

# Hearing Sub-Committee AGENDA

**DATE:** Wednesday 9 February 2011

**TIME:** 10.00 am

**VENUE:** Committee Room 3,  
Harrow Civic Centre

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## **MEMBERSHIP** (Quorum 3)

**Chairman:** Dr J Kirkland

**Councillors:**

Mitzi Green

John Nickolay

**Contact:** Vishal Seegoolam, Senior Democratic Services Officer  
Tel: 020 8424 1883 E-mail: [vishal.seegoolam@harrow.gov.uk](mailto:vishal.seegoolam@harrow.gov.uk)

## **AGENDA - PART I**

### **1. APPOINTMENT OF CHAIRMAN**

To note that the Independent Member, Dr John Kirkland, will serve as Chairman of the Sub-Committee for this meeting.

### **2. DECLARATIONS OF INTEREST**

To receive declarations of personal or prejudicial interests, arising from business to be transacted at this meeting, from:

- (a) all Members of the Sub-Committee;
- (b) all other Members present.

### **3. HEARING SUB-COMMITTEE - TERMS OF REFERENCE (Pages 1 - 26)**

Report of the Director of Legal and Governance Services.

### **4. EXCLUSION OF THE PRESS AND PUBLIC**

To resolve that the press and public be excluded from the meeting for the following item of business, on the grounds that it involves the likely disclosure of confidential information in breach of an obligation of confidence, or of exempt information as defined in Part I of Schedule 12A to the Local Government Act 1972:

<u>Agenda Item No</u>	<u>Title</u>	<u>Description of Exempt Information</u>
5.	Complaint – Breach of Code of Conduct	Paragraph 7C – information presented to a Standards Committee or to a Sub-Committee of a Standards Committee set up to consider any matter under regulation 13 or 16-20 of the Standards Committee (England) Regulations 2008.

## **AGENDA - PART II**

### **5. COMPLAINT - BREACH OF CODE OF CONDUCT**

The report of the Monitoring Officer and all relevant information will be circulated at the meeting.

**REPORT FOR: HEARING SUB-COMMITTEE**

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**Date of Meeting:** 9 February 2011

**Subject:** Standards Committee and Hearing Sub-Committee – Terms of Reference

**Responsible Officer:** Hugh Peart, Director of Legal and Governance Services

**Exempt:** No

**Enclosures:** Appendix A – Terms of Reference  
Appendix B – Procedure for Hearings  
Appendix C – Members Code of Conduct

**Section 1 – Summary and Recommendations**

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This Report details the roles and responsibilities of the Hearing Sub-Committee, as delegated by the Standards Committee, in determining complaints that have been investigated for or on behalf of the Monitoring Officer.

**Recommendations:**

The Sub-Committee is requested to consider and note the Terms of Reference of the Standards Committee, including the Terms of Reference of the Hearing Sub-Committee at Appendix A together with the Members Code of Conduct at Appendix C before hearing a complaint alleging a breach of the Code of Conduct. The Sub-Committee is further requested to consider and approve the identified procedure for hearing complaints as set out in Appendix B.

**1. Background**

1.1 The Local Government and Public Involvement in Health Act 2007 came into force in October 2007. At its meeting on 5<sup>th</sup> June 2008 the Standards Committee agreed its revised Terms of Reference (Appendix A). It also established the Hearing Sub-Committee to determine complaints referred to it following investigation, that a Member or Co-opted Member has failed to comply with the Council’s Code of Conduct (attached at Appendix C).

## **2. Procedure for the Hearing**

- 2.1 A summary of the procedure is set out below. The full procedure for the hearing is attached at Appendix B
- 2.2 The purpose of the hearing is to allow the Hearing Sub-Committee, on behalf of the Standards Committee, to determine whether the Member complained about has failed to comply with the Code of Conduct.
- 2.3 The Hearing Sub-Committee will receive a summary report, highlighting any points of difference in respect of which the Member has stated that he/she disagrees with any finding of fact in the Investigation Report.
- 2.4 The Hearing Sub-Committee will consider the Investigation Report and call witnesses as necessary to address any points of difference.
- 2.5 The Member complained about will have the opportunity to respond to the Investigation Report and to call any witnesses as necessary to address any points of difference.
- 2.6 The Hearing Sub-Committee will then determine whether there was a failure to comply with the Code of Conduct.
- 2.7 If the Hearing Sub-Committee determines there has not been any failure to comply with the Code of Conduct the Hearing Sub-Committee will set out any recommendations which it is minded to make to the authority.
- 2.8 If the Hearing Sub-Committee determines that there has been a breach of the Code of Conduct they will then consider whether to impose a sanction and (where a sanction is to be imposed) the nature of the sanction and the principal reasons for those decisions.

## **3. Legal Implications**

- 3.1 The Local Government and Public Involvement in Health Act 2007 places new obligations on the Standards Committee to deal with written allegations that a member or co-opted member may have failed to comply with the Code of Conduct. These powers are in addition to the powers under Part III of the Local Government Act 2000.

## **4. Financial Implications**

- 4.1 Any costs relating to this matter will be met from the provision for legal fees.

### Section 3 - Statutory Officer Clearance

<b>Name: Steve Tingle</b>	<input checked="" type="checkbox"/>	<b>on behalf of the Chief Financial Officer</b>
<b>Date: 1 March 2010</b>		
<b>Name: George Curran</b>	<input checked="" type="checkbox"/>	<b>on behalf of the Monitoring Officer</b>
<b>Date: 2 March 2010</b>		

### Section 4 - Contact Details and Background Papers

**Contact:** Vishal Seegoolam, Senior Democratic Services Officer  
– Tel: 020 8420 1883 (ext 2883)

**Background Papers:** Local Government Act 2000  
Local Government and Public Involvement in Health Act 2007  
The Standards Committee (England) Regulations 2008  
Standards Board for England – Local Assessment of Complaints

If appropriate, does the report include the following considerations?

<b>1.</b>	<b>Consultation</b>	<b>NO</b>
<b>2.</b>	<b>Corporate Priorities</b>	<b>NO</b>

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## TERMS OF REFERENCE

### HEARING SUB-COMMITTEE

The Hearing Sub-committee has the following powers and duties

- (a) To consider allegation referred to it following investigation that a member or co-opted member has failed to comply with the Council's Code of Conduct for Councillors
- (b) To determine whether
  - it accepts the Monitoring Officer's findings of no failure to observe the Code of Conduct
  - the matter should be referred for consideration at a hearing before the Hearings Sub-Committee of the Standards Committee; or
  - that the matter should be referred to the Adjudication Panel for determination where it considers that the action it could take against the member is insufficient
- (c) Where the Sub-Committee resolves to do any of the actions set out in paragraph (b) above, the Sub-Committee shall state its reasons for that decision.

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## STANDARDS COMMITTEE

The Standards Committee will have the following powers and duties:

- (a) promoting and maintaining high standards of conduct by Councillors, co-opted members and “church” and parent governor representatives;
- (b) assisting Councillors, co-opted members and “church” and parent governor representatives to observe the Members’ Code of Conduct;
- (c) advising the Council on the adoption or revision of the Members’ Code of Conduct;
- (d) monitoring the operation of the Members’ Code of Conduct;
- (e) developing and recommending local protocols to the Council to supplement the Members’ Code of Conduct;
- (f) enforcing local protocols and applying sanctions in respect of breaches as appropriate;
- (g) advising, training or arranging to train Councillors, co-opted members and “church” and parent governor representatives on matters relating to the Members’ Code of Conduct;
- (h) granting dispensations to Councillors, co-opted members and “church” and parent governor representatives from requirements relating to interests set out in the Members’ Code of Conduct;
- (i) dealing with any reports from a case tribunal or interim case tribunal, and any report from the Monitoring Officer on any matter which is referred by an Ethical Standards Officer to the Monitoring Officer;
- (j) to keep under review and amend, as appropriate, the Protocol on Councillor/Officer Relations;
- (k) to keep under review the Officer Code of Conduct and, after consultation with unions representing staff, make recommendations to Council for amendment or addition;
- (l) to receive reports and keep a general overview of probity matters arising from ombudsman investigations, Monitoring Officer reports, reports of the Chief Financial Officer and Audit Commission;
- (m) to have oversight of the Council’s whistleblowing policy;
- (n) to agree the policy for decisions on payments to those adversely affected by Council maladministration (under section 92 Local Government Act 2000)
- (o) To establish sub-committees to deal with complaints that a member or a co-opted member has failed to comply with the Council’s Code of Conduct
- (p) To consider any application received from any officer of the Authority for exemption from political restriction under Sections 1 and 2 of the Local Government and Housing Act 1989 in respect of the post held by that officer and may direct the Authority that the post shall not be considered to be a politically restricted post and that the post be removed from the list maintained by the Authority under Section 2(2) of that Act.
- (q) Upon the application of any person or otherwise, consider whether a post should be included in the list maintained by the Authority under Section 2(2) of the 1989 Act, and may direct the Authority to include a post in that list.

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## London Borough of Harrow

## Standards Committee

## Procedure for Local Standards Hearings

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**1. Interpretation**

- a) 'Councillor' means the member of the authority who is the subject of the allegation being considered by the Standards Committee, unless stated otherwise. It also includes the Councillor's nominated representative.
- b) 'Investigating Officer' means the Ethical Standards Officer (ESO) who referred the report to the authority, and includes his or her nominated representative. In the case of matters that have been referred for local investigation, references to the Investigating Officer mean the person appointed by the Monitoring Officer to undertake that investigation (which may include the Monitoring Officer, and his or her nominated representative).
- c) 'The Matter' is the subject matter of the Investigating Officer's report.
- d) 'The Standards Committee' refers to the Standards Committee or to any Standards Sub-Committee to which it has delegated the conduct of the hearing.
- e) 'Legal Advisor' means the officer responsible for providing legal advice to the Standards Committee. This may be the Monitoring Officer, another legally qualified officer of the authority, or someone appointed for this purpose from outside the authority.
- f) 'The Chairman' refers to the person presiding at the hearing.

**2. Modification of Procedure**

The Chairman may agree to vary this procedure in any particular instance where he/she is of the opinion that such a variation is necessary in the interests of fairness.

**3. Representation**

The Councillor may be represented or accompanied during the meeting by a solicitor, counsel or, with the permission of the Committee, another person.

**4. Pre-Hearing Procedure**

Upon reference of a matter from an Ethical Standards Officer for local determination following completion of the Ethical Standards Officer's report; or

Upon receipt of the final report of the Investigating Officer including a finding that the Councillor failed to comply with the Code of Conduct for Members or the Standards Committee finds that the matter should be considered at a formal hearing

the Monitoring Officer shall:

- a) Arrange a date for the Standards Committee's hearing;
- b) Send a copy of the report to the Councillor and advise him or her of the date, time and place for the hearing;

- c) Send a copy of the report to the person who made the allegation and advise him or her of the date, time and place for the hearing;
- d) Request the Councillor to complete and return the model Pre-Hearing Forms A, B, D and E, as recommended by the Standards Board for England;
- e) In the light of any Pre-Hearing Forms returned by the Councillor, determine whether the Standards Committee will require the attendance of the Investigating Officer and any additional witnesses at the hearing to enable it to come to a properly considered conclusion at the hearing, and arrange for their attendance;
- f) Prepare a Pre-Hearing Summary Report setting out the course of the allegation, investigation and Pre-Hearing Process and highlighting the issues which the Standards Committee will need to address, and
- g) Arrange that the agenda for the hearing, together with the Pre-Hearing Summary Report and copies of any relevant documents are sent to:
  - (i) All members of the Standards Committee who will conduct the hearing;
  - (ii) The Councillor
  - (iii) The person who made the allegation, and
  - (iii) The Investigating Officer.

## **5. Legal Advice**

The Standards Committee may take legal advice from its Legal Advisor at any time during the hearing or while they are considering the outcome. The substance of any legal advice given to the Standards Committee should be shared with the Councillor and the Investigating Officer if they are present.

## **6. Setting the Scene**

At the start of the hearing, the Chairman shall introduce each of the members of the Standards Committee, the Councillor (if present), the Investigating Officer (if present) and any other officers present, and shall then explain the procedure which the Standards Committee will follow in the conduct of the hearing.

## **7. Preliminary Procedural Issues**

The Standards Committee shall then deal with the following preliminary procedural matters:

- (a) Disclosures of interest
- (b) Quorum
- (c) Proceeding in the absence of the member

If the Councillor is not present at the start of the hearing:

- (i) the Chairman shall ask the Monitoring Officer whether the Councillor has indicated his/her intention not to attend the hearing;
- (ii) the Standards Committee shall then consider any reasons which the Councillor has provided for not attending the hearing and shall decide whether it is satisfied that there is sufficient reason for such failure to attend;

- (iii) if the Standards Committee is satisfied with such reasons, it shall adjourn the hearing to another date;
- (iv) if the Standards Committee is not satisfied with such reasons, or if the Councillor has not given any such reasons, the Standards Committee shall decide whether to consider the matter and make a determination in the absence of the Councillor or to adjourn the hearing to another date.

(d) Exclusion of Press and Public

The Standards Committee may exclude the press and public where it appears likely that confidential or exempt information will be disclosed. If the Councillor, the Investigating Officer or the Legal Adviser wish to exclude the press or public from all or any part of the hearing the Chairman shall ask them to put forward reasons for so doing and ask for responses from the others, before the Standards Committee determines whether an exclusion shall apply.

**8. Considering Whether the Councillor Failed to Comply with the Code of Conduct**

The Standards Committee will then address the issue of whether the Councillor failed to comply with the Code of Conduct in the manner set out in the Investigating Officer's report.

- (a) The Chairman shall ask the Councillor to confirm that he/she maintains their position as set out in the pre-hearing documentation.
- (b) The Pre-Hearing Process Summary
  - (i) The Chairman will ask the legal advisor or a nominated Council officer to present a summary report, highlighting any points of difference in respect of which the Councillor has stated that he/she disagrees with any finding of fact in the Investigating Officer's report. The Chairman will then ask the Councillor whether he or she considers that this is an accurate summary of the issues.
  - (ii) If the Councillor admits that he/she has failed to comply with the Code of Conduct in the manner described in the Investigating Officer's report, the Standards Committee may then make a determination that the Councillor has failed to comply with the Code of Conduct in the manner described in the Investigating Officer's report and proceed directly to consider whether any action should be taken.
  - (iii) If the Councillor identifies additional points of difference, the Chairman shall ask the Councillor to explain why he/she did not identify these points as part of the pre-hearing process. Where the Standards Committee is not satisfied with the Councillor's reasons for failing to identify each additional point of difference as part of the pre-hearing process, it may decide that it will continue the hearing but without allowing the Councillor to challenge the veracity of those findings of fact, or it may decide to adjourn the hearing to allow the Investigating Officer and/or any additional witnesses to attend the hearing.
- (c) Presenting the Investigating Officer's report
  - (i) If the Investigating Officer is present, the Chairman will then ask the Investigating Officer to present his/her report, having particular regard to any points of difference identified by the Councillor and why he/she concluded, on the basis of his/her findings of fact, that the Councillor had failed to comply with the Code of Conduct. The Investigating Officer may call witnesses as necessary to address any points of difference.

- (ii) In the absence of the Investigating Officer, the Standards Committee shall determine on the advice of the Monitoring Officer which witnesses, if any, to call. Where such witnesses are called, the Chairman shall draw the witnesses' attention to any relevant section of the Investigating Officer's report and ask the witness to confirm or correct the report and to provide any relevant evidence.
  - (iii) No cross-examination shall be permitted but, at the conclusion of the Investigating Officer's report and/or of the evidence of each witness, the Chairman shall ask the Councillor if there are any matters upon which the Standards Committee should seek the advice of the Investigating Officer (if present) or the witness.
- (d) The Councillor's response
- (i) The Chairman shall then invite the Councillor to respond to the Investigating Officer's report and to call any witnesses as necessary to address any points of difference.
  - (ii) No cross-examination shall be permitted but, at the conclusion of the Councillor's evidence and/or of the evidence of each witness, the Chairman shall ask the Investigating Officer (if present) if there are any matters upon which the Standards Committee should seek the advice of the Councillor or the witness.
- (e) Witnesses
- (i) The Standards Committee shall be entitled to refuse to hear evidence from the Investigating Officer, the Councillor or a witness unless they are satisfied that the witness is likely to give evidence which they need to hear in order to be able to determine whether there has been a failure to comply with the code of conduct.
  - (ii) Any member of the Standards Committee may address questions to the Investigating Officer, to the Councillor or to any witness.
- (f) Additional Evidence
- If the Standards Committee at any stage prior to determining whether there was a failure to comply with the Code of Conduct are of the opinion that they require additional evidence on any point in order to be able to come to a considered conclusion on the matter, the Standards Committee may (on not more than one occasion) adjourn the hearing and make a request to the Investigating Officer to seek and provide such additional evidence and to undertake further investigation on any point specified by the Standards Committee.
- (g) Determination as to whether there was a failure to comply with the Code of Conduct.
- (i) At the conclusion of the Councillor's response, the Chairman shall ensure that each member of the Standards Committee is satisfied that he/she has sufficient information to enable him/her to determine whether there has been a failure to comply with the Code of Conduct as set out in the Investigating Officer's report.
  - (ii) The Standards Committee shall then retire to another room to consider in private whether the Councillor did fail to comply with the Code of Conduct as set out in the Investigating Officer's report.
  - (iii) The Standards Committee shall take its decision on the balance of probability based on the evidence which it has received at the hearing.

- (iv) The Standards Committee's function is to make a determination on the matter. It may, at any time, return to the main hearing room in order to seek additional evidence or information from the Investigating Officer, the Councillor or a witness, or to seek the legal advice from or on behalf of the Monitoring Officer.
- (v) At the conclusion of the Standards Committee's consideration, the Standards Committee shall consider whether it is minded to make any recommendations to the authority with a view to promoting high standards of conduct among Councillors. The Standards Committee shall then return to the main hearing room and the Chairman will state the Standards Committee's principal findings of fact and their determination as to whether the Councillor failed to comply with the Code of Conduct as set out in the Investigating Officer's report.

**9. If the Councillor has not Failed to Comply with the Code of Conduct**

If the Standards Committee determines that the Councillor has not failed to comply with the Code of Conduct in the manner set out in the Investigating Officer's report:

- a) If the Standards Committee apprehends, from the evidence which they have received during the hearing, that a Councillor has failed to comply with the Code of Conduct (other than the matter which the Standards Committee has just determined), the Chairman shall outline the Standards Committee's concerns and state that the Standards Committee has referred this additional or alternative failure to the Monitoring Officer with a view to a further allegation being made to the Standards Board for England.
- b) The Chairman should then set out any recommendations which the Standards Committee is minded to make to the authority with a view to promoting high standards of conduct among Councillors and seek the views of the Councillor, the Investigating Officer and the legal advisor before the Standards Committee finalises any such recommendations.
- c) Finally, the Chairman should ask the Councillor whether he/she wishes the authority not to publish a statement of its finding in a local newspaper.

**10. Action Consequent upon a Failure to Comply with the Code of Conduct**

- a) The Chairman shall ask the Investigating Officer (if present, or otherwise the Legal Advisor) whether, in his/her opinion, the Councillor's failure to comply with the Code of Conduct is such that the Standards Committee should impose a sanction and, if so, what would be the appropriate sanction.
- b) The Chairman will then ask the Councillor to respond to the Investigating Officer's advice.
- c) The Chairman will then ensure that each member of the Standards Committee is satisfied that he/she has sufficient information to enable him/her to take an informed decision as to whether to impose a sanction and (if appropriate) as to the form of the sanction.
- d) Any member of the Standards Committee may address questions to the Investigating Officer or to the Councillor as necessary to enable him/her to take such an informed decision.
- e) The Chairman should then set out any recommendations which the Standards Committee is minded to make to the authority with a view to promoting high standards of conduct among Councillors and seek the views of the Councillor, the Investigating Officer and the legal advisor;
- f) The Standards Committee shall then retire to another room to consider in private whether to impose a sanction, (where a sanction is to be imposed) what sanction to impose and when

that sanction should take effect, and any recommendations which the Standards Committee will make to the authority.

- g) At the completion of their consideration, the Standards Committee shall return to the main hearing room and the Chairman shall state the Standards Committee's decisions as to whether to impose a sanction and (where a sanction is to be imposed) the nature of that sanction, and when it should take effect, together with the principal reasons for those decisions, and any recommendations which the Standards Committee will make to the authority.

**11. Reference Back to the Ethical Standards Officer**

Where a matter has been referred by an ESO for local determination, if at any time before the Standards Committee has determined upon any appropriate sanction, the Standards Committee considers that the nature of the failure to comply with the Code of Conduct for Members is such that the appropriate sanction would exceed the powers of the Standards Committee, the Standards Committee may request the Monitoring Officer to refer the matter back to the ESO, and may adjourn the hearing until the Monitoring Officer advises the Standards Committee of the ESO's response to such a request.

**12. The Close of the Hearing**

The Standards Committee will announce its decision on the day of the hearing and produce a short written statement of their decision, which will be delivered to the Councillor as soon as practicable after the close of the hearing. Following the close of the hearing, the Committee Support Officer will agree a formal written notice of the Standards Committee's determination and the Monitoring Officer shall arrange for the distribution and publication of that notice (or a summary of that notice, where required).

**13. Appeals**

The Councillor may apply for permission to appeal against the decision of the Standards Committee by writing to the First Tier Tribunal within 28 days of receiving the written notice of decision, specifying the grounds for appeal, a statement as to whether he or she is applying for suspension of any sanction and whether or not he or she consents to the appeal being heard by way of written representations.



## A. CODE OF CONDUCT FOR COUNCILLORS

This Code has been prepared and adopted by Harrow Council. Every Member (including co-opted members) has signed an undertaking to comply with it. The parts of the text printed in bold comprise the mandatory provisions; the rest comprises additional text approved by the Authority.

### Part 1

#### General provisions

##### Introduction and interpretation

- 1.1 This Code defines the standards of conduct, which will be required of you and in your relationships with the Authority and its Officers.
- 1.2 The Code represents the standard against which the public, fellow Councillors, the Standards Board and the Authority's Standards Committee will judge your conduct. A breach of the Code may also be deemed by the Ombudsman as incompatible with good administration, and may lead to a finding of maladministration against the Authority.
- 1.3 You should familiarise yourself with the requirements of this Code. You should regularly review your personal circumstances, particularly when those circumstances change. If in any doubt, you should seek advice from the Authority's Monitoring Officer.
- 1.4
  - (1) This Code applies to you as a member of an authority.**
  - (2) You should read this Code together with the general principles prescribed by the Secretary of State.**
  - (3) It is your responsibility to comply with the provisions of this Code.**
  - (4) In this Code –**
    - “meeting” means any meeting of -**
    - (a) the authority;**
    - (b) the executive of the authority;**
    - (c) any of the authority's or its executive's committees, sub-committees, joint committees, joint sub-committees, or area committees;**

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

**(5) In relation to a parish council, references to an authority’s monitoring officer and an authority’s standards committee shall be read, respectively, as references to the monitoring officer and the standards committee of the district council or unitary county council which has functions in relation to the parish council for which it is responsible under section 55(12) of the Local Government Act 2000.**

## **Scope**

- 2. (1) Subject to sub-paragraphs (2) to (5), you must comply with this Code whenever you -**
- (a) conduct the business of your authority (which, in this Code, includes the business of the office to which you are elected or appointed); or**
  - (b) act, claim to act or give the impression you are acting as a representative of your authority,**

**and references to your official capacity are construed accordingly.**

**(2) Subject to sub-paragraphs (3) and (4), this Code does not have effect in relation to your conduct other than where it is in your official capacity.**

**(3) In addition to having effect in relation to conduct in your official capacity, paragraphs 3(2)(c), 5 and 6(a) also have effect, at any other time, where that conduct constitutes a criminal offence for which you have been convicted.**

**(4) Conduct to which this Code applies (whether that is conduct in your official capacity or conduct mentioned in sub-paragraph (3)) includes a criminal offence for which you are convicted (including an offence you committed before the date you took office, but for which you are convicted after that date).**

- (5) Where you act as a representative of your authority -**
- (a) on another relevant authority, you must, when acting for that other authority, comply with that other authority’s code of conduct; or**
  - (b) on any other body, you must, when acting for that other body, comply with your authority’s code of conduct, except and insofar as it conflicts with any other lawful obligations to which that other body may be subject.**

### **General obligations**

- 3. (1) You must treat others with respect.**
- (2) You must not-**
- (a) do anything which may cause your authority to breach any of the equality enactments (as defined in section 33 of the Equality Act 2006**
  - (b) bully any person;**
  - (c) intimidate or attempt to intimidate any person who is or is likely to be**
    - (i) a complainant,**
    - (ii) a witness, or**
    - (iii) involved in the administration of any investigation or proceedings,****in relation to an allegation that a member (including yourself) has failed to comply with his or her authority's code of conduct; or**
  - (d) do anything which compromises or is likely to compromise the impartiality of those who work for, or on behalf of, your authority.**
- (3) In relation to police authorities and the Metropolitan Police Authority, for the purposes of sub-paragraph (2)(d) those who work for, or on behalf of, an authority are deemed to include a police officer.**
- 4. You must not -**
- (a) disclose information given to you in confidence by anyone, or information acquired by you which you believe, or ought reasonably to be aware, is of a confidential nature, except where -**
    - (i) you have the consent of a person authorised to give it;**
    - (ii) you are required by law to do so;**

**(iii) the disclosure is made to a third party for the purpose of obtaining professional advice provided that the third party agrees not to disclose the information to any other person; or**

**(iv) the disclosure is -**

**(aa) reasonable and in the public interest; and**

**(bb) made in good faith and in compliance with the reasonable requirements of the authority; or**

**(b) prevent another person from gaining access to information to which that person is entitled by law.**

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

**6.1 (1) You –**

**(a) must not use or attempt to use your position as a member improperly to confer on or secure for yourself or any other person, an advantage or disadvantage; and**

**(b) must, when using or authorising the use by others of the resources of your authority -**

**(i) act in accordance with your authority's reasonable requirements;**

**(ii) ensure that such resources are not used improperly for political purposes (including party political purposes); and**

**(c) must have regard to any applicable Local Authority Code of Publicity made under the Local Government Act 1986.**

**6.2** You may have dealings with the Authority on a personal level, for instance as a council tax payer, as a tenant, or as an applicant for a grant or a planning permission. You should never seek or accept preferential treatment in those dealings because of your position as a councillor. You should also avoid placing yourself in a position that could lead the public to think that you are receiving preferential treatment. Likewise, you should never use your position as a member to seek preferential treatment for friends or relatives, or any firm or body with which you are personally connected.

**6.3** You should always make sure that any facilities (such as transport, stationery, or secretarial services) provided by the authority for your use in your duties as a Councillor or a committee member or member of the Executive are used strictly for those duties and for no other purpose.

**7.1 (1) When reaching decisions on any matter you must have regard to any relevant advice provided to you by –**

**(a) your authority’s chief finance officer; or**

**(b) your authority’s monitoring officer,**

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

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

**7.2 When reaching decisions you should -**

**(i) not act or cause the Authority to act unlawfully, in such a manner as would give rise to a finding of maladministration, in breach of any undertaking to the Court, or for the advantage of any particular person or interest rather than in the public interest; and**

**(ii) take into account all material information of which you are aware and then take the decision on its merits and in the public interest**

## **Part 2**

### **Interests**

#### **Personal interests**

**8. (1) You have a personal interest in any business of your authority where either -**

**(a) it relates to or is likely to affect -**

**(i) any body of which you are a member or in a position of general control or, management and to which you are appointed or nominated by your authority;**

**(ii) any body -**

**(aa) exercising functions of a public nature;**

**(bb) directed to charitable purposes; or**

**(cc) one of whose principal purposes includes the influence of public opinion or policy (including any political party or trade union),**

- of which you are a member or in a position of general control or management;**
- (iii) any employment or business carried on by you;**
  - (iv) any person or body who employs or has appointed you;**
  - (v) any person or body, other than a relevant authority, who has made a payment to you in respect of your election or any expenses incurred by you in carrying out your duties;**
  - (vi) any person or body who has a place of business or land in your authority's area, and in whom you have a beneficial interest in a class of securities of that person or body that exceeds the nominal value of £25,000 or one hundredth of the total issued share capital (whichever is the lower);**
  - (vii) any contract for goods, services or works made between your authority and you or a firm in which you are a partner, a company of which you are a remunerated director, or a person or body of the description specified in paragraph (vi);**
  - (viii) the interests of any person from whom you have received a gift or hospitality with an estimated value of at least £25;**
  - (ix) any land in your authority's area in which you have a beneficial interest;**
  - (x) any land where the landlord is your authority and you are, or a firm in which you are a partner, a company of which you are a remunerated director, or a person or body of the description specified in paragraph (vi) is, the tenant;**
  - (xi) any land in the authority's area for which you have a licence (alone or jointly with others) to occupy for 28 days or longer; or**
- (b) a decision in relation to that business might reasonably be regarded as affecting your well-being or financial position or the well-being or financial position of a relevant person to a greater extent than the majority of -**
- (i) (in the case of authorities with electoral divisions or wards) other council tax payers, ratepayers or inhabitants of the electoral division or ward, as the case may be, affected by the decision;**

**(ii) (in the case of the Greater London Authority) other council tax payers, ratepayers or inhabitants of the Assembly constituency affected by the decision; or**

**(iii) (in all other cases) other council tax payers, ratepayers or inhabitants of your authority's area.**

**(2) In sub-paragraph (1)(b), a relevant person is -**

**(a) a member of your family or any person with whom you have a close association; or**

**(b) any person or body who employs or has appointed such persons, any firm in which they are a partner, or any company of which they are directors;**

**(c) any person or body in whom such persons have a beneficial interest in a class of securities exceeding the nominal value of £25,000; or**

**(d) any body of a type described in sub-paragraph (1)(a)(i) or (ii).**

### **Disclosure of personal interests**

**9.1 (1) Subject to sub-paragraphs (2) to (7), where you have a personal interest in any business of your authority and you attend a meeting of your authority at which the business is considered, you must disclose to that meeting the existence and nature of that interest at the commencement of that consideration, or when the interest becomes apparent.**

**(2) Where you have a personal interest in any business of your authority which relates to or is likely to affect a person described in paragraph 8(1)(a)(i) or 8(1)(a)(ii)(aa), you need only disclose to the meeting the existence and nature of that interest when you address the meeting on that business.**

**(3) Where you have a personal interest in any business of the authority of the type mentioned in paragraph 8(1)(a)(viii), you need not disclose the nature or existence of that interest to the meeting if the interest was registered more than three years before the date of the meeting.**

**(4) Sub-paragraph (1) only applies where you are aware or ought reasonably to be aware of the existence of the personal interest.**

**(5) Where you have a personal interest but, by virtue of paragraph 14, sensitive information relating to it is not registered in your authority's register of members' interests, you must indicate to the meeting that you have a personal interest, but need not disclose the sensitive information to the meeting.**

**(6) Subject to paragraph 12(1)(b), where you have a personal interest in any business of your authority and you have made an executive decision in relation to that business, you must ensure that any written statement of that decision records the existence and nature of that interest.**

**(7) In this paragraph, “executive decision” is to be construed in accordance with any regulations made by the Secretary of State under section 22 of the Local Government Act 2000.**

- 9.2 For the avoidance of doubt if you have a personal (but not prejudicial) interest and observe a meeting from the public gallery (or any part of the room or chamber) but do not address the meeting or take part in the discussion you are nevertheless deemed to be attending the meeting and are required to declare the interest.
- 9.3 Decision-making by a single executive member is a matter of particular sensitivity, and if you have a personal interest in a matter on which you may take a decision, even if it is not a prejudicial interest, you should wherever possible refer the matter to the Executive for a collective decision.

### **Prejudicial interest generally**

**10.1 (1) Subject to sub-paragraph (2), where you have a personal interest in any business of your authority you also have a prejudicial interest in that business where the interest is one which a member of the public with knowledge of the relevant facts would reasonably regard as so significant that it is likely to prejudice your judgement of the public interest.**

**(2) You do not have a prejudicial interest in any business of the authority where that business -**

**(a) does not affect your financial position or the financial position of a person or body described in paragraph 8;**

**(b) does not relate to the determining of any approval, consent, licence, permission or registration in relation to you or any person or body described in paragraph 8; or**

**(c) relates to the functions of your authority in respect of -**

**(i) housing, where you are a tenant of your authority provided that those functions do not relate particularly to your tenancy or lease;**

**(ii) school meals or school transport and travelling expenses, where you are a parent or guardian of a child in full time education, or are a parent governor of a school, unless it relates particularly to the school which the child attends;**



**(iii) statutory sick pay under Part XI of the Social Security Contributions and Benefits Act 1992, where you are in receipt of, or are entitled to the receipt of, such pay;**

**(iv) an allowance, payment or indemnity given to members;**

**(v) any ceremonial honour given to members; and**

**(vi) setting council tax or a precept under the Local Government Finance Act 1992.**

10.2 If you are in any doubt as to whether you should continue to participate in any matter, you should

(a) consider whether a member of the public - if he or she knew all the facts - would reasonably think that your personal interest was so important that your decision on the matter would be affected by it. If he or she would think that your judgement would be affected, then it is likely that you have a prejudicial interest; and

(b) take advice from the Monitoring Officer at an early stage as to whether your circumstances permit continued participation.

10.3 You, or some firm or body with which you are personally connected may have professional, business or other personal interests within the area for which the Authority is responsible. Such interests may be substantial and closely related to the work of the Executive or one or more of the Authority's committees.

You should not seek, or accept, membership of the Executive or any such committee, if that would involve you in disclosing an interest so often that you could be of little value to the Executive or committee, or if it would be likely to weaken public confidence in the duty of the Executive or committee to work solely in the general public interest.

### **Prejudicial interests arising in relation to overview and scrutiny committees**

11. You also have a prejudicial interest in any business before an overview and scrutiny committee of your authority (or of a sub-committee of such a committee) where -

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

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

## **Effect of prejudicial interests on participation**

**12.1 (1) Subject to sub-paragraph (2), where you have a prejudicial interest in any business of your authority –**

**(a) you must withdraw from the room or chamber where a meeting considering the business is being held –**

**(i) in a case where sub-paragraph (2) applies, immediately after making representations, answering questions or giving evidence;**

**(ii) in any other case, whenever it becomes apparent that the business is being considered at that meeting;**

**unless you have obtained a dispensation from your authority's standards committee;**

**(b) you must not exercise executive functions in relation to that business; and**

**(c) you must not seek improperly to influence a decision about that business.**

**(2) Where you have a prejudicial interest in any business of your authority, you may attend a meeting (including a meeting of the overview and scrutiny committee of your authority or of a sub-committee of such a committee) but only for the purpose of making representations, answering questions or giving evidence relating to the business, provided that the public are also allowed to attend the meeting for the same purpose, whether under a statutory right or otherwise.**

## **Part 3**

### **Registration of Members' Interests**

#### **Registration of members' interests**

**13. (1) Subject to paragraph 14, you must, within 28 days of –**

**(a) this Code being adopted by or applied to your authority; or**

**(b) your election or appointment to office (where that is later),**

**register in your authority's register of members' interests (maintained under section 81(1) of the Local Government Act 2000) details of your personal interests where they fall within a category mentioned in paragraph 8(1)(a), by providing written notification to your authority's monitoring officer.**

**(2) Subject to paragraph 14, you must, within 28 days of becoming aware of any new personal interest or change to any personal interest registered under paragraph (1), register details of that new personal interest or change by providing written notification to your authority's monitoring officer.**

### **Sensitive information**

**14. (1) Where you consider that the information relating to any of your personal interests is sensitive information, and your authority's monitoring officer agrees, you need not include that information when registering that interest, or, as the case may be, a change to that interest under paragraph 13.**

**(2) You must, within 28 days of becoming aware of any change of circumstances which means that information excluded under paragraph (1) is no longer sensitive information, notify your authority's monitoring officer asking that the information be included in your authority's register of members' interests.**

**(3) In this Code, "sensitive information" means information whose availability or inspection by the public creates, or is likely to create, a serious risk that you or a person who lives with you may be subjected to violence or intimidation.**

## THE 10 GENERAL PRINCIPLES OF CONDUCT

Members are reminded of the 10 General Principles of Conduct (as set out below), which govern the conduct of members.

1. **Selflessness** - Members should serve only the public interest and should never improperly confer an advantage or disadvantage on any person.
2. **Honesty and Integrity** - Members should not place themselves in situations where their honesty and integrity may be questioned, should not behave improperly and should on all occasions avoid the appearance of such behaviour.
3. **Objectivity** - Members should make decisions on merit, including when making appointments, awarding contracts, or recommending individuals for rewards or benefits.
4. **Accountability** - Members should be accountable to the public for their actions and the manner in which they carry out their responsibilities, and should co-operate fully and honestly with any scrutiny appropriate to their particular office.
5. **Openness** - Members should be as open as possible about their actions and those of their authority, and should be prepared to give reasons for those actions.
6. **Personal judgement** - Members may take account of the views of others, including their political groups, but should reach their own conclusions on the issues before them and act in accordance with those conclusions.
7. **Respect for others** - Members should promote equality by not discriminating unlawfully against any person, and by treating people with respect, regardless of their race, age, religion, gender, sexual orientation or disability. They should respect the impartiality and integrity of the authority's statutory officers, and its other employees.
8. **Duty to Uphold the Law** - Members should uphold the law and, on all occasions, act in accordance with the trust that the public is entitled to place in them.
9. **Stewardship** - Members should do whatever they are able to do to ensure that their authorities use their resources prudently and in accordance with the law.
10. **Leadership** - Members should promote and support these principles by leadership, and by example, and should act in a way that secures or preserves public confidence.