access to relevant reports, background papers and minutes will also be excluded and an individual councillor must abide by that collective decision or risk breaching

the code if they disclose that information (papers and content of discussion) without lawful excuse.

Does confidentiality under the code apply only to information which is classified as confidential or exempt by law?

No. The code goes wider than matters simply considered in a formal local authority setting. Information is a broad term. It includes facts, advice, and opinions. It covers written material, including tapes, videos, CDs, DVDs, and other electronic media. It covers material in unwritten form, including intellectual property. Information can only be confidential if all the following apply:-

- it has the necessary 'quality of confidence' about it (trivial information will not be confidential but information that you would expect people to want to be private would be);
- it was divulged in circumstances importing an obligation of confidence (information properly in the public domain will not be confidential);
- disclosure of it would be detrimental to the party wishing to keep it confidential.

For example, you may be told confidential information by a constituent in the course of your duties. That is why the code is written broadly to cover information classed as confidential which you may come across in your duties.

You should use your judgment when you are given information. An individual does not have to explicitly say that information is confidential if they tell you something which a reasonable person would regard as sensitive. You may, however, wish to clarify if somebody tells you something whether they want you to treat it as confidential.

Examples

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 they had not realised that father and son were estranged. This was found to be a breach of the code.

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.

What does consent by the person authorised to give it mean?

If somebody, for example a constituent, has told you something in confidence – for example in the line of casework – you may later want to put that in the public domain as part of pursuing that case. You should always check with the individual before you disclose something you believe is confidential to ensure that they are comfortable

with that information being disclosed. You should also be clear with them as to how you may use the information, they give you to help resolve their issue.

In what circumstances am I required to disclose confidential information by law?

This would be where a law enforcement or regulatory agency or the courts required disclosure of information.

In what way could I use information I have obtained to advance myself or others?

As a councillor you will often receive commercially sensitive or other confidential information. You must not use that information to your own advantage. For example, if you know the local authority is considering the purchase of a piece of land, you should not use that information in your private dealings to seek to purchase the land.

How does this relate to the Data Protection Act?

As part of their role councillors will receive personal information. They should seek to ensure they are familiar with how the Data Protection Act applies to their role in handling such information through training, and if they are not sure to seek advice from an appropriate officer in the council.

Although councillors are not required to register as a data controller, they will receive personal information from residents in their area. They should only use it for the purpose for which it has been given and must ensure this information is held securely and only share with others that are entitled to it.

In contrast, the local authority is responsible for information they provide to councillors and ensuring they know how it can be used.

Access to information

Transparency is a very important principle underpinning local democracy and public decision-making. The public are entitled to see information about the way decisions are made unless there are specific reasons why that information is confidential. Your local authority should have a publication scheme setting out what information is accessible to the public and you as an individual councillor must not prevent any person from accessing information which they are entitled to by law. This includes information under the Freedom of Information Act 2000 or those copies of minutes, agendas, reports, and other documents of your local authority which they have a right to access.

If in doubt seek advice from the relevant local authority officers.

The 'need to know'

As a councillor, you are not automatically entitled to access all information the local authority holds. For example, the local authority may deal with highly confidential and sensitive information about employees or about residents involved in complex cases.

In addition to rights set out in law or conferred by your local authority constitution, you have a right to inspect documents if you can demonstrate a “need to know”. This isn’t a right to a roving commission but must be linked to your performance of your duties and functions as a councillor. For example, the need could more easily be demonstrated by membership of a relevant committee, such as a staffing committee than simply because you are interested in seeing the information. Local authorities have more justification for denying free access to particularly sensitive papers such as childcare or staffing records. You should not seek to get information if you have a declarable interest in it.

Most local authorities will have a nominated officer you can seek advice from if you feel you are not being given access to information you seek.

You can also exercise the “need to know” in respect of attending meetings. Access to Information Rules set out an Overview and Scrutiny Committee’s rights of access to documents and additional rights of access to documents for councillors to carry out their functions.

Where you are given access to documents which are not available to members of the public, you should ensure that any confidential information is used and protected in an appropriate and secure manner and shared with authorised persons only.

Can I use local authority information for matters outside the local authority?

A councillor is entitled to access information held by the local authority for the performance of their duties as a councillor. If a councillor wishes to use local authority information for any purpose other than in connection with their duties as a councillor, and that information is not in a publicly available document, however, then that councillor should submit a freedom of information request so that it can be given to them to use freely.

The general rule is that any information held by the local authority and given directly to a councillor may only ever be used for the purpose for which it was provided. That purpose may add particular restrictions, for example where it relates to an individual constituent or sensitive matter. The purpose should not be for anything other than use in connection with the proper performance of the councillor’s duties as a councillor. The exceptions to this are where the information has already been published, it has been given as a result of a request under Freedom of Information or Environmental Information Regulations or it is in the public interest (‘whistleblowing’) for which provisions are made in the Code of Conduct as explained above.

Please see the [ICO website](#) for helpful guidance on data protection and freedom of information.

